

*for  
CA / CMA / CS Final*

# INDIRECT TAXATION

**AMENDMENT BOOKLET**

**FOR NOV 2021 EXAM**

*(covering amendments from 1/11/2020 to 30/4/2021)*

**CA. Raj Kumar**



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## About CA RAJ KUMAR

CA Raj Kumar is a dynamic & qualified Chartered Accountant. As a brilliant student and a position holder at Graduation & Post Graduation level, during his **12 years of glorious teaching experience** in the field of **Indirect Taxation** he has taught **over 1,25,000 students**.

He is a favorite amongst CA Students for the astute & insightful academic inputs provided by him and for his pleasing & endearing personality and **lucid art of teaching**.

He firmly believes in **blending studies with fun** and this is quite evident in his classes wherein he goes beyond theoretical reading of the subject, makes students **solve practical problems**, gives them practical **real life examples** and pushes them to achieve their goals with full precision.

In the subject Indirect Tax Laws, his students have continued to score **All India Highest Marks for 10 times till now**. He has also been entrusted by Government agencies to **show the ropes to IRS Officers** in training, which is a **testament to his caliber** as a subject matter expert.

He is famous for **concepts linkage** from the very beginning till the end which helps in understanding the topic, acing the exams and in post CA life as well. **His unique use of GST portal during the class** to link theory with Practical makes him stand apart from the crowd. His **classes are practical, conceptual and concise**. He is also the author of bestselling titles 'GST Compact Book'.



# Amendments Summary

## CA/CMA/CS Final: For NOV 2021 Exam

FINANCE ACT, 2020	APPLICABLE.
Notifications, Circulars etc.	Upto 30 <sup>th</sup> April 2021

### GST: Chapter wise Amendments

Introduction	
Constitution	
Definitions	
Administration	
IGST	
Goods and services	
Supply	<p><b>Rectification of error under schedule II under section 7</b></p> <ol style="list-style-type: none"> <li>1. Permanent transfer of business assets will be considered as supply of Goods <del>[WHEATHER FOR CONSIDERATION OR FOC]</del></li> <li>2. Temporary transfer of business assets for personal purpose will be treated as supply of service. <del>[WHEATHER FOR CONSIDERATION OR FOC]</del></li> </ol> <p>[Earlier it was written WHEATHER FOR CONSIDERATION OR Free of cost .. Now THE wordings have been removed because under schedule II we are not defining Supply but clarifying, Is it a supply of goods or service.</p>
Place of supply	
Taxable person	
Exemptions	
Computation	<p><b>Under section 10 Composition scheme</b></p> <p>Following persons shall not be eligible for composition scheme in CFY if the person is ..</p> <ol style="list-style-type: none"> <li>1. Engaged in inter-state supply of Goods/SERVICE.</li> <li>2. Engaged in Non-Taxable supply of Goods/SERVICE.</li> <li>3. Engaged in making supply of Goods/SERVICE through E-Commerce Operator.</li> <li>4. etc.</li> </ol>

	<p>[SERVICE word has been added at 3 places]</p> <p><b>Question.</b> A person engaged in the business of selling watch in Haryana and also engaged in providing Repairing services ON INTER STATE BASIS (within the limit of Rs.5,00,000 or 10%) whether the person will be eligible for Composition scheme.</p> <p>Answer. As per old law: YES, will be eligible</p> <p style="padding-left: 40px;">As per Amended Law: NO, he will not be eligible</p>						
RCM							
Invoice	<p><b>Section 31- Alternate document can be issued in place of invoice eg in case multiplex, passenger transportation service ticket will be treated as invoice.</b></p> <table border="1" data-bbox="423 590 1521 1056"> <thead> <tr> <th data-bbox="423 590 971 653">Old Provision</th> <th data-bbox="971 590 1521 653">Amended Provision</th> </tr> </thead> <tbody> <tr> <td data-bbox="423 653 971 835">           Alternate document can be issued for SERVICES in place of invoice OR Tax INVOICE may not be issued  <b>[SUBJECT TO CONDITIONS PRESCRIBED]</b> </td> <td data-bbox="971 653 1521 835">           Alternate document can be issued for services in place of invoice OR Tax Invoice may not be issued SUBJECT TO CONDITIONS PRESCRIBED         </td> </tr> <tr> <td data-bbox="423 835 971 1056">----</td> <td data-bbox="971 835 1521 1056">           Govt. has power to specify the categories of <b>services or supplies</b> in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;  <b>[Without any condition]</b> </td> </tr> </tbody> </table> <p><b>Rule 48: E- INVOICE –</b> Limit for issuing E-Invoice has been reduced to Rs. 50 crore. [earlier it was 500 crore – Rs 100 crore – now it is Rs. 50 Crore]</p> <p><b>Rule 46: Dynamic QR Code:</b> here the Specified Registered person required to link invoice with payment BY WAY OF GENERATING DYNAMIC QR CODE.</p> <p><b>Circular:</b> If a person not to Generate Dynamic QR code eg payment made in cash or due to any other reason but the person otherwise follow the system or maintain record to link invoice with payment then requirement of Generating DYNAMIC QR code shall be deemed to be complied.</p>	Old Provision	Amended Provision	Alternate document can be issued for SERVICES in place of invoice OR Tax INVOICE may not be issued <b>[SUBJECT TO CONDITIONS PRESCRIBED]</b>	Alternate document can be issued for services in place of invoice OR Tax Invoice may not be issued SUBJECT TO CONDITIONS PRESCRIBED	----	Govt. has power to specify the categories of <b>services or supplies</b> in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed; <b>[Without any condition]</b>
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----	Govt. has power to specify the categories of <b>services or supplies</b> in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed; <b>[Without any condition]</b>						
Time of supply							
Registration	<p><b>Section 25 (6D)- N/N: 03/2021- NOW Aadhaar not required for:</b></p> <ul style="list-style-type: none"> <li>- Not a citizen of India;</li> <li>- Government Departments/ establishment</li> <li>- A local authority;</li> <li>- A statutory body;</li> <li>- A Public Sector Undertaking;</li> <li>- UIN HOLDER</li> </ul> <p><b>Section 29(1)(c): Cancellation of Registration</b></p> <ul style="list-style-type: none"> <li>▪ The taxable person is no longer liable to be registered under section 22 or section 24 or</li> </ul>						

- Intends to opt-out of the registration taken on voluntarily basis. (Newly added) ie now on the person can apply for de-register on voluntarily basis.

### Section 30 Revocation of cancellation

Extension allowed in time limit of application for revocation of cancellation...

For 30 days (Maximum)	by Additional Commissioner or the Joint Commissioner
Further 30 days (Maximum)	by Commissioner

### Rule 8(4A); Application for Registration:

[Except the persons exempted from Aadhaar required ] Every application shall be followed by

<b>If he has opted for Aadhaar authentication</b>	Biometric-based Aadhaar authentication and taking photograph, OR
<b>If he has opted not to get Aadhaar authentication</b>	Taking biometric information, photograph and verification of such other KYC documents.

The application shall be deemed to be complete only after completion of above process.

### Rule 9: Verification of Application and Approval

The application forwarded to officer and the officer verifies the application along with documents. Whether Officer is Satisfied



#### YES

Then the officer GRANT registration within 7 [30] working days from the date of submission of application

#### NO

Then the officer intimate the deficiency within 7 [30] working days from the date of submission of application.

And applicant shall provide clarification or satisfy officer within 7 working days of receipts of information.

After this the officer is-

- Satisfied: ok grant registration within 7 working days.
- Not satisfied: Reject the application.

**\*\*\* 30 days limit applicable where not to opt for Aadhaar and in such a case registration will be granted only after physical verification of premises. This provision is applicable to the persons for whom Aadhaar requirement is applicable.**

**Deemed Registration: Where Registration is not granted by the Officer with in 7 Days or 30 days as specified above then Registration shall be deemed to be granted.**

**Rule 21: Cancellation of registration:****Additional Grounds are added for cancellation of Registration**

The registration granted to a person is liable to be cancelled, if the said person,-

- issues invoice or bill without supply of goods or services **or both** in violation of the provisions of the Act/Rules
- **avails input tax credit in violation of the provisions of section 16 of the Act/Rules**
- **Value of GSTR 1 higher than the value of GSTR 3B of said period.**
- **Violates the provision of Rule 86B [Game of 99%]**

**Rule 21A: Suspension of Registration**

1. Now no opportunity of being heard shall be given for suspension of Registration

**Newly added ground for suspension**

2. Where,

- **a comparison of the returns furnished by a registered person under section 39 with FORM GSTR-1; or FORM GSTR 2A/ GSTR 1 OF SUPPLIER OR such other analysis carried out**
- show that there are significant differences or anomalies indicating contravention of the provisions of the Act /Rules,
- leading to cancellation of registration of the said person,
- his registration shall be suspended and
- the said person shall be intimated
- highlighting the said differences and anomalies and
- asking him to explain, within a period of 30 days,
- as to why his registration shall not be cancelled.”;

3. Now- No refund u/s 54 shall be granted during the period of suspension.

4. Now the suspension may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

**5. Some corresponding effect on Rule 22. [may be ignored]**

**Input tax credit****Section 16(4): Conditions For availing ITC**

A registered person shall not be entitled to take input tax credit

- in respect of **any invoice or debit note** for supply of goods or services or both
- after the due date of furnishing of the return under section 39 for the month of September following the **end of financial year to which such invoice or [invoice relating to such”] debit note pertains or**
- furnishing of the relevant annual return,
- Whichever is earlier.

**Rule 36 (4): ITC in case of Missing invoice in GSTR 1/ IFF**

GST Involved in such invoices                      xxx

5% of Amount reflected in GSTR 2A            xxx

**[Whichever is LOWER ]**

<p><b>Manner of payment</b></p>	<p><b>Section 51(3); Tax Deducted at Source</b></p> <p><b>NOW A CERTIFICATE OF TAX DEDUCTION AT SOURCE SHALL BE ISSUED IN SUCH FORM AND IN SUCH MANNER AS MAY BE PRESCRIBED.</b></p> <p>{Deductor shall furnish the TDS Certificate with in 5 working days of crediting the TDS amount to Govt and if unable to do so then penalty of Rs. 100 per day @ maximum Rs. 5000 shall be levied }</p> <p><b>Newly added: Rule 86B: Restrictions on use of amount available in electronic credit ledger.-</b></p> <p>If TAXABLE TURNOVER of a registered person in a particular month is Rs 50 lakh or more – then the person need to pay atleast 1% from E cash ledger even if has sufficient balance of credit to pay of all output GST.</p> <p>However following persons will not be covered under the above provision..</p> <ol style="list-style-type: none"> <li>1. Owner, director, karta etc paid income tax of Rs. 1 lakh each in last 2 F.Y.</li> <li>2. Claim Refund of ITC of Rs. 1 lakh</li> <li>3. Government Department/ PSU/local Authority/Statutory Body.</li> <li>4. If paid excess in preceding period then no need to pay in cash in current period ie cumulative benefit shall be allowed.</li> <li>5. Registered person may request to officer for relaxation.</li> </ol>											
<p><b>Filing of Return</b></p>	<p><b>INTRODUCTION of QRMP scheme (Quarterly Return Monthly Payment ) [optional ] AND IFF (Invoice furnishing Facility)</b></p> <p><b>1. What is QRMP scheme:</b> Filing of GSTR 3B on Quarterly Basis but payment of Tax on Monthly Basis.</p> <p><b>2. Who is eligible:</b></p> <p>(a) Aggregate Turnover in PFY (as per GST portal) limited to Rs. 5 cr and the person will remain eligible in CFY till the Quarter in which the person cross the turnover of Rs. 5cr.</p> <p>(b) Last return which was due on the of exercising the option must be filed.</p> <p>(c) The person should not be OIDAR service provider to non- taxable person in India.</p> <p><b>3. When to exercise the option:</b> 2 months before and 1 month later ie if any of the person want to exercise the option from April 2021 then he can opt for from 01/02/2021 to 30/04/2021.</p> <p><b>4. How to avail the option:</b> Eligible person may opt for manually on the GST Portal ...services...Return...opt in...</p> <p>[Default setting on Portal:]</p> <table border="1" data-bbox="423 1627 1521 1911"> <thead> <tr> <th><b>Turnover</b></th> <th><b>GSTR 1 to be filed</b></th> <th><b>GSTR 3 B to be filed</b></th> </tr> </thead> <tbody> <tr> <td rowspan="2">Turnover upto Rs. 1.5 Cr</td> <td>Quarterly</td> <td>Quarterly (QRMP)</td> </tr> <tr> <td>Monthly</td> <td>Monthly</td> </tr> <tr> <td>More than Rs. 1.5 Cr to Rs. 5 cr</td> <td>Monthly</td> <td>Monthly</td> </tr> </tbody> </table>	<b>Turnover</b>	<b>GSTR 1 to be filed</b>	<b>GSTR 3 B to be filed</b>	Turnover upto Rs. 1.5 Cr	Quarterly	Quarterly (QRMP)	Monthly	Monthly	More than Rs. 1.5 Cr to Rs. 5 cr	Monthly	Monthly
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	Monthly	Monthly										
More than Rs. 1.5 Cr to Rs. 5 cr	Monthly	Monthly										

**5. How to make payment:****(a) Fixed Sum Method:**

Preceding Quarter/Month	April	May	June
If Preceding Tax Period was a Quarter	35% of cash GST paid in preceding Quarter and to be paid on 25 <sup>th</sup> may	35% of cash GST paid in preceding Quarter and to be paid on 25 <sup>th</sup> june	Balance amount on the basis of Final Amount in the return and to be paid on 25 <sup>th</sup> july
If Preceding Tax Period was a Month	100% of cash GST paid in preceding Quarter and to be paid on 25 <sup>th</sup> may	100% of cash GST paid in preceding Quarter and to be paid on 25 <sup>th</sup> may	Balance amount on the basis of Final Amount in the return and to be paid on 25 <sup>th</sup> july

**(b) Self- Assessment Method:**

Preceding Quarter/Month	April	May	June
.....	Calculate Tax on Actual Basis	Calculate Tax on Actual Basis	Calculate Tax on Actual Basis

Note1: No tax is required to be deposited- Where tax liability is nil OR Have already sufficient balance in E cash Ledger

Note 2: Return under QRMP to be filed on 22nd [for Northern and eastern States] and on 24th For rest of India. In case of other taxpayers Return [GSTR 3B] date will be 20<sup>th</sup> of next month.

Note 3: Date for filing GSTR 1: under QRMP Scheme ; 13<sup>th</sup>, in others cases : 11th

**6. How the registered buyer will get the credit:**

Supplier will file return on quarterly basis after that it will be reflected in GSTR 2A to Receptient....but Receptient need credit on monthly basis ..now what is the solution ?

- Supplier MAY furnish B to B invoices [ Dr/Cr note] under invoice furnishing facility (IFF) for first 2 months in a quarter.
- Now for THE quarter (ie all 3 months) file GSTR 1 except the invoices furnished under IFF.
- Under IFF net value of invoices that can be uploaded is restricted to Rs. 50 lakh per month [by keeping in mind the limit of Rs.5 cr]

**7. Interest calculation:**

- **JAB JITNA MAANGA UTNA DIYA THEN NO INTEREST,**
- **JAB JITNA MAANGA USSE KAM DIYA THEN JITNA KAM DIYA UTNE AMOUNT PAR INTEREST LAGEGA @ 18% PA.**

\* Correspondingly affected section 39, Rule 59, 60, 61, 61A

Records

Refund	<p><b>Circular No. 147/03//2021</b></p> <p>1. Mandatory steps to be taken for claiming refund by RECEPIENT (in case of deemed export..)</p> <p>(a) First of all - Book ITC  (b) At the time of refund application Reduce Equal Amount from E-credit ledger  (c) Now submit your Refund Application [RFD 01]</p> <p><b>2. Under Rule 89(4):</b></p> <p><b>Maximum Amount Of Refund=</b>  EXPORT Turnover of GOODS and Services  (ET of goods :- Export value OR 1.5 times of Domestic Value,- whichever is lower) X NET ITC  Adjusted Total Turnover [ET + OTHER TURNOVER]  <b>(ET of goods:- Export value OR 1.5 times of Domestic Value- whichever is lower)</b></p>
Assessments	
Advance Ruling	
Audit, Inspections	<p><b>Instructions No. 01/2020-21 [GST- Investigation]- Instructions/Guidelines regarding procedures to be followed during Search Operation</b></p> <ol style="list-style-type: none"> <li>1. Proper Authentication- with name - in advance</li> <li>2. Going to search home- a lady officer must be there</li> <li>3. At entry- call witness</li> <li>4. Officer and witness- shall offer for personal search</li> <li>5. Take care of kids/ladies/old age/Religion</li> <li>6. If necessary make video of search</li> <li>7. Prepare panchnama, sign properly and deliver copy to the person or affix at premises.</li> <li>8. Follow COVID precautions</li> <li>9. Leave the premises just after search</li> <li>10. Report to senior about the search.</li> </ol>
Demand & recovery	
Penalties	<p><b>Section 122; Civil Offences and Penalties</b></p> <p>Fraudulent persons / MASTER MINDS- make firms in the name of Gardner, servant, Driver and get the benefit behind the curtain..</p> <p><b>Now such master minds also liable to a penalty under section 122.</b></p> <p><b>Section 132: Criminal offences and Punishment</b></p> <p>Fraudulent persons / MASTER MINDS make firms in the name of Gardner, servant, Driver and get the benefit behind the curtain..</p> <p><b>Now such master mind also liable to punishment under section 132.</b></p> <p>[Moreover if a person fraudulently avails ITC.. now as per amended provision- the person can be <b>arrested</b> for this offence under section 69 and such offence may fall under the category of <b>Cognizable and non bailable offence</b>]</p>

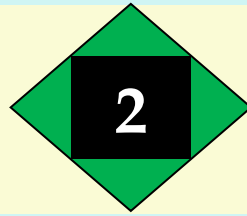
Appeal		
E-way bill	<b>Validity/Life of E- Way bill</b>	
	For Normal Cargo	1 day for every <b>100-200 km</b> or part thereof.
	For Over Dimensional Cargo	1 day for every 20 km or part thereof.
	Any Cargo under Multi Model involving Vessel	1 day for every 20 km or part thereof.
	<b>Blocking of E way Bill.</b>	
<p>(a) Being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two tax periods <b>two months:</b></p> <p>(b) ONE MORE REASON added for blocking E-way Bill---<b>The person whose registration has been suspended.</b> [When to suspend RC ..when application for cancellation of RC made by the person, when officer finds some irregularity, <b>WHEN THERE IS AN ANAMOLY IN GSTR 1 AND GSTR 2A ]</b></p>		
OIDAR		
Misc		



## CUSTOM LAW: Chapter wise Amendments

<b>Custom [IGCRD]Rules 2017</b>	<p><b>Various small - small changes</b></p> <ul style="list-style-type: none"> <li>- <b>Inclusion:</b> Basically concept of job worker has been included within the Rules</li> <li>- <b>Exclusion:</b> From service provider point of view “after sale services” has been excluded.</li> </ul>
<b>Import Export Procedure</b>	<p><b>Circular No.51/2020- Clarifications regarding availment of exemption on Temporary Import of Durable Containers</b></p> <p>Where durable containers are temporary imported into India-Then no duty shall be collected on it subject to the conditions</p> <ul style="list-style-type: none"> <li>(i) For execution of a bond (Bank Guarantee)</li> <li>(ii) File a declaration to re - export within 6 months.</li> </ul> <p><b>Circular No. 55/2020 - Faceless Assessment- Clarifications on the Issues raised by Stakeholders</b></p> <ol style="list-style-type: none"> <li>1. Quarries to be asked by other will be minimum, clearly worded and only relevant in ONE go, if more than one time quarries to be asked then need approval from senior officer.</li> <li>2. Order will be a speaking order.</li> <li>3. Complete description should be given by the assessee to avoid quarries.</li> <li>4. Etc.</li> </ol>
<b>Foreign Trade Policy</b>	<ol style="list-style-type: none"> <li>1. Foreign Trade Policy 2015 -2020 extended upto 30/09/2021 hence FTP 2015 -2020 will be applicable for NOV 2021 Exam.</li> <li>2. In case of import under AAS, EPCG, EOU/EHTP/STP/BTP units. Exemption from IGST and compensation cess extended upto 30/09/2021.</li> <li>3. MEIS replaced with new scheme namely “Remission of duties and Taxes on Exported Products” [RODTEP]- as per this scheme export benefit will be credited to Exporter’s Credit Ledger account.</li> </ol>

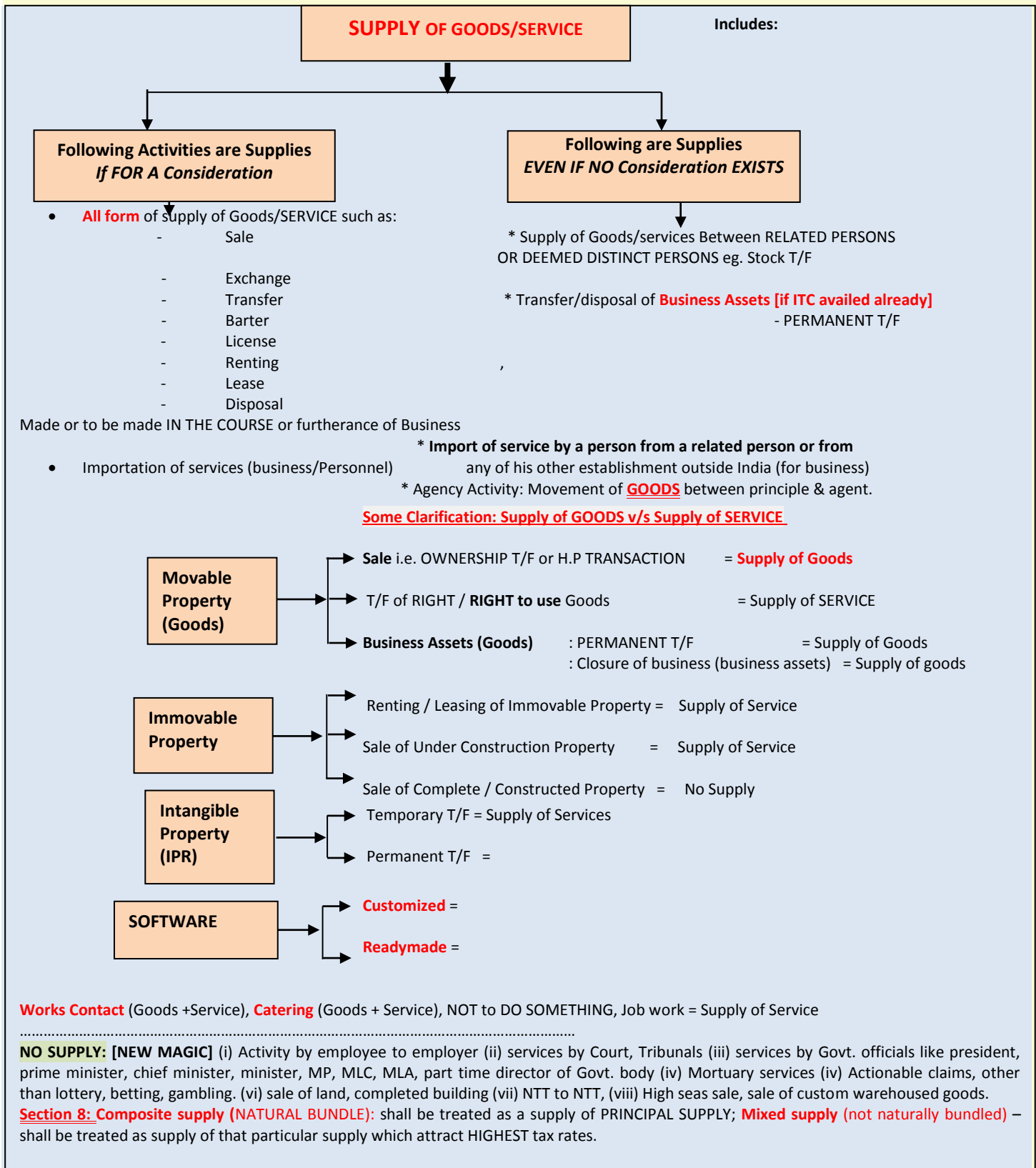
CHAPTER



# Supply of Goods or Services (Taxable Event)

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**GATE No. 2**



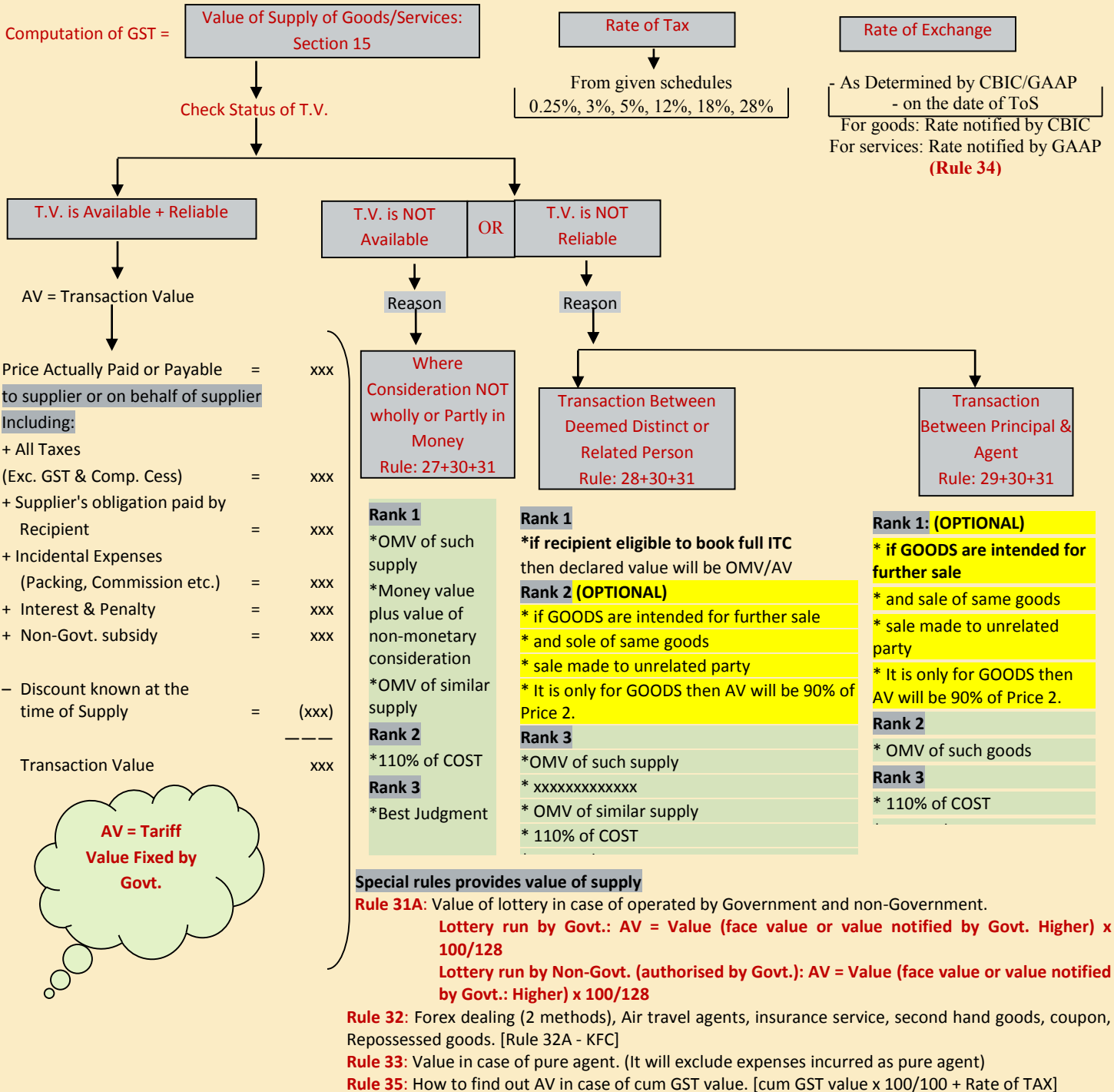
## Section 7: SUPPLY

## SCHEDULE II

<p><b>1. Transfer of ownership</b></p>	<p>Any <b>transfer of the TITLE</b> in goods is a supply of goods;</p> <p>(b) Any <b>transfer of right</b> in goods or of undivided share in goods <b>without the transfer of TITLE thereof</b>, is a supply of services;</p> <p>(c) Any transfer of TITLE in goods under an agreement which stipulates that <b>property in goods shall pass at a future date</b> upon payment of full consideration as agreed, is a supply of goods.</p>
<p><b>2. Land and Building</b></p>	<p>(a) Any lease, tenancy, easement, licence to occupy land is a supply of services;</p> <p>(b) Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.</p>
<p><b>3. Treatment or process</b></p>	<p>ANY TREATMENT or process which is applied to another person's goods is a supply of services.</p>
<p><b>4. Transfer of business assets</b></p>	<p>(a) Where goods forming part of the <b>assets of a business</b> are transferred or disposed of so as <b>no longer to form part of those assets</b>, <b>WHETHER OR NOT FOR A CONSIDERATION</b>, such transfer or disposal is a <b>supply of goods</b> by the person;</p> <p>(b) <b>Where, goods held or used for the purposes of the business are;</b></p> <ul style="list-style-type: none"> <li>▪ <b>Put to any private use</b> or are used, or made available to any person for use,</li> <li>▪ for non- business purpose,</li> <li>▪ <del>WHETHER OR NOT FOR A CONSIDERATION,</del></li> <li>▪ the usage or making available of such goods is a supply of services;</li> </ul> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><b>ANALYSIS;</b></p> <p><b>Rectification of error under schedule II under section 7</b></p> <ol style="list-style-type: none"> <li>1. Permanent transfer of business assets will be considered as supply of Goods <del>[WHEATHER FOR CONSIDERATION OR FOC]</del></li> <li>2. Temporary transfer of business assets for personal purpose will be treated as supply of service. <del>[WHEATHER FOR CONSIDERATION OR FOC]</del></li> </ol> <p>[Earlier it was written WHEATHER FOR CONSIDERATION OR Free of cost .. Now THE wordings have been removed because under schedule II we are not defining Supply but clarifying, Is it a supply of goods or service.</p> </div>

# Chapter 6

## COMPUTATION OF GST



## Analysis of CONCEPT of Composition scheme



### What is composition scheme:

- It is an alternate method to pay tax. It is an optional scheme.
- It is PAN based scheme applicable for all registrations/ taxable persons registered under same PAN.

## Section 10: COMPOSITION SCHEME

### (2) FOLLOWING SHALL NOT BE ELIGIBLE FOR COMPOSITION SCHEME

The registered person **shall not be eligible to opt** composition scheme if he is—

- (a) Engaged in the supply of services; [OTHER THAN Restaurant and limited value services].
- (b) Engaged in making any non-taxable supply of goods **OR SERVICES**.
- (c) Engaged in making any **inter-State outward supplies** of goods **OR SERVICES**.
- (d) **Casual Taxable Person, Non-Resident taxable person**
- (e) **Engaged** in making any supply of **goods OR SERVICES through an electronic commerce operator**
- (f) Engaged in manufacturing of Notified goods which are as follows
  - (i) Ice cream and other edible ice, whether or not containing cocoa
  - (ii) Pan masala
  - (iii) All goods, i.e. Tobacco and manufactured tobacco substitutes
  - (iv) **Aerated Water**

## Analysis

Following persons shall not be eligible for composition scheme in CFY if the person is ..

1. Engaged in inter-state supply of Goods / SERVICE.
2. Engaged in Non-Taxable supply of Goods / SERVICE.
3. Engaged in making supply of Goods / SERVICE through E-Commerce Operator.
4. etc.

[SERVICE word has been added at 3 places]

**Question.** A person engaged in the business of selling watch in Haryana and also engaged in providing Repairing services ON INTER STATE BASIS (within the limit of Rs.5,00,000 or 10%) whether the person will be eligible for Composition scheme.

Answer. As per old law: YES, will be eligible

As per Amended Law: NO, he will not be eligible

# Chapter 8

## INVOICE

### Section 31: Tax Invoice

#### Tax Invoice for supply of Goods

(1) A Registered Person supplying taxable goods shall, **BEFORE OR AT THE TIME OF,—**

- (a) **Removal** of goods for supply to the recipient, *where the supply involves movement of goods; or*
- (b) **Delivery** of goods or making available thereof to the recipient, *in any other case,*

issue a **tax invoice** showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

**For notified goods/supply- tax invoice within prescribed time:** Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

#### Tax Invoice for supply of Services

(2) A Registered Person supplying taxable services shall, **BEFORE OR AFTER the provision of service but within a prescribed period**, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

**On specified services NO tax invoice shall be required to be issued or other Document will be treated as tax invoice:** “Provided that the Government may, on the recommendations of the Council, by notification,-

- (a) Specify the categories of services **OR SUPPLIES** in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;
- (b) Subject to the condition mentioned therein, specify the categories of services in respect of which-
  - (i) **Any other document** issued in relation to the supply shall be deemed to be a tax invoice; or
  - (ii) Tax invoice may not be issued.



~~On specified services NO tax invoice shall be required to be issued or other Document will be treated as tax invoice:~~ Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

(a) Any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(b) Tax invoice may not be issued.

**Section 31- Alternate document can be issued in place of invoice eg in case multiplex, passenger transportation service ticket will be treated as invoice.**

Old Provision	Amended Provision
Alternate document can be issued for SERVICES in place of invoice OR Tax INVOICE may not be issued <b>[SUBJECT TO CONDITIONS PRESCRIBED]</b>	Alternate document can be issued for goods and services in place of invoice OR Tax Invoice may not be issued SUBJECT TO CONDITIONS PRESCRIBED
----	Govt. has power to specify the categories of <b>services or supplies</b> in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed; <b>[Without any condition]</b>

### Special Cases

(3) Notwithstanding anything contained in sub-sections (1) and (2):

#### PRIOR PERIOD INVOICE

**Revised invoice for pre RC period:** (a) A **Registered Person** may, within 1 month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;

**Small amount supply – invoice may not be:** (b) A **Registered Person** may not issue a tax invoice if the value of the goods or services or both supplied is **less than ₹ 200** subject to such conditions and in such manner as may be prescribed;

#### BILL OF SUPPLY

**Bill of Supply-In case Exempted/composition scheme [no tax amount required to be shown]:** (c) A Registered Person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:

**Small amount supply – Bill of supply may not be:** Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than ₹200 subject to such conditions and in such manner as may be prescribed.

	<p><b>VOUCHER</b></p> <p><b>“Receipt Voucher” for Advance:</b> (d) A registered person shall, <b>on receipt of advance payment with respect to any supply of goods or services</b> or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;</p> <p><b>Refund Voucher for refund of advance:</b> (e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment.</p> <p><b>INVOICE/VOUCHER BY RECEIPT(RCM)</b></p> <p>(f) A <b>registered person</b> who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both <b>received by him from the supplier who is not registered</b> on the date of receipt of goods or services or both;</p> <p>(g) A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 <b>shall issue a payment voucher at the time of making payment to the supplier.</b></p>
<p><b>Continuous supply of Goods</b></p>	<p>(4) In case of continuous supply of goods, <b>where successive statements of accounts or successive payments are involved</b>, the invoice shall be <b>issued before or at the time each such STATEMENT is issued</b> or, as the case may be, each such payment is received.</p>
<p><b>Continuous supply of Services</b></p>	<p>(5) Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—</p> <p>(a) Where the <b>DUE DATE OF PAYMENT is ascertainable</b> from the contract, the invoice shall be issued <b>on or before the due date of payment</b>;</p> <p>(b) Where the due date of payment is <b>Not Ascertainable</b> from the contract, the invoice shall be issued before or at the time when the <b>supplier of service receives the PAYMENT</b>;</p> <p>(c) Where the payment is <b>linked to the completion of an event</b>, the invoice shall be issued <b>on or before the date of completion of that event.</b></p>
<p><b>Where the Supply of Services Ceases</b></p>	<p>(6) In a case where the supply of services ceases under a contract <b>before the completion of the supply</b>, the invoice shall be issued at the time <b>when the supply ceases</b> and such invoice shall be issued to the extent of the supply made before such cessation.</p>
<p><b>Goods being sent or taken on Approval</b></p>	<p>(7) Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.</p>

**Tax invoice includes Revised invoice: Explanation.**—For the purposes of this section, the expression **“tax invoice” shall include any revised invoice** issued by the supplier in respect of a supply made earlier.

## Concept of E-INVOICE [Relevant extract from Rule 48]

The invoice shall be prepared by such class of registered persons

- whose aggregate turnover in a financial year exceeds Rs.50 crore [~~Rs.500 crore~~]
- by including such particulars contained in **FORM GST INV-01**
- after obtaining an Invoice Reference Number
- by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.

Provided that the Commissioner may, by notification, exempt a person or a class of registered persons from issuance of invoice for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

**Notification @ E Invoicing :-** Hereby notifies registered person,

- Whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs.50 crore [~~Rs.500 crore~~], as a class of registered person
- who shall prepare invoice and other prescribed documents, in terms of [Rule 48\(4\)](#)
- in respect of supply of goods or services or both

⇒ to a registered person or

⇒ for exports.

other than a **Special Economic Zone unit** and those referred to in Rule 54(2),(3),(4),(4A),

Rule 54 (2) of said Rules,	Insurance company, Banking company/NBFC/Financial Institution
Rule 54 (3) of said Rules,	Goods transport agency
Rule 54 (4) of said Rules,	Passenger Transporter
Rule 54 (4A) of said Rules,	Cinema halls
Registered person referred to in section 14 of the IGST Act, 2017.	OIDAR supplier

### Analysis

**Rule 48: E- INVOICE** – Limit for issuing E-Invoice has been reduced to Rs. 50 crore. [earlier it was 500 crore – Rs 100 crore – now it is Rs. 50 Crore]

## Concept of Dynamic QR Code [Relevant Extract From Rule 46]

**IN CASE OF NORMAL INVOICING ie Other than E-Invoicing:** Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, **specify that the tax invoice shall have Quick Response (QR) code. [FOR PAYMENT PURPOSE].**

### Dynamic QR Code: NOTIFICATION No. 71/2020:IN CASE OF NORMAL INVOICING

An invoice issued by a registered person, whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs.500 crore,

- to an unregistered person (hereinafter referred to as B2C invoice),
- shall have Dynamic Quick Response (QR) code:
- [other than those referred to in

Rule 54 (2) of said Rules,	Insurance company, Banking company/NBFC/Financial Institution
Rule 54 (3) of said Rules,	Goods transport agency
Rule 54 (4) of said Rules,	Passenger Transporter
Rule 54 (4A) of said Rules,	Cinema halls
Registered person referred to in section 14 of the IGST Act, 2017.	OIDAR supplier

**QR Code through DIGITAL DISPLAY:** Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display,

- Such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code,

shall be deemed to be having Quick Response (QR) code.

**Circular No. 146/02/2021: Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020**

Sl. No.	Issues	Clarification
1.	<p><b>To which invoice is Notification No 14/2020 [Dynamic QR code] applicable?</b></p> <p><b>Would this requirement be applicable on invoices issued for supplies made for Exports?</b></p>	<p>This notification is applicable to a tax invoice issued to an unregistered person by a registered person (B2C invoice) whose annual aggregate turnover exceeds 500 Cr rupees However, the said notification is not applicable to an invoice issued in following cases:</p> <p><b>(i).</b> Where the supplier of taxable service is:</p> <p>(a) <b>An insurer or a banking company</b> or a financial institution, including a non-banking financial company;</p> <p>(b) A <b>Goods Transport Agency</b> supplying services in relation to transportation of goods by road in a goods carriage;</p> <p>(c) Supplying <b>Passenger Transportation Service;</b></p> <p>(d) Supplying services by way of admission to exhibition of cinematograph in films in multiplex screens</p> <p><b>(ii).</b> <b>OIDAR supplies</b> made by any registered person, who has obtained registration under <a href="#">section 14</a> of the <a href="#">IGST Act 2017</a>, to an unregistered person.</p> <p><u><b>As regards the supplies made for exports,</b></u> though such supplies are made by a registered person to an unregistered person, however, as e-invoices are required to be issued in respect of supplies for exports, treating them as Business to Business (B2B) supplies, <b>Notification no. 14/2020 [Dynamic QR code ]</b> will not be applicable to them.</p>
2.	<p><b>What parameters/ details are required to be captured in the Quick Response (QR) Code?</b></p>	<p>Dynamic QR Code, is required, inter-alia, to contain the following information: -</p> <p>(i) <b>Supplier GSTIN</b> number</p> <p>(ii) <b>Supplier UPI ID</b></p> <p>(iii) <b>Payee's Bank A/C</b> number and IFSC</p> <p>(iv) <b>Invoice</b> number &amp; date,</p> <p>(v) Total <b>Invoice Value</b> and</p> <p>(vi) <b>GST amount along with breakup</b> i.e. CGST, SGST, IGST, CESS, etc.</p> <p>Further, Dynamic QR Code should be such that it can be scanned to make a digital payment.</p>

3.	<p>If a supplier provides/ displays Dynamic QR Code, but the customer opts to make payment without using Dynamic QR Code, then will the cross reference of such payment, made without use of Dynamic QR Code, on the invoice, be considered as compliance of Dynamic QR Code on the invoice?</p>	<p>If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be <b>deemed to have complied with Dynamic QR Code</b> requirements.</p> <p>In cases where the supplier, has digitally displayed the Dynamic QR Code and the customer pays for the invoice: -</p> <p>(i) <b>Using any mode</b> like UPI, credit/ debit card or online banking or cash or combination of various modes of payment, with or without using Dynamic QR Code, and the <b>supplier provides a cross reference</b> of the payment (transaction id along with date, time and amount of payment, mode of payment like UPI, Credit card, Debit card, online banking etc.) on the invoice ; or</p> <p>(ii) <b>In cash</b>, without using Dynamic QR Code and the supplier provides a <b>cross reference</b> of the amount paid in cash , along with date of such payment on the invoice;</p> <p>The said invoice shall be deemed to have complied with the requirement of having Dynamic QR Code.</p>
4.	<p>If the supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent or similar other modes of payment, through mobile applications or computer based applications, where though Dynamic QR Code is not displayed, but the details of merchant as well as transaction are displayed/ captured otherwise, how can the requirement of Dynamic QR Code as per this notification be complied with?</p>	<p>In such cases, if the <b>cross reference</b> of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be <b>deemed to comply</b> with the requirement of Dynamic QR Code.</p> <p>However, if payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>
5.	<p>Is generation/ printing of Dynamic QR Code on B2C invoices mandatory for pre- paid invoices i.e. where payment has been made before issuance of the invoice?</p>	<p>If <b>cross reference</b> of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would be <b>deemed to have complied</b> with the requirement of Dynamic QR Code.</p> <p><b>In cases other than pre-paid supply i.e. where payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</b></p>
6.	<p>Once the E-commerce operator (ECO) or the online application has complied with the Dynamic QR Code requirements, will the suppliers using such e-commerce portal or application for supplies</p>	<p>The provisions of the notification shall apply to each supplier/registered person separately, if such person is liable to issue invoices with Dynamic QR Code for B2C supplies as per the said notification.</p> <p>In case, the supplier is making supply through the Ecommerce portal or application, and the said <b>supplier gives cross references</b> of the payment</p>

<p><b>still be required to comply with the requirement of Dynamic QR Code?</b></p>	<p>received in respect of the said supply on the invoice, then such invoices would be <b>deemed to have complied with</b> the requirements of Dynamic QR Code.</p> <p><b>In cases other than pre-paid supply i.e. where payment is made after generation/issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</b></p>
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### Analysis

**Rule 46: Dynamic QR Code:** here the Specified Registered person required to link invoice with payment BY WAY OF GENERATING QR CODE.

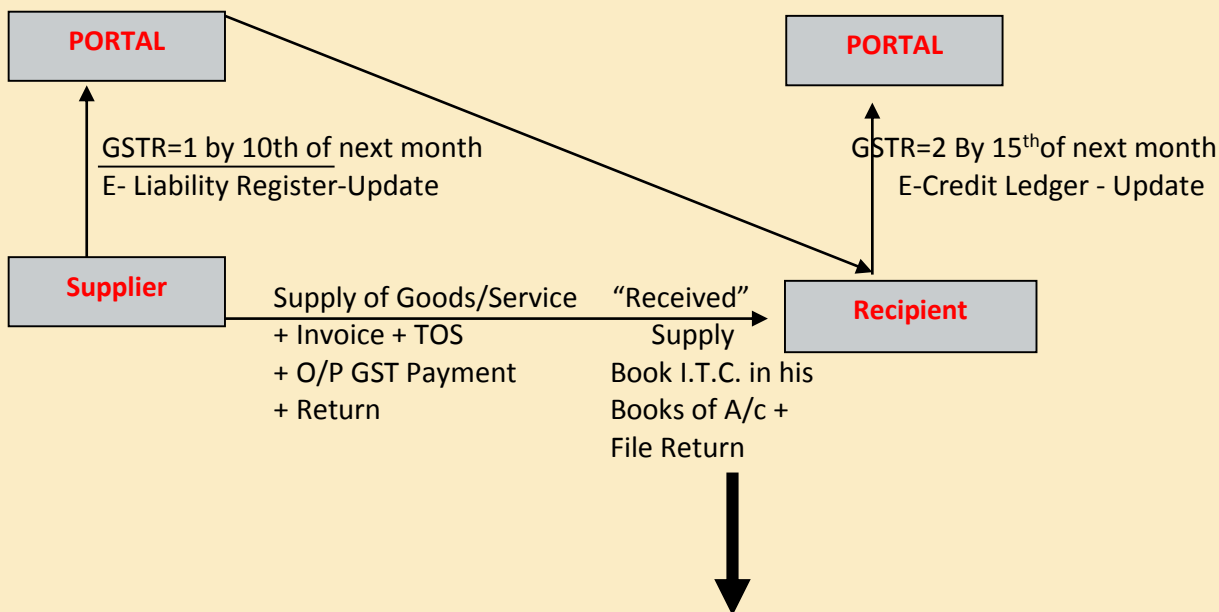
**Circular:** If a person not to Generate Dynamic QR code eg payment made in cash or due to any other reason but the person otherwise follow the system or maintain record to link invoice with payment then requirement of Generating QR code shall be deemed to be complied.

# Chapter 10

## INPUT TAX CREDIT



### Analysis of Section 16: CONDITIONS FOR Claiming I.T.C.



#### 12 CONDITIONS FOR Claiming I.T.C. u/s 16

1. Recipient should have Invoice issued by Supplier/SELF Invoice/Debit NOTE/ISD Invoice/Bill of ENTRY.
2. Goods/Service-Received by Recipient himself or Received by III Party on Behalf of Recipient.  
**Note:** If Goods Received in Installment then deemed to be received on Receipt of last LOT.
3. Recipient Need to file – Valid GSTR=3/3B on time.
4. Supplier Need to file – Valid GSTR-3/3B on time.
5. Bill Payment by “Recipient to supplier: should be made within 180 Days from invoice date. (For NCM supplies only)  
\* IF NOT made: then on 181<sup>st</sup> day, ITC Reversal.  
\* What if made After 180 Days: Book (Re-Avail)  
ITC on Payment Basis (i.e. proportionately)



- \* WHAT About 'FOC' supplies: (RBI Ki Agency) then the bill Amount shall be deemed to have been paid.*
- 6. INWARD Supply: USE/intended to be used for Business or Furtherance of business.
- 7. Recipient's output Supply should be Non-Exempted.
  - \* What about MIX USE: make it Proportionate and restricted it to non-exempted and business purpose.*
- 8. Keep in mind Last date to Book ITC – Last date: (30<sup>th</sup>Sep of NEXT Year OR Annual Return filing date) whichever is Earlier [But this condition is only for original Booking of ITC ie not for re-availment.
- 9. Either ITC or Depreciation Under Income tax Act.
- 10. CAPITAL Goods – Use for whole life, IF partly used then: Make it proportionate as per prescribed method.
- 11. No ITC shall be allowed of the TAX arise on Re-Assessment/ Fraud etc.
- 12. Received supply should not be a NEGATIVE listed supply as defined in Sec: 17(5)

## Section 16: Eligibility and conditions for taking input tax credit

<b>Who is eligible to book ITC</b>	<p>(1) Every <b>Registered Person</b> shall, <i>[subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49]</i>, <b>be entitled to take credit of input tax charged on any supply of goods or services or both to him which are <u>used or intended to be used in the course or furtherance of his business</u></b> and the said amount shall be credited to the electronic credit ledger of such person.</p>
<b>Conditions to book ITC</b>	<p>(2) Notwithstanding anything contained in this section, <b>NO registered person shall be entitled to the credit</b> of any input tax in respect of any supply of goods or services or both to him unless,—</p> <p><b>INVOICE (ITC on invoice basis):</b> (a) he is in possession of a tax <b>invoice or debit note [Not receipt voucher]</b> issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;</p> <p><b>RECEIVED GOODS/SERVICES</b> (b) he has received the goods or services or both.</p> <p style="padding-left: 40px;"><b>Deemed Received (Bill to ship to model) Explanation.</b>—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—</p> <p style="padding-left: 40px;">(i) Where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, <i>[whether acting as an agent or otherwise,]</i> before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</p> <p style="padding-left: 40px;">(ii) Where the services are provided by the supplier to any person on the direction of and on account of such registered person.</p> <p style="padding-left: 40px;"><b>Last Lot:</b> <i>Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:</i></p> <p><b>TAX PAYMENT TO GOVT.:</b> (c) <b>Subject to the provisions of section 41 [Claim of input tax credit and provisional acceptance thereof]</b>, the tax charged in respect of such <b>supply has been actually paid to the Government</b>, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</p> <p><b>FILE PERIODIC RETURN</b> (d) He has furnished the return under section 39:</p> <p><b>Addition of output liability if payment not made with in 180 days:</b> Provided further that where a recipient fails to pay to the supplier of goods or services or both, <i>[other than the supplies on which tax is payable on reverse charge basis,]</i> the amount towards the value of supply along with tax payable thereon <b>within a period of 180 days from the date of issue of invoice</b> by the supplier, an amount equal to the input tax credit availed by the recipient <b>shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:</b></p>

	<p><b>Now Book ITC on payment basis:</b> Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.</p>
<p><b>Either Depreciation or ITC</b></p>	<p>(3) Where the registered person has <b>claimed depreciation on the tax component of the cost of capital goods and plant and machinery</b> under the provisions of the Income-tax Act, 1961, the input tax <b>credit on the said tax component shall not be allowed.</b></p>
<p><b>Last date to book ITC</b></p>	<p>(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under <b>section 39 (Periodic)</b> for the month of September following the end of financial year to which such invoice or <b>invoice relating to such</b> debit note pertains or furnishing of the relevant <b>annual return, whichever is earlier.</b></p>

## CGST RULES, 2017

### Rule 36 : Documentary requirements and conditions for claiming input tax credit

**(3) No ITC where tax paid against order (fraud):** No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

(4) Input tax credit 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 under sub-section (1) of section 37 in FORM GSTR-1 or using the invoice furnishing facility,
- 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 under sub-section (1) of section 37 in FORM GSTR-1 or using the invoice furnishing facility.

~~(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under section 37(1), shall not exceed 10% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under section 37(1).~~

#### Rule 36 (4): ITC in case of Missing invoice in GSTR 1/ IFF

GST Involved in such invoices	xxx
5% of Amount reflected in GSTR 2A	xxx
<b>[Whichever is LOWER ]</b>	

# Chapter 11

## REGISTRATION



### Who is required to take Registration?

Registration After crossing the Limit of ₹ 20/10 LAKH: Sec. 22

NO Registration Section: 23

Mandatory Registration Sec. 24



# Supplier making **taxable supply** if his AGGREGATE *TURNOVER* in a financial year exceeds the limit of ₹ 20 lakh.

However if the person makes **TAXABLE SUPPLIES** from ANY of the special category states then the limit will be reduced to ₹ 10 lakh.

#### HOW TO PROCEEDS....

**Step 1:** Find out aggregate turnover.

**Step 2:** Check the applicable limit for the person. (if made **taxable supplies** from any of the 4 special category state, then limit of ₹ 10 lakh shall be applicable) otherwise limit of ₹ 20 lakh shall apply

**Step 3:** If the aggregate turnover exceed the applicable limit (₹ 20/10 /40 lakh) then the person will be required registration in all those states/UT FROM where he made **TAXABLE SUPPLIES.**

.....  
# Existing registered person: need compulsory migration and required registration if aggregate turnover exceeds ₹ 20 /10 lakh.

# Transferee/Successor: Transferee/ Successor need registration afresh.

# Transferee (transfer under scheme, order of high court etc.): new owner required registration afresh.

Person making supply which is **NON TAXABLE /EXEMPTED (Exclusively)**

#### Agriculturist

means an individual or a Hindu Undivided Family who undertakes cultivation of land–

**NOTIFIED PERSONS:** eg supplier where his supplies exclusively fall under RCM

- Person making **INTER STATE TAXABLE** supply (However for taxable supply of services and for Handicraft goods exemption limit of ₹20 /10 lakh will be available)
- **Casual Taxable Person**(However for handicraft goods exemption limit of ₹20 /10 lakh will be available)
- Non Resident taxable person.
- Person required to pay tax under RCM
- Taxable person u/s 9(5) [3 Specified services: transportation, accommodation, misc. utilities]
- Person making supply on behalf of other taxable person (However for taxable supply of services exemption limit of ₹20 /10 lakh will be available)
- E-Commerce Operator (other than sec. 9(5)).
- **OIDAR** supplier from abroad to a person other than Registered Taxable person.
- **Input service Distributor** (whether or not separately registered under the act)
- TDS Deductor (whether or not separately reg. under the act)
- TCS collector (whether or not separately reg. under the act)
- Other specified person

**Registration limit of ₹ 40 lakh**

The Central Government, hereby specifies as the category of persons exempt from obtaining registration upto aggregate turnover of ₹ 40 lakh ie the person required to get registration only after the limit of ₹ 40 lakh.

**Any person:**

- **Who is engaged in EXCLUSIVE SUPPLY OF GOODS and**
- **Whose aggregate turnover in the financial year does not exceed ₹ 40 lakh.**

But limit of ₹ 40 lakh will not be applicable in following cases ie in the following cases either the person required to get mandatory registration or limit of ₹ 10/20 Lakh

- (i) If Persons required to take **compulsory registration under section 24** of the [said Act](#);
- (ii) If persons engaged in **making supplies of 3 types of specified goods (Tobacco, Pan Masala, Icecream)**
- (iii) If the persons engaged in making intra-State supplies in the States of **Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand;**
- (iv) If the persons takes voluntary registration.

**When to take registration**

**Generally registration is required to be obtained within 30 days** from the date on which he becomes liable to registration.



**In special cases:**

**Casual Taxable Person and Non Resident:**



**Application for RC: (5 Days in advance)** The person shall apply for registration at least 5 DAYS PRIOR to commencement of business in and such person shall make taxable supplies only after issuance of RC.

**Period of RC: (90 +90 days)** RC issued to such persons shall be valid for a period of 90 days +90 days OR as specified in application for reg. from the effective date of registration (whichever is earlier).

**Advance deposit of Tax:** such person MAY deposit advance estimated tax liability for the period specified in application at the time of application for registration on the basis of TRN. **However if applied for extension then SHALL deposit advance tax on estimation basis for such extended period.** Such amount shall be credited in his E- cash Ledger account.

**Circular No. 71/45/2018: Clarifications of issues under GST related to casual taxable person**

Issue	Clarification
Whether the amount required to be deposited as advance tax should be 100% of the estimated	It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration <b>should be calculated after</b>

	<p>gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?</p>	<p>considering the due eligible ITC which might be available to such taxable person.</p>
	<p>As per <a href="#">section 27</a> of the <a href="#">Central Goods and Services Tax Act, 2017</a>, period of operation by causal taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.</p>	<p>It is clarified that in case of long running exhibitions (<b>for a period more than 180 days</b>), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.</p> <p>While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</p> <p><b>In such cases he would not be required to pay advance tax for the purpose of registration.</b></p> <p>He can surrender such registration once the exhibition is over.</p>
	<p><b>Registration after Survey/ Investigation etc.:</b> It is found during any survey, inspection, search, enquiry or any other proceeding that- Person required registration but fails to get register himself:</p> <ul style="list-style-type: none"> <li>- then such officer may register the said person on <b>a temporary basis</b> and issue an order</li> <li>- and it will be effective from the date of order of Registration.[penalty etc. will also be there]</li> <li>- And such person shall within 90 Days</li> </ul> <p>[within 30 days of order of Appellate Authority if file appeal against grant of such temporary registration]</p> <p>from the date of grant of such registration shall file an application for registration in prescribed form and such RC will be effective <b>from the date of ORDER by officer.</b></p>	
<p><b>Where and how many Registrations are required</b></p>	<p><b>Place of Registration:</b> Every person who is liable to be registered shall apply for registration in <b>EVERY SUCH STATE/UT</b> from where he makes a taxable supply.</p> <p><b>What about TWI:</b> Every person who makes a supply FROM the Territorial Waters of India shall obtain registration in the Coastal State or Union territory where the NEAREST point of the appropriate baseline is located.</p> 	



**Number of Registration:****One state/UT@ one Registration**

- In general if the person making taxable supplies from one state/ UT then he is required to take registration one registration.

**One state/UT @Multiple Registration:**

- **The person MAY obtain** a SEPARATE REGISTRATION for each **Place of Business** located **within the state/UT.**
- A person having a unit(s) in a **Special Economic Zone** or being a Special Economic Zone developer shall make a separate application for registration distinct from his other units located outside the Special Economic Zone with in the same state.
- Every person being an **Input Service Distributor** shall make a separate application for registration as such Input Service Distributor even with in the same state.

Note: No **Place of Business** shall be granted registration to pay tax under composition scheme if any of the **Place of Business** of the same person paying tax under normal scheme.

**Multiple state @ single Registration**

**In case of unique identity number embassy/ UN etc is required to take only one registration which is valid for all over India.**

**How****Main document for registration:**

- PAN (Generally)
- TAN (In case of TAX DEDUCTOR/COLLECTOR)
- Any other document (In case of NR eg. Self- Attested Copy of Passport)
- Now **Aadhaar** mandatory for registration purpose at the time of registration. registration will be granted only after physical verification of place of business.

- **Aadhaar required for:**

- Individual;
- authorised signatory of all types;
- Managing and Authorised partner; and;
- Karta of a Hindu undivided family.
- Member of Association of Person.
- Etc.

- **Aadhaar not required for:**

- Not a citizen of India;
- Government Departments/ establishment
- A local authority;
- A statutory body;
- A Public Sector Undertaking;
- UIN HOLDER





**Registration process:****Part A of Application:**

- (i) Disclose PAN (to whom it is needed), Mob. No., Email id.
- (ii) Verification of above : by GST PORTAL, by OTP (for mob no and Email)
- (iii) Generation of Transaction reference number [TRN] by portal which is valid for 15 days.

**Part B of Application:**

- (i) File registration APPLICATION by using reference no.
- (ii) Acknowledgement [Application reference number i.e. ARN] by portal on mob no. and Email id.
- (iii) *Note: Casual taxable person shall be given temporary id number[TRN] for making advance deposit of tax on estimation basis. After payment of advance tax ARN shall be generated and thereafter registration certificate shall be granted.*

[Except the persons exempted from Aadhaar required ] Every application shall be followed by

**If he has opted for authentication of Aadhaar number** (a) Biometric-based Aadhaar authentication and taking photograph, OR

**If he has opted not to get Aadhaar authentication done,** (b) Taking biometric information, photograph and verification of such other KYC documents, as notified, of the applicant

- **Where the applicant is an individual** or of such individuals in relation to the applicant as notified under section 25(6C)
- Where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 and
- **The application shall be deemed to be complete only after completion of the process laid down under this sub-rule.**

- (iv) The application forwarded to officer and the officer verifies the application along with documents. **Whether Officer is Satisfied**

**YES**

Then the officer GRANT registration within 7 [30] working days from the date of submission of application

**NO**

Then the officer intimate the deficiency within 7 [30] working days from the date of submission of application.

And applicant shall provide clarification or satisfy officer within 7 working days of receipts of information.

After this the officer is-

- Satisfied: ok grant registration within 7 working days.

**Deemed Registration:** Where Registration is not granted by the Officer with in 7 Days or 30 days as specified above then Registration shall be deemed to be granted.

- (v) **A Registration certificate** shall be issued in form **GST REG -6** mentioning principal place of business and additional places therein as declared in application form.

**And the RC will be effective:**

- From the date on which applicant liable for registration [if application made within time]
- Otherwise it will be effective from the date of GRANT of Registration.

**Structure of RC:** State wise PAN based GSTIN-----

- **First two digits:** State code
- **Next 10 digit :** PAN
- **Next digit:** SN of Registration in same state on same PAN
- **Next digit:** blank for further use
- **Next digit:** Checksum digit (department use)

**GSTIN: 09AALCA8207B1ZU**

**Migrated Person**

- Old registered taxable person required to get registration WEF appointed date (1-07-2017) subject to above.
- Old registered person having PAN shall be granted registration on provisional basis and RC shall be made available on the PORTAL.
- After that such person shall submit an application along with information and documents.
- After that RC in form **GST REG -6** shall be made available electronically on common portal.
- **Cancellation:** Every person registered under any of the old laws, who is not liable to be registered under the Act may, on or before 31/03/2018, at his option, submit an application electronically at the common portal for the cancellation of registration granted to him and the proper officer shall, **after conducting such enquiry as deemed fit, cancel the said registration.**

**Amendment in RC**

**Changes in Core fields: [Business Name Change, Address change, change in Directors/Partners etc.]**

Every RC/UIN holder shall inform the Proper Officer ANY changes in the information furnished at the time of application or thereafter.

However officer may approve within 15 working days or reject (after giving SCN and OPPORTUNITY OF BEING HEARD) such changes.

**Changes in None core fields: [Change in Phone Number, E-mail id of authorised signatory]**

Every RC/UIN holder shall inform the Proper Officer ANY changes in the information furnished at the time of application of thereafter.

**Cancellation  
of  
Registration**



**On Application:** By registered taxable person OR by legal heirs (in case of death), manner and period as may be prescribed, having regard to: **[Application Along with the detail of inputs, work in progress, finished goods, capital goods]**

- discontinuation of business,
- transfer of business,
- amalgamation,
- demerger or otherwise dispose of,
- change in constitution of business or
- registered person no longer liable to registered.
- **If taken voluntarily registration, now intend to opt out.**
- A TDS deductor or TCS Collector – now no longer remain to deduct or collect.

**BY Proper officer himself:**

- On contravention of act or rules, [eg. issue bogus invoices etc.]
- Person paying tax under composition scheme has not furnished return for **3 consecutive tax periods,**
- Any Registered person (other than immediate preceding) has not filed return for a continuous period of 6 months,
- Person having reg. on voluntarily basis has not commenced business within 6 months from the date of registration,
- Not to provide bank details with-in 45 days of registration,
- Registration obtained by means of fraud etc.
- Does not conduct any business from the declared place of business;
- Avails input tax credit in violation of the provisions of section 16 of the Act
- Furnishes the details of outward supplies in **FORM GSTR-1** under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or
- Violates the provision of Rule 86B.
- There is a difference or anomalies reflected in Return filed under section 39 in between output GST and ITC claimed.

**(A) THEN First of all suspension of Registration ...**

(1) In case a registered person has applied for cancellation of registration the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation.

(2) In case the proper officer has reasons to believe that the registration of a person is liable to be cancelled he may, **after affording the said person a reasonable opportunity of being heard,** suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation.

**DONT'S during suspension Period**

- Shall not make any taxable supply  
[ie the registered person shall not issue a tax invoice and, accordingly, not to charge tax on supplies made by him]
- Shall not be required to furnish any return under section 39.
- shall not be granted any refund under section 54.

**(B) Cancellation of Registration**

(1) Where a person who has submitted an application for cancellation then

- the officer shall issue an order within a period of 30 days from the date of application submitted,
- cancel the registration,
- with effect from a date to be determined by him and [Prospectively or Retrospectively]
- notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled

- He shall issue a notice to such person requiring him to show cause, within a period of 7 working days from the date of the service of such notice, as to why his registration shall not be cancelled.
- Then reply to the show cause notice shall be furnished
- Now the proper officer shall issue an order within a period of 30 days from the date of the reply to the show cause
- to cancel the registration,
- with effect from a date to be determined by him and [Prospectively or Retrospectively]
- notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5)

**Dropping of Cancellation Proceedings:**

- Where reply of notice is found to be satisfactory, the proper officer shall drop the proceedings.
- Where suspension order was issued because of non submission of return and the person instead of replying to the notice furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings of cancellation.

**Liability on cancellation**

**In respect of Inputs**

Every registered person whose registration is cancelled shall pay an amount,

- equivalent to the credit of input tax in respect of **inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery**
- on the day immediately preceding the date of such cancellation

OR

- **the output tax payable on such goods,**

**In respect of Capital Goods**

The taxable person shall pay an amount --

- Equal to **the input tax credit taken on the said capital goods or plant and machinery** on the day immediately preceding the date of such cancellation, **reduced by such percentage points as may be prescribed**

OR

- **The tax on the transaction value of such capital goods or plant and machinery under section 15,**  
**[Whichever is higher]**

**Mode of payment in both the cases**--By way of debit in the E-Credit ledger or E-Cash ledger,

**On cancellation no effect on Prior period liabilities:** Such cancellation does not affect the liability of taxable person for any period prior or after the date of cancellation.

**Revocation**



Where registration is cancelled by Proper Officer, any registered taxable person may apply for revocation of such cancellation within 30 days of cancellation and Proper Officer may accept or **reject the application with in 30 days [Extension of 30 +30 days]** (After giving SCN and opportunity of being heard).



Where registration is cancelled because non filing of return then revocation application shall be files only after filing return and payment of tax, interest, penalties and late fee.

Moreover where registration is cancelled with retrospective effect then first of all file application for revocation and after that need to file all due returns till revocation order with in 30 days.

**Filing of application for revocation of cancellation of registration: Circular No. 99/18/2019**

**Prospective cancellation**

Where the registration has been cancelled with effect from the date of **order of cancellation** of registration, all returns **due till the date of such cancellation are required to be furnished before the application for revocation** can be filed.

	<p>Further, in such cases, all returns required to be furnished in respect of the period:</p> <ul style="list-style-type: none"> <li>○ from the date of order of cancellation</li> <li>○ till the date of order of revocation of cancellation of registration</li> </ul> <p>have to be furnished within a period of 30 days from the date of the order of revocation</p>
<p><b>MISC:</b></p>	<p><b>Retrospective Cancellation</b></p> <p><b>Where the registration has been cancelled with retrospective effect,</b> the common portal does not allow furnishing of returns after the effective date of cancellation.</p> <p>In such cases it was not possible to file the application for revocation of cancellation of registration. For enabling filing of application for revocation of cancellation of registration, subject to the condition that all returns relating to the period</p> <ul style="list-style-type: none"> <li>○ From the effective date of cancellation of registration</li> <li>○ till the date of order of revocation of cancellation of registration</li> </ul> <p>shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration</p> <p><b>RC Display:</b> Display RC in a prominent location at his principal and additional place (s) of business and shall display the registration number on the name board exhibited at entry of his principal place of business and any other place of business.</p> <p><b>All Documents/notices @ electronically and Digital signed:</b> Each document filed online shall be signed by person specified. All orders and notices under this chapter shall be issued electronically by proper officer.</p> <p><b>All applications/replies @ electronically and digitally signed:</b> All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provisions of these rules shall be so submitted electronically with digital signature certificate or through e-signature as or through <b>e signature.</b></p> <p><b>Physical verification of business premises:</b></p> <ul style="list-style-type: none"> <li>*Due to failure of Aadhaar authentication or</li> <li>*Due to not opting for Aadhaar authentication before the grant of registration, or</li> <li>*Due to any other reason after the grant of registration,</li> </ul>



Officer may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in on the common portal within a period of 15 working days following the date of such verification.

**Legal Text**

**Note:** Section 22, 23, 24 already covered under chapter TAXABLE PERSON.

**Section 25 Procedure for registration**

**PAN mandatory for registration** (However for TDS deductor ie Govt. depatt. PAN not mandatory but TAN mandatory, in case of NR other doc. As may be prescribed) Moreover Aadhaar is also required

(6) Every person shall have a Permanent Account Number issued under the Income tax Act, 1961 in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a **Tax Deduction and Collection Account Number** issued under the said Act in order to be eligible for grant of registration.

(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Where an Aadhaar number is not assigned to the registered person, such person shall be offered **alternate and viable means** of identification in such manner as Government may, on the recommendations of the Council.

In case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

In case of an <b>Individual</b>	In case of <b>Other than Individual</b>
<p><b>(6B) On and from the date of notification [1-04-2020], every individual shall,</b> in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:</p>	<p>(6C) On and from the date of notification <b>[1-04-2020],</b> every person, <b>other than an individual,</b> shall, in order to be eligible for grant of registration, undergo authentication, or <b>furnish proof of possession of Aadhaar number of the</b></p> <ul style="list-style-type: none"> <li>▪ <b>Karta,</b></li> <li>▪ <b>Managing Director,</b></li> <li>▪ <b>whole time Director,</b></li> <li>▪ <b>such number of partners,</b></li> <li>▪ <b>Members of Managing Committee of</b></li> </ul>

Where an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in the manner as specified in Rule 9.

- Association,
- Board of Trustees,
- authorised representative,
- authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendation of the Council, specify in the said notification:

Where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in the manner as specified in Rule 9.

**(6D) Not applicable on Notified persons:** The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

#### Notified Persons:

Hereby notifies that the provisions of sub-section (6B) or sub-section (6C) of section 25 of the said Act shall not apply to a person who is, -

- (a) Not a citizen of India; or
- (b) A Department or establishment of the Central / State Government; or
- (c) A local authority; or
- (d) A statutory body; or
- (e) A Public Sector Undertaking; or
- (f) A person applying for registration under section 25 (9) of the said Act.[UIN HOLDER]

- ~~A person who is not a citizen of India or~~
- ~~to a class of persons other than the following class of persons, namely:-~~
  - ~~Individual;~~
  - ~~authorised signatory of all types;~~
  - ~~Managing and Authorised partner; and~~
  - ~~Karta of an Hindu undivided family.~~

(7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.



### Section 29: Cancellation OR suspension of registration

#### Cancellation of Registration

(1) The proper officer may, **either on his own motion or on an application** filed by the registered person or by his legal heirs, in case of death of such person, **cancel the registration, in such manner** and within such period as may be prescribed, having regard to the circumstances **where:**

(a) The business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) There is any change in the constitution of the business; or

(c) The taxable person is no longer liable to be registered under section 22 or section 24 **or intends to opt out of the registration voluntarily made under section 25 (3).**

~~(c) The taxable person, other than the person registered under section 25(3) [Voluntarily Registration], is no longer liable to be registered under section 22 or section 24.~~

Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.

### Section 30 Revocation of cancellation of registration

#### Revocation Application

(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer **on his own motion**, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within 30 days from the date of service of the cancellation order.

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,-

(a) by the Additional Commissioner or the Joint Commissioner, for a period not exceeding 30 days;

(b) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a)

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, **either revoke cancellation of the registration or reject the application:**

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an **opportunity of being heard.**

**Common Provision**

(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

## CGST Rules, 2017 - Registration

**Rule 8:  
Application for  
registration**

(4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in **Part B of FORM GST REG-01**, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(4A) [Except the persons exempted from Aadhaar required ] Every application made under rule (4) shall be followed by

**If he has opted for authentication of Aadhaar number** (a) Biometric-based Aadhaar authentication and taking photograph, OR

**If he has opted not to get Aadhaar authentication done,** (b) Taking biometric information, photograph and verification of such other KYC documents, as notified, of the applicant

- **where the applicant is an individual** or of such individuals in relation to the applicant as notified under section 25(6C)
- where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 and
- **the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.**

(4A) Where an applicant,

- ~~Other than a person notified under section 25(6D) [ie. NON-CITIZEN]~~
- ~~**opts for authentication of Aadhaar number,**~~
- ~~he shall, while submitting the application under sub-rule (4),~~
- ~~with effect from 21st August, 2020, undergo authentication of Aadhaar number and~~
- ~~the date of submission of the application in such cases shall be~~
  - ⇒ ~~the date of authentication of the Aadhaar number, or~~
  - ⇒ ~~15 days from the submission of the application in **Part B of FORM GST REG-01** under sub-rule (4),~~
  - ⇒ ~~whichever is earlier.~~

	<p>(5) On receipt of an application under sub-rule (4), an <b>acknowledgement</b> shall be issued electronically to the applicant in <b>FORM GST REG-02</b>.</p>
<p><b>Rule 9</b> <b>Verification of the application and approval</b></p>	<p>(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of 7 {3} working days from the date of submission of the application.</p> <p><b>Registration with- in 30 days of submission of application</b></p> <p>Provided that where-</p> <p>(a) A person, other than a person notified under section 25(6D),</p> <ul style="list-style-type: none"> <li>- fails to undergo authentication of Aadhaar number as specified in Rule 8(4A) or</li> <li>- does not opt for authentication of Aadhaar number; or</li> </ul> <p><b>(b) The proper officer,</b></p> <ul style="list-style-type: none"> <li>- <b>with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner,</b></li> <li>- <b>deems it fit to carry out physical verification of places of business,</b></li> </ul> <p>the registration shall be granted within 30 days of submission of application, after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.</p> <p><b>Registration After Physical Verification:</b> Provided that</p> <ul style="list-style-type: none"> <li>▪ <del>Where a person, other than a person notified under section 25(6D), [NON CITIZEN]</del></li> <li>▪ <del><b>fails to undergo authentication of Aadhaar number as specified in Rule 8(4A) or does not opt for authentication of Aadhaar number,</b></del></li> <li>▪ <del>the registration shall be granted only after physical verification of the place of business in the presence of the said person, in the manner provided under Rule 25.</del></li> </ul> <p><b>Alternate of Physical Verification @ Document Verification :</b> Provided further that</p> <ul style="list-style-type: none"> <li>▪ <del>the proper officer may, for reasons to be recorded in writing and</del></li> <li>▪ <del>with the approval of an officer not below the rank of Joint Commissioner,</del></li> <li>▪ <del><b>in lieu of the physical verification</b> of the place of business,</del></li> <li>▪ <del>carry out the <b>verification of such documents</b> as he may deem fit.</del></li> </ul> <p>(2) Where the application submitted under Rule 8</p> <ul style="list-style-type: none"> <li>- is found to be deficient, either in terms of any information or</li> <li>- any document required to be furnished under the said rule, or</li> </ul>

- where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith,
- he may issue a notice to the applicant electronically in **FORM GST REG-03** within a period of **7 {3} working days** from the date of submission of the application and
- the applicant shall furnish such clarification, information

**Notice in 30 days:** Provided that where-

**(a) a person, other than a person notified under sub-section (6D) of section 25,**

- fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or
- does not opt for authentication of Aadhaar number; or

(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, **deems it fit to carry out physical verification** of places of business,

the notice in **FORM GST REG-03** may be issued not later than 30 days from the date of submission of the application.

**Notice in 21 days:** Provided that

- ~~Where a person,~~
- ~~other than a person notified under section 25(6D),~~
- ~~fails to undergo authentication of Aadhaar number as specified in Rule 8 (4A) or does not opt for authentication of Aadhaar number,~~
- ~~the notice in FORM GST REG-03 may be issued~~
- ~~not later than 21 days from the date of submission of the application.~~

**Explanation.- The expression "clarification" includes**

- Modification or correction of particulars declared in the application for registration,
- other than Permanent Account Number, State, mobile number and e-mail address declared in **Part A** of **FORM GST REG-01**.

(3) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant,

- he may approve the grant of registration to the applicant within a period of 7 working days
- from the date of the receipt of such clarification or information or documents.

(4) Where

- No reply is furnished by the applicant in response to the notice issued under sub-rule (2) or
- where the proper officer is not satisfied with the clarification, information or documents furnished, he may, for reasons to be recorded in writing,
- **reject such application** and inform the applicant electronically in **FORM GST REG-05**.

(5) If the proper officer fails to take any action,—

(a) Within a period of 7 working days from the date of submission of the application	in cases where the person is not covered under proviso to sub-rule (1); or
(b) Within a period of 30 days from the date of submission of the application	in cases where a person is covered under proviso to sub-rule (1); or
(c) Within a period of 7 working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2),	In case where deficiency notice has been issued

the application for grant of registration shall be deemed to have been approved.

(5) If the proper officer fails to take any action,—

(a) Within a period of <del>3 working days</del> from the date of submission of the application	in cases where a person successfully <del>undergoes authentication of Aadhaar</del> number or is notified under section 25(6D); or
(b) Within the time period prescribed under the proviso to sub-rule (2),	in cases where a person, other than a person notified under section 25(6D), <del>fails to undergo authentication of Aadhaar</del> number as specified in Rule 8(4A); or
(c) Within a period of <del>21 days</del> from the date of submission of the application	in cases where a person <del>does not opt for authentication of Aadhaar</del> number; or

~~(d) within a period of 7 working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2),~~

~~the application for grant of registration shall be deemed to have been approved.~~

**Rule 21**  
**Registration to be cancelled in certain cases**

The registration granted to a person is liable to be cancelled, if the said person,-

- (a) Does not conduct any business from the declared place of business; or
- (b) Issues invoice or bill without supply of goods or services **OR BOTH** in violation of the provisions of the Act, or the rules made thereunder; or
- (c) Violates the provisions of section 171 of the Act or the rules made thereunder.
- (d) Violates the provision of rule 10A.

	<p>(e) Avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or</p> <p>(f) Furnishes the details of outward supplies in <b>FORM GSTR-1</b> under section 37</p> <ul style="list-style-type: none"> <li>- for one or more tax periods</li> <li>- which is in excess of the outward supplies declared by him in his valid return</li> <li>- under section 39 for the said tax periods; or</li> </ul> <p>(g) Violates the provision of Rule 86B.</p>
<p><b>Rule 21A</b> <b>Suspension of registration</b></p>	<p>(1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.</p> <p>(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, <del>after affording the said person a reasonable opportunity of being heard,</del> suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.</p> <p>(2A) Where, a comparison of the returns furnished by a registered person under section 39 with</p> <ul style="list-style-type: none"> <li>(a) The details of outward supplies furnished in <b>FORM GSTR-1</b>; or</li> <li>(b) The details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their <b>FORM GSTR-1</b>,</li> </ul> <p>or such other analysis, as may be carried out on the recommendations of the Council, show that</p> <ul style="list-style-type: none"> <li>▪ there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder,</li> <li>▪ leading to cancellation of registration of the said person,</li> <li>▪ his registration shall be suspended and</li> <li>▪ the said person shall be intimated in <b>FORM GST REG-31</b>,</li> <li>▪ electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time,</li> <li>▪ highlighting the said differences and anomalies and asking him to explain,</li> <li>▪ within a period of thirty days, as to why his registration shall not be cancelled.</li> </ul> <p>(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2) or sub-rule (2A),</p> <ul style="list-style-type: none"> <li>- Shall not make any taxable supply during the period of suspension [ie the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made</li> </ul>

by him during the period of suspension.] and

- shall not be required to furnish any return under section 39.

(3A) A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund under section 54, during the period of suspension of his registration.

(4) The suspension of registration under sub-rule (1) or sub-rule (2) or sub-rule (2A)

- shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and
- such revocation shall be effective from the date on which the suspension had come into effect.

Provided that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

# Chapter 12



## MANNER OF PAYMENT

**Legal Text**



## Section 51: Tax deduction at source



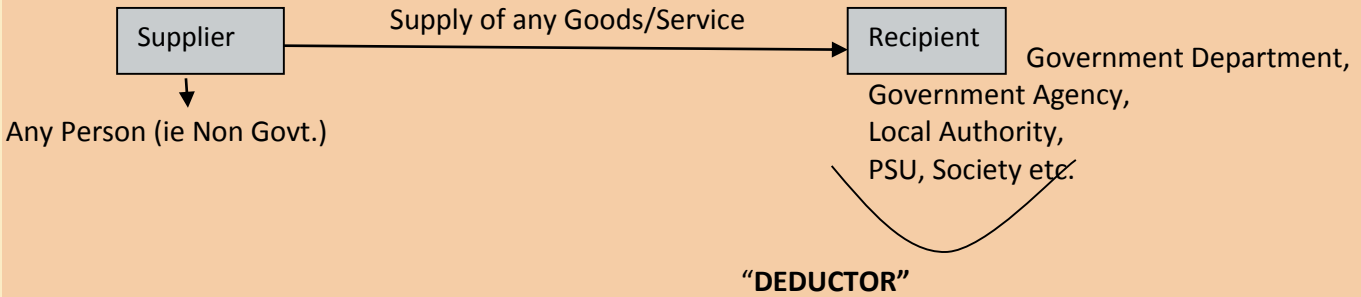
Who can be deductor of TDS	<p>(1) Notwithstanding anything to the contrary contained in this Act, <b>the Government may mandate,—</b></p> <ul style="list-style-type: none"> <li>(a) A <b>department</b> or establishment of the Central Government or State Government; or</li> <li>(b) <b>Local authority</b>; or</li> <li>(c) <b>Governmental agencies</b>; or</li> <li>(d) Such persons or <b>category of persons as may be notified</b> by the Government on the recommendations of the Council, </li></ul> <p><i>(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of 1%, [for CGST] from the PAYMENT made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, <u>where the total value of such supply, under a contract</u>, exceeds ₹ 2,50,000</i></p> <p><b>NO TDS: No deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.</b></p> <p><b>Value of supply for TDS:</b> For the purpose of deduction of tax specified above, <b>the value of supply</b> shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.</p>
Payment of TDS by 10 <sup>th</sup> of Next month	<p>(2) The amount deducted as tax under this section shall be paid to the Government by the deductor <b>within 10 days</b> after the end of the month in which such deduction is made, in such manner as may be prescribed.</p> <p>(6) If any deductor <b>fails to pay to the Government the amount deducted as</b> tax under sub-section (1), he shall pay interest in accordance with the provisions of section 50 (1), in addition to the amount of tax deducted.</p> <p>(7) The <b>determination of the amount in default</b> under this section shall be made in the manner specified in section 73 or section 74.</p>
TDS Certificate to deductee and late fee	<p><b>(3) A CERTIFICATE OF TAX DEDUCTION AT SOURCE SHALL BE ISSUED IN SUCH FORM AND IN SUCH MANNER AS MAY BE PRESCRIBED.</b></p> <p><del>(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.</del></p> <p><del>(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, <b>within 5 days of crediting the amount so deducted to the Government, the</b> deductor shall pay, by way of a late fee, a sum of ₹100 per day from the day after the expiry of such 5 days period until the failure is rectified, subject to a maximum amount of ₹5,000.</del></p>

Credit to deductee in E-Cash Ledger	(5) The <b>deductee shall claim credit, in his electronic cash ledger</b> , of the tax deducted and reflected in the return of the deductor furnished under section 39(3), in such manner as may be prescribed.
Refund of Erroneous	(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54: <i>Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.</i>

**ANALYSIS: TDS UNDER GST Law (NOT Under Income TAX Act): Section 51**

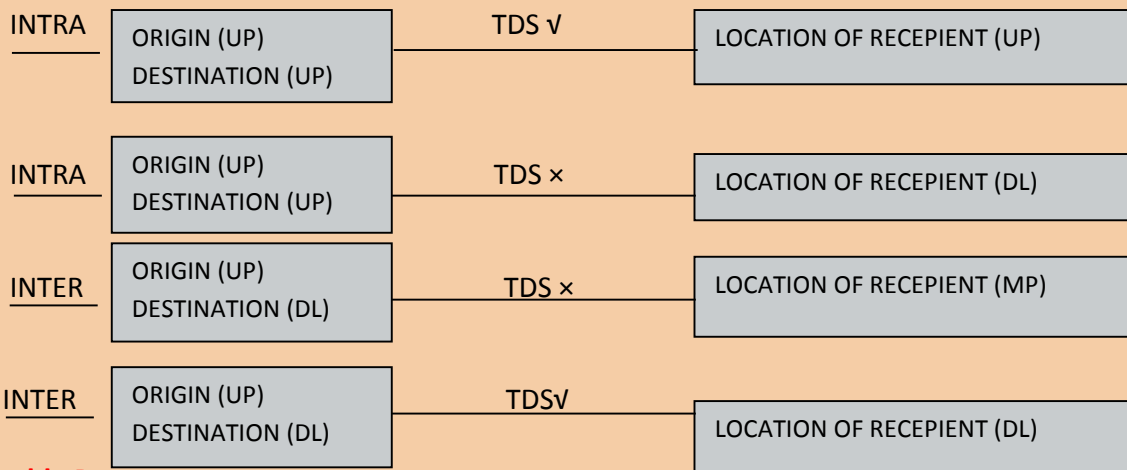
**Objective of concept of TDS :** Control, Control, Control “ ie to CAPTURE A Transaction”

**(i) Goods/Service**

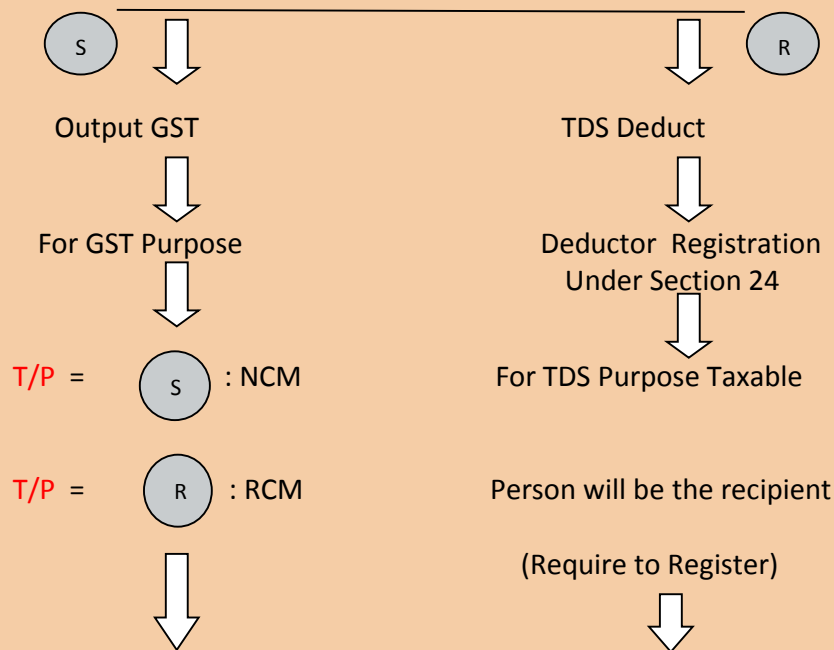


**(ii) Supply :** Mandatory

**(iii) NATURE :** INTRA/INTER (Any)



**Taxable Person:**

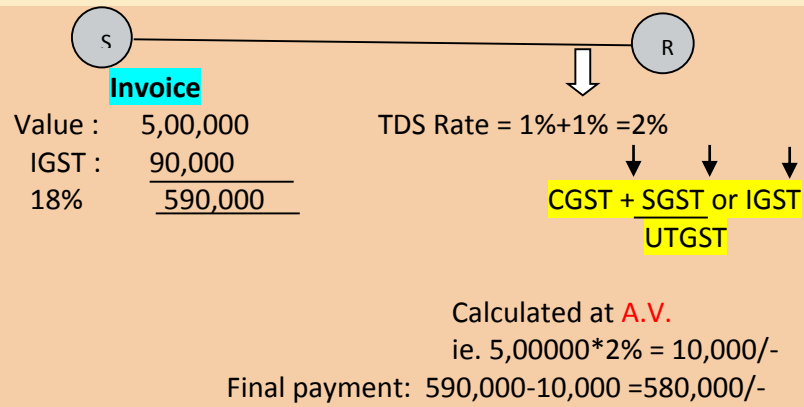


**Exempted Supply :**

On exempted supplies: GST × TDS ×

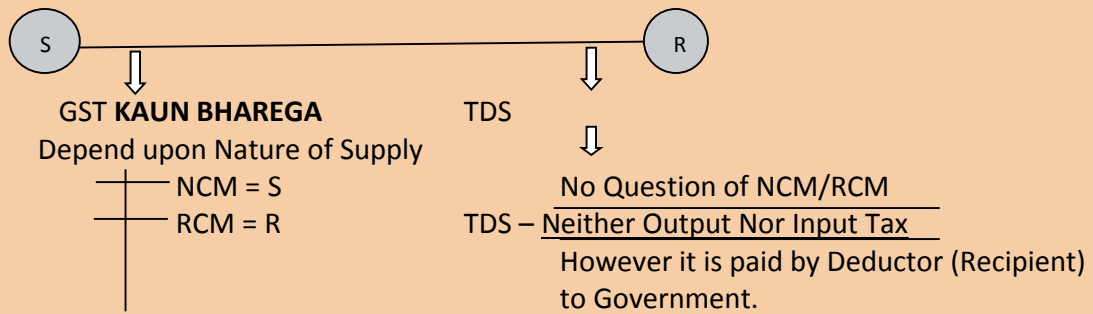
**We need a Taxable Supply – Not Exempted for – TDS Purpose**

**Computation :**

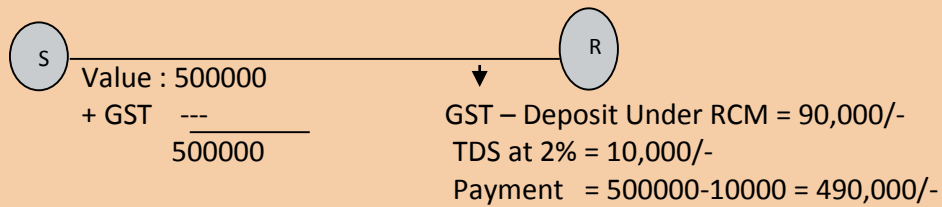


**NOTE:** TDS Provision applicable if: A.V. = ₹ 250,000 PLUS @ Contract

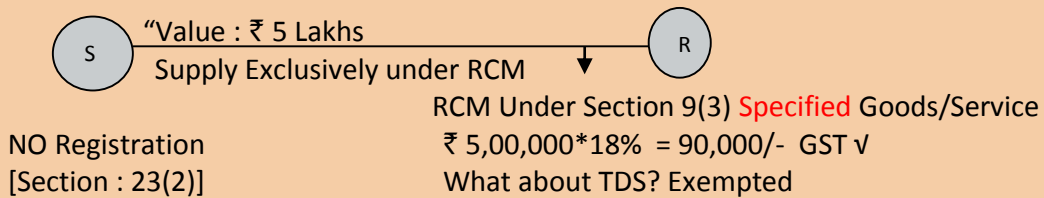
**NCM/RCM**



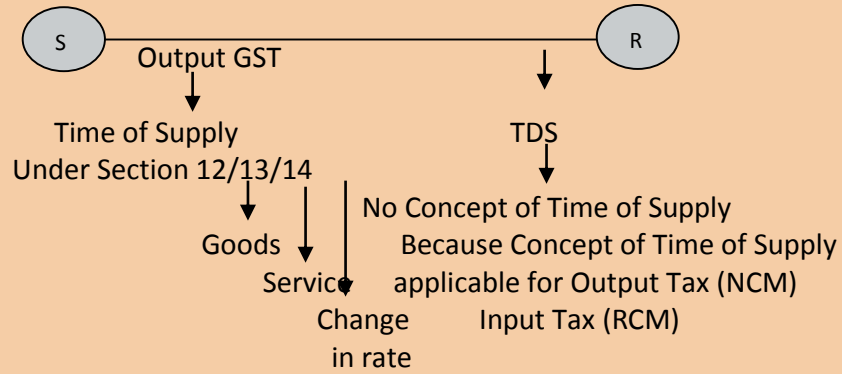
**NOTE: RCM SUPPLY**



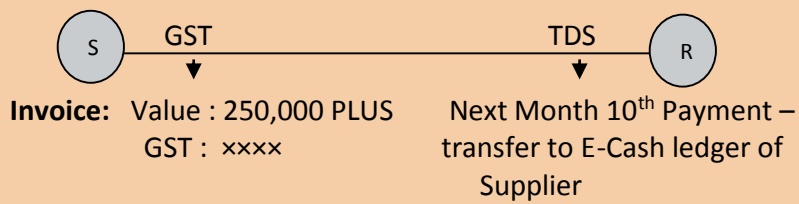
**NOTE:**



**TIME OF SUPPLY**



**PROCEDURAL PART**



- Return** by recipient : GSTR = 1/2/3 etc. & TDS Return : Extra :GSTR = 7
- Record** by recipient : including TDS records
- Refund** by recipient: Excess Payment : Refund

## CGST Rules, 2017: Payment of Tax

**Rule 86B:**  
Restrictions on use of amount available in electronic credit ledger.-

Notwithstanding anything contained in these rules,

- The registered person shall not use
- the amount available in electronic credit ledger
- to discharge his liability towards output tax
- in excess of 99% of such tax liability,
- in cases where the value of taxable supply
- [other than exempt supply and zero-rated supply]
- in a month exceeds Rs.50 lakh.

Provided that the said restriction shall not apply where –

(a) The said person or the <b>proprietor</b> or <b>karta</b> or the managing <b>director</b> or any of its two partners, whole-time Directors, <b>Members</b> of Managing Committee of Associations or Board of Trustees, as the case may be,	<ul style="list-style-type: none"> <li>- have paid <b>more than Rs. 1 lakh as income tax</b> in each of the last two financial years</li> <li>- for which the time limit to file return of income under section 139(1) of the said Act has expired; or</li> </ul>
(b) The registered person	<ul style="list-style-type: none"> <li>- has received a refund amount of more than Rs.1 lakh in the preceding financial year</li> <li>- on account of unutilised input tax credit under first proviso of section 54(3)(i); or</li> </ul>
(c) The registered person	<ul style="list-style-type: none"> <li>- Has received a refund amount of more than Rs. 1 lakh in the preceding financial year</li> <li>- on account of unutilised input tax credit under first proviso of section 54(3)(ii); or</li> </ul>
(d) the registered person	<ul style="list-style-type: none"> <li>- has discharged his liability towards output tax through the electronic cash ledger</li> <li>- for an amount which is in excess of 1% of the total output tax liability,</li> <li>- applied cumulatively, upto the said month in the current financial year; or</li> </ul>
(e) the registered person is –	<ul style="list-style-type: none"> <li>- Government Department; or</li> <li>- a Public Sector Undertaking; or</li> <li>- a local authority; or</li> <li>- a statutory body;</li> </ul>

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

**Analysis****Newly added: Rule 86B: Restrictions on use of amount available in electronic credit ledger.-**

If TAXABLE TURNOVER of a registered person in a particular month is Rs 50 lakh or more – then the person need to pay atleast 1% from E cash ledger even if has sufficient balance of credit to pay of all output GST.

However following persons will not be covered under the above provision..

1. Owner, director, karta etc paid income tax of Rs. 1 lakh each in last 2 F.Y.
2. Claim Refund of ITC of Rs. 1 lakh
3. Government Department/ PSU/local Authority/Statutory Body.
4. If paid excess in preceding period then no need to pay in cash in current period ie cumulative benefit shall be allowed.

Registered person may request to officer for relaxation.

# Chapter 13



## RETURN

### Quarterly Return Filing and Monthly Payment of Taxes (QRMP) Scheme under GST

The Central Board of Indirect Taxes & Customs (CBIC) introduced Quarterly Return Filing and Monthly Payment of Taxes (QRMP) scheme under Goods and Services Tax (GST) to help small taxpayers whose turnover is less than Rs.5 crores. The QRMP scheme allows the taxpayers to file GSTR-3B on a quarterly basis and pay tax every month.

#### 1. Who is eligible for the QRMP scheme?

A registered person who is required to furnish a return in FORM GSTR-3B, and who has an aggregate turnover of up to 5 crore rupees in the preceding financial year, is eligible for the QRMP Scheme. Further, in case the aggregate turnover exceeds five crore rupees during any quarter in the current financial year, the registered person shall not be eligible for the scheme from the next quarter.

It is clarified that the aggregate annual turnover for the preceding financial year shall be calculated in the common portal taking into account the details furnished in the returns by the taxpayer for the tax periods in the preceding financial year.

The quarterly GSTR-3B filing option will be available from 1st January 2021 onwards. It is clarified that this scheme is optional and can be availed based on GSTIN.

#### 2. How to exercise Option for QRMP Scheme?

A registered person who intends to file his GSTR-3B quarterly should indicate the same on GST portal, from the 1st of the second month of the preceding quarter until the last day of the first month of the quarter for which such option is being exercised.

For example: If A wishes to file quarterly returns for the quarter of Jan-Mar 2021, he should opt for quarterly filing on the common GST portal between 1st November 2020 and 31st January 2021.

Once the registered person has opted for quarterly filing, he will have to continue to furnish his return every quarter for all future tax periods, except in the following situations:

1. If the taxpayer becomes ineligible for furnishing a quarterly return (for example, if the aggregate turnover crosses Rs.5 crore during a quarter, then from the next quarter he will not be able to file quarterly returns). If the taxpayer opts to furnish GSTR-3B on a monthly basis.
2. A registered person will not be eligible to opt for furnishing quarterly returns if the last return, which was due on the date of exercising such an option has not been furnished.



**For example:** If the person is opting for quarterly GSTR-3B filing on 1st December 2020, he will need to furnish his GSTR-3B return for October 2020, which would have been the last return due on the date of exercising the quarterly filing option.

### 3. Deemed monthly/quarterly filing of GSTR-3B

The taxpayer has to follow the above procedure to opt for the quarterly GSTR-3B. However, the GSTN case of registered persons falling in the categories specified in the table below, who have furnished their GSTR-3B return for October 2020 by 30th November 2020, it shall be deemed that they have opted for monthly or quarterly filing as detailed below-

S No.	Class of Registered Persons	Deemed Option
1	Registered individuals with an aggregate turnover of up to Rs.1.5 crore, who have furnished Form GSTR-1 quarterly in the current financial year	Quarterly GSTR-3B
2	Registered persons with an aggregate turnover of up to Rs.1.5 crore, who have furnished Form GSTR-1 monthly in the current financial year	Monthly GSTR-3B
3	Registered persons having an aggregate turnover exceeding Rs.1.5 crore and up to Rs.5 crore in the preceding financial year	Quarterly GSTR-3B

The taxpayers referred to in the Sl. No. 2 in the above table can change the default option and opt for quarterly GSTR-3B filing between 5th December 2020 and 31st January 2021.

### 4. How to submit details of outward supplies?

The taxpayers who opted for the QRMP scheme can use the Invoice Furnishing Facility (IFF) which allows quarterly GSTR-1 filers to upload their invoices every month. One should keep the following points in mind before utilizing the IFF:

- The IFF can be utilised only for the first 2 months of a quarter.
- The invoices relating to the last month of a quarter are to be uploaded in the GSTR-1 return only.
- There is no requirement to upload invoices in GSTR-1 if the same has been uploaded in the IFF.
- The taxpayer has to submit the B2B invoice details of sale transactions (both inter-state and intra-state) along with debit and credit notes of the B2B invoices issued during the month.
- The total net value of invoices that can be uploaded is restricted to Rs.50 lakh per month.
- The details submitted in IFF will be reflected in the GSTR-2A, GSTR-2B, GSTR-4A or GSTR-6A of the recipients as the case may be.
- The Invoice Furnishing Facility will come into effect from 01.01.2021.

### 5. How to make monthly tax payments under the QRMP scheme?

The taxpayer has to deposit tax using form GST PMT-06 by the 25th of the following month, for the first and second months of the quarter. The taxpayers can pay their monthly tax liability either in the Fixed Sum Method (FSM), also popular as 35% challan method, or Self- Assessment Method (SAM).

**Fixed Sum Method (FSM) or 35% challan method:**

The taxpayer must pay an amount of tax mentioned in a pre-filled challan in the form GST PMT-06 for an amount equal to 35% of the tax paid in cash.

S N	Type of Taxpayer	Tax to be paid
1	Who furnished GSTR-3B quarterly for the last quarter	35% of tax paid in cash in the preceding quarter
2	Who furnished GSTR-3B monthly during the last quarter	100% of tax paid in cash in the last month of the immediately preceding quarter

**Example for understanding FSM:**

**Scenario 1:** If GSTR-3B for January 2021 to March 2021 was filed on a quarterly basis

Tax paid in cash during Jan'21 – Mar'21 quarter		Tax required to be paid in each of Apr'21 and May'21	
CGST	10,000	CGST	3,500
SGST	10,000	SGST	3,500
IGST	20,000	IGST	7,000
Cess	3,000	Cess	1,050

**Scenario 2:** If GSTR-3 was filed on a monthly basis during the quarter of January 2021 to March 2021

Tax paid in cash during Mar'21		Tax required to be paid in each of Apr'21 and May'21	
CGST	3,000	CGST	3,000
SGST	3,000	SGST	3,000
IGST	5,000	IGST	5,000
Cess	1,000	Cess	1,000

**Self -Assessment Method (SAM):**

This is the existing method where a taxpayer can pay the tax liability by considering the tax liability on inward and outward supplies and the input tax credit available. The taxpayer has to manually arrive at the tax liability for the month and has to pay the same in form GST PMT-06. For ascertaining the amount of ITC available for the month the taxpayer can use form GSTR-2B.

There are certain instances where no amount may be required to be deposited, such as –

1. For the first month of the quarter – where the balance in the electronic cash/credit ledger is adequate for the tax liability of the said month OR where the tax liability is nil.
2. For the second month of the quarter – where the balance in the electronic cash/credit ledger is adequate for the cumulative tax liability for the first and second months of the quarter OR where the tax liability is nil.

It is to be noted that a registered person will not be eligible for the said procedures unless he has furnished the return for the complete tax period proceeding such month. A complete tax period is a tax period where the said person is registered from the first until the last day of the tax period.

**6. Due dates for filing quarterly GSTR-3B**

The due dates filing quarterly GSTR-3B has been notified as follows:

S No	GST Registration in States and Union Territories	Due Date
1	Chhattisgarh, Madhya Pradesh, Gujarat, Dadra and Nagar Haveli, Daman and Diu, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh	22nd of the month succeeding such quarter
2	Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Mizoram, Manipur, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha	24th of the month succeeding such quarter

**7. Interest under QRMP scheme**

The interest will be applicable as follows if the taxpayer opts for **Fixed Sum Method (FSM)** or popularly known as the **35% challan method**:

S No	Scenario	Interest to be paid
1	Tax liability mentioned in pre-filled form GST PMT-06 is <b>paid by 25th of the following month</b>	Nil
2	Tax liability mentioned in pre-filled form GST PMT-06 is <b>not paid by 25th of the following month</b>	18% of the tax liability (from 26th of the

S No	Scenario	Interest to be paid
		following month till the date of payment)
3	The final tax liability for the first two months is <b>less than or equal to</b> the amount paid through pre-filled form GST PMT-06	Nil
4	The final tax liability for the first two months is <b>higher than</b> the tax amount paid through pre-filled form GST PMT-06, and <b>such excess liability has been paid within quarterly GSTR-3B due date</b>	Nil
5	The final tax liability for the first two months is <b>higher than</b> the tax amount paid through pre-filled form GST PMT-06, and <b>such excess liability has not been paid within quarterly GSTR-3B due date</b>	18% of the tax liability (from GSTR-3B due date* till the date of payment)

\*22nd or 24th of the month succeeding such quarter based on the state of the taxpayer. The interest will be applicable as follows if the taxpayer opts for **Self-Assessment Method (SAM)**:

The taxpayer has to pay interest @ 18% on the net tax liability which remains unpaid or paid beyond the due date for the first two months of the quarter.

It is important to note that the taxpayer has to pay interest @18% if there is any late payment of tax in the third month of a quarter. This is applicable irrespective of Fixed Sum Method (FSM), popular as 35% challan method, or Self-Assessment Method (SAM).

## 8. Late fee under QRMP scheme

The late fee should be paid as follows if the quarterly GSTR-3B is not filed within due date, subject to a maximum late fees of Rs 5,000.

Name of the Act	Late fee for every day of delay	Late fee for every day of delay (in case of 'Nil' tax liability)
CGST Act	Rs.25	Rs.10
SGST Act	Rs.25	Rs.10
IGST Act	Rs.50	Rs.20

However, it is clarified that no late fee is applicable for delay in payment of tax in the first two months of the quarter in form GST PMT-06.

## 9. Issues or Challenges under QRMP

Whether to opt into QRMP or to continue with monthly returns must be decided for each of the GSTINs of a business (PAN), which can be tedious and time consuming. The segregation of the documents as B2B and non-B2B must also be done where the taxpayer opting into the scheme uses the Invoice Furnishing Facility (IFF). It would help in moving the B2B documents to IFF and rest directly to the quarterly GSTR-1 return. Moreover, the reconciliation between IFF, sales

register and GSTR-1 becomes more essential. Further, the taxpayer under QRMP scheme must choose between two methods for tax payment every month, i.e. Fixed Sum/35% challan Method and Self-assessment Method.

**NOTIFICATION NO. 84/2020–Central Tax: 10th November, 2020**

In exercise of the powers conferred by proviso to section 39(1) read with proviso to section 39(7) of the Central Goods and Services Tax Act, 2017, hereby notifies

- the registered persons, other than a person referred to in section 14 of the IGST Act, 2017,
- having an aggregate turnover of up to Rs.5 crore in the preceding financial year, and who have opted to furnish a return for every quarter, under Rule 61A(1) of the CGST Tax Rules, 2017 as the class of persons

who shall, subject to the following conditions and restrictions, furnish a return for every quarter from January, 2021 onwards, and pay the tax due every month in accordance with the proviso to Section 39(7) of the said Act, namely: -

(i) The return for the preceding month, as due on the date of exercising such option, has been furnished:

(ii) Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the same.

(2) A registered person whose aggregate turnover crosses Rs.5 crore during a quarter in a financial year shall not be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter.

**NOTIFICATION NO. 85/2020: 10th November, 2020**

In exercise of the powers conferred by section 148 read with Section 39(7) of the CGST Act, 2017, the Central Government, hereby notifies the registered persons, notified under proviso to Section 39(1) of the said Act,

- who have opted to furnish a return for every quarter or part thereof, as the class of persons
- who may, in first month or second month or both months of the quarter, follow the special procedure such that the said persons may pay the tax due under proviso to Section 39(7) of the said Act,
- by way of making a deposit of an amount in the electronic cash ledger equivalent to, -

(i) 35% of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or

(ii) The tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

Provided that no such amount may be required to be deposited-

(a) for the first month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability ;

(b) for the second month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the cumulative tax liability for the first and the second month of the quarter or where there is nil tax liability:

Provided further that registered person shall not be eligible for the said special procedure unless he has furnished the return for a **complete tax period preceding such month**.

*Explanation:-* For the purpose of this notification, the expression “a complete tax period” means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

## Invoice Furnishing Facility (IFF)

Invoice Furnishing Facility (IFF) allows small taxpayers to upload their invoices every month. The Central Board of Indirect Taxes & Customs (CBIC) had notified the Invoice Furnishing Facility on 10.11.2020 via notification number 82/2020-Central Tax.

### What is the Invoice Furnishing Facility?

The Invoice Furnishing Facility (IFF) is a facility where quarterly GSTR-1 filers can choose to upload their Business-to-business (B2B) invoices every month, currently under the QRMP scheme only. It is governed by Rule 59(2) of the CGST Rules, available to regular taxpayers having an annual aggregate turnover of up to Rs.5 crore. One should keep the following points in mind before utilising the IFF:

- The IFF is an optional facility. Non-usage will not attract any late fee.
- The invoices relating to the last month of a quarter are to be uploaded in the GSTR-1 return only.
- There is no requirement to upload invoices in GSTR-1 if the same has been uploaded in the IFF.
- The total value of invoices that can be uploaded per month is restricted to Rs.50 lakh.
- The details submitted in IFF will be reflected in the GSTR-2A and GSTR-2B of the recipients.
- The Invoice Furnishing Facility will come into effect from 01.01.2021 and the first cut-off date was 13th February 2021 for January 2021 (being the first month for the January-March 2021 quarter).

### Who can use the Invoice Furnishing Facility?

Small taxpayers opting into the QRMP scheme filing their GSTR-1 returns every quarter can utilise the Invoice Furnishing Facility. It is important to note that if a taxpayer does not opt to upload invoice details through the IFF, he/she has to upload all the invoice details for the three months of the quarter in the GSTR-1 return.

### What is the purpose of the Invoice Furnishing Facility?

The taxpayers whose aggregate turnover is less than Rs.5 crore in the preceding financial year can file their GSTR-1 and GSTR-3B every quarter by opting into the QRMP scheme. This is allowed to reduce the compliance burden on small taxpayers. However, this creates problems for taxpayers who make purchases from QRMP taxpayers in claiming Input Tax Credit (ITC).

For example, when a buyer purchases goods from a QRMP taxpayer during a quarter, the buyer might have to wait until the end of the quarter to claim ITC. The reason for the same is that a small taxpayer can upload the invoices and complete the GSTR-1 filing only after the quarter is completed. This process would cause a delay in claiming ITC as the buyer can claim full ITC only when the invoice appears in his/her GSTR-2B.

Hence, the IFF has been introduced under the QRMP scheme to remove these hardships allowing the QRMP taxpayers to upload selective or all B2B invoices on the GST portal using IFF for the first two months of the quarter. In turn, it helps the buyers in claiming ITC without any delay.

**What details are to be submitted in the Invoice Furnishing Facility? The following details are to be submitted by the small taxpayers if they opt for Invoice Furnishing Facility:**

- **B2B invoice details of sale transactions (both inter-state and intra-state)**– being corresponding tables 4A, 4B, 4C, 6B and 6C of GSTR-1.
- **Debit and credit notes towards the B2B invoices issued during the month (CDNR)**– being corresponding table 9B of GSTR-1.

- Respective amendments to the B2B invoices (B2BA) and/or the debit and credit notes (CDNRA) being corresponding tables 9A and 9C of GSTR-1.

It is important to note that the taxpayer should upload all B2C invoices of the quarter while filing quarterly GSTR-1.

#### How to use the Invoice Furnishing Facility?

As the Invoice Furnishing Facility is optional for the taxpayers under the QRMP scheme, the GST portal gave a timeline to opt-in or out of the scheme, i.e. it was 31st January 2021 for the quarter January-March 2021. Once the small taxpayers stayed in the scheme, the GST portal has provided this facility for the first two months of the quarter only. The B2B invoices should be uploaded in IFF from 1st to the 13th of the month subsequent to the relevant month (being only first two months of the quarter).

#### Advantages of using the Invoice Furnishing Facility

- Any late upload of B2B invoices, beyond 13th of next month (cut-off date for a month) will never attract late fee unlike GSTR-1. However, the registered buyers may at the most lose the input tax credit for that month as it gets deferred to the next month.
- IFF is optional and flexible. If it was chosen in the first month of a specific quarter, there is no rule that it must be chosen for the second month of the same quarter.
- Buyers of goods from small taxpayers can claim ITC every month.
- The B2B sales details uploaded on IFF will get reflected or auto-populated into the relevant quarterly GSTR-1, thereby removing the need to re-enter the details.
- It pushes for a monthly reconciliation of data and that will ultimately make quarterly return filing easier.
- Small taxpayers can improve their business by providing faster ITC claims.
- Suppose the QRMP taxpayer has only submitted the B2B data on IFF by 13th of next month but forgotten to finish filing IFF for the month by 13th. He will still be allowed to file IFF after 13th, provided the data is already submitted on or before 13th of the next month.
- Eases the compliance burden by reducing the volume of invoices to be uploaded at the end of the quarter.

This is a good move to help both small taxpayers and buyers from small taxpayers. This facility will indirectly help small taxpayers to enhance their business by providing faster ITC claims to their buyers. However, this may increase the compliance costs for them. Further, the data must be segregated as B2B and non-B2B transactions for reporting on the IFF. Once the invoices are uploaded and filed on IFF, it gets auto-populated into the quarterly GSTR-1, making it non-editable or not deletable.

Hence, one has to make a comparison between the benefit of opting for IFF and the cost involved. It is good to opt-in for this facility if the QRMP taxpayer raises comparatively larger volumes of B2B invoices than B2C invoices in a quarter. Further, the impact on business relation with their registered customers must be understood well.

## Legal Text

### Section 39: Furnishing of PERIODIC Returns @ Monthly or Quarterly Frequency

Filing of RETURN  
@ monthly  
frequency by 20<sup>th</sup>  
day

[FORM  
GSTR: 3]

(1) Every registered person, other than

- an Input Service Distributor or
- a non-resident taxable person or
- a person paying tax under the provisions of section 10 or section 51 or section 52 shall, **for every calendar month or part thereof**, furnish, a return, electronically,
- of inward and outward supplies of goods or services or both,
- input tax credit availed,
- tax payable, tax paid and
- such other particulars,
- in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for **every quarter or part thereof**, subject to such conditions and restrictions as may be specified therein.  
[SPECIFIED PERSONS under QRMP]

~~(1) Every registered person, [other than:~~

- ~~▪— An Input Service Distributor or~~
- ~~▪— a non-resident taxable person or~~
- ~~▪— a person paying tax under the provisions of section 10 or, section 51 or section 52]~~

~~shall, **for every calendar month or part thereof**, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the **20<sup>th</sup> day of the month** succeeding such calendar month or part thereof.~~



<p>Composition scheme @ quarterly frequency [sec. 10] [FORM GST CMP 08]</p>	<p>(2) A registered person paying tax under the provisions of section 10, shall,</p> <ul style="list-style-type: none"> <li>- for each financial year or part thereof, furnish a return, electronically,</li> <li>- of turnover in the State or Union territory,</li> <li>- inward supplies of goods or services or both,</li> <li>- tax payable, tax paid and</li> <li>- such other particulars in such form and manner, and within such time, as may be prescribed.</li> </ul> <p><del>(2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid</del> <b>within 18<sup>th</sup> days after the end of such quarter.</b></p>
<p>TDS Deductor @ monthly frequency by 10<sup>th</sup> [section 51] [FORM GSTR: 7]</p>	<p>(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, <b>for the month in which such deductions have been made within 10 days after the end of such month.</b></p>
<p>ISD @ monthly frequency by 13<sup>th</sup> [section 51] [FORM GSTR: 6]</p>	<p>(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, <b>within 13<sup>th</sup> days after the end of such month.</b></p>
<p>Non Resident Taxable Person @ for the month or part thereof by specified time [FORM GSTR: 5]</p>	<p>(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, <b>within 20 days after the end of a calendar month or within 7 days after the last day of the period of registration specified under section 27(1), whichever is earlier.</b></p>
<p>Extension in time Limit</p>	<p>(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:</p> <p><i>Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.</i></p>

<p><b>TAX PAYMENT BY DUE DATE OF RETURN</b></p>	<p>(7) Every registered person who is required to furnish a return under subsection (1), <i>[other than the person referred to in</i></p> <ul style="list-style-type: none"> <li>- <i>the proviso thereto, ie SPECIFIED PERSONS under QRMP or</i></li> <li>- <i>subsection (3)ie TDS DEDUCTOR or</i></li> <li>- <i>sub-section (5),ir NON RESIDENT TAXABLE PERSON]</i></li> </ul> <p>shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:</p> <p>Provided that every registered person furnishing return under the proviso to sub-section (1) <i>[ie SPECIFIED PERSONS under QRMP]</i></p> <p>shall pay to the Government,</p> <ul style="list-style-type: none"> <li>- the tax due taking into account inward and outward supplies of goods or services or both,</li> <li>- input tax credit availed,</li> <li>- tax payable and</li> <li>- such other particulars during a month, in such form and manner, and within such time, as may be prescribed:</li> </ul> <p><b>For composite Dealers:</b> Provided further that every registered person furnishing return under subsection (2)</p> <ul style="list-style-type: none"> <li>- <b>shall pay to the Government the tax due</b></li> <li>- taking into account turnover in the State or Union territory,</li> <li>- inward supplies of goods or services or both,</li> <li>- tax payable, and such other particulars</li> <li>- during a quarter, in such form and manner, and within such time, as may be prescribed.</li> </ul> <p><del>(7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.</del></p>
<p><b>Nil Return</b></p>	<p>(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period <b>whether or not any supplies of goods or services or both have been made during such tax period.</b></p>
<p><b>Rectification</b></p>	<p>(9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, <i>other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities,</i> <b>he shall</b></p>

	<p>rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.</p>
<p><b>Precondition to file Return</b></p>	<p>(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.</p>

## CGST Rules, 2017

<p><b>Rule: 59 Form and manner of furnishing details of outward supplies</b></p> <p><b>[FORM: GSTR 1]</b></p>	<p>(1) Every registered person,</p> <ul style="list-style-type: none"> <li>- other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 ie OIDAR supplier</li> <li>- required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in <b>FORM GSTR-1</b> for the month or the quarter.</li> </ul> <p>(2) The registered persons required to furnish return for every quarter under proviso to section 39(1) ie QRMP</p> <ul style="list-style-type: none"> <li>- may furnish the details of such outward supplies of goods or services or both to a registered person, for the first and second months of a quarter, up to a cumulative value of Rs.50 lakh in each of the months,-</li> <li>- using invoice furnishing facility [IFF] electronically on the common portal, by 13<sup>th</sup> of next month.</li> </ul> <p>(3) The details of outward supplies furnished using the IFF, for the first and second months of a quarter, shall not be furnished in <b>FORM GSTR-1</b> for the said quarter.</p> <p>(4) The details of outward supplies of goods or services or both furnished in <b>FORM GSTR-1</b> shall include the–</p> <p><b>(a) Invoice wise details of all –</b></p> <table border="1" data-bbox="407 1665 1511 1917"> <tr> <td data-bbox="407 1665 959 1728">Inter-State and intra-State supplies</td> <td data-bbox="959 1665 1511 1728">Made to the registered persons [B to B]</td> </tr> <tr> <td data-bbox="407 1728 959 1822">Inter-State supplies with invoice value more than Rs.2,50,000</td> <td data-bbox="959 1728 1511 1822">Made to the unregistered persons[B to C]</td> </tr> <tr> <td data-bbox="407 1822 959 1917"><b>Debit and credit notes</b>, if any, issued during the month</td> <td data-bbox="959 1822 1511 1917">For invoices issued previously.</td> </tr> </table>	Inter-State and intra-State supplies	Made to the registered persons [B to B]	Inter-State supplies with invoice value more than Rs.2,50,000	Made to the unregistered persons[B to C]	<b>Debit and credit notes</b> , if any, issued during the month	For invoices issued previously.
Inter-State and intra-State supplies	Made to the registered persons [B to B]						
Inter-State supplies with invoice value more than Rs.2,50,000	Made to the unregistered persons[B to C]						
<b>Debit and credit notes</b> , if any, issued during the month	For invoices issued previously.						

**(b) Consolidated details of all -**

Intra-State supplies	made to unregistered persons for each rate of tax [B to C]
State wise inter-State supplies with invoice value upto Rs.2,50,000	made to unregistered persons for each rate of tax [B to C]
<b>Debit and credit notes</b> , if any, issued during the month	For invoices issued previously

**(5) The details of outward supplies of goods or services or both furnished using the IFF shall include the –**

Invoice wise details of inter-State and intra-State supplies	made to the registered persons [B to B]
Debit and credit notes, if any, issued during the month for such invoices issued previously.”.	made to the registered persons [B to B]

**(6) Restrictions on filing GSTR-1**

Notwithstanding anything contained in this rule, -

(a) If taxable person has not furnished the return in <b>FORM GSTR-3B</b> for preceding two months;	Then he shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in <b>FORM GSTR-1</b> ,
(b) A registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, ie QRMP if he has not furnished the return in <b>FORM GSTR-3B</b> for preceding tax period;	shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in <b>FORM GSTR-1</b> or using the invoice furnishing facility,
(c) A registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of 99% of	shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in <b>FORM GSTR-1</b> or using the invoice furnishing facility,

	<p>such tax liability under rule 86B, if he has not furnished the return in <b>FORM GSTR-3B</b> for preceding tax period.</p> <p><del>(1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 [OIDAR] required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in <b>FORM GSTR-1</b> electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.</del></p> <p><del>(2) The details of outward supplies of goods or services or both furnished in <b>FORM GSTR-1</b> shall include the—</del></p> <p><del><b>(a) Invoice-wise details of all—</b></del></p> <p><del>(i) Inter State and intra State supplies made to the registered persons; and</del></p> <p><del>(ii) Inter State supplies with invoice value more than two and a half lakh rupees made to the unregistered persons;</del></p> <p><del><b>(b) consolidated details of all—</b></del></p> <p><del>(i) Intra State supplies made to unregistered persons for each rate of tax; and</del></p> <p><del>(ii) State wise inter State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax;</del></p> <p><del>(c) Debit and credit notes, if any, issued during the month for invoices issued previously.</del></p> <p><del>(3) The details of outward supplies furnished by the supplier shall be made available electronically to the concerned registered persons (recipients) in Part A of <b>FORM GSTR-2A</b>, in <b>FORM GSTR-4A</b> and in <b>FORM GSTR-6A</b> through the common portal after the due date of filing of <b>FORM GSTR-1</b>.</del></p> <p><del>(4) The details of inward supplies added, corrected or deleted by the recipient in his <b>FORM GSTR-2</b> under section 38 or <b>FORM GSTR-4</b> or <b>FORM GSTR-6</b> under section 39 shall be made available to the supplier electronically in <b>FORM GSTR-1A</b> through the common portal and such supplier may either accept or reject the modifications made by the recipient and <b>FORM GSTR-1</b> furnished earlier by the supplier shall stand amended to the extent of modifications accepted by him.</del></p>		
<p><b>Rule 60: Form and manner of ascertaining furnishing details of inward supplies</b> <b>[FORM: GSTR 2]</b></p>	<table border="1"> <tr> <td data-bbox="389 1591 844 1942"> <p>(1) The details of outward supplies furnished by the supplier in <b>FORM GSTR-1</b> or using the IFF</p> </td> <td data-bbox="844 1591 1536 1942"> <ul style="list-style-type: none"> <li>- Shall be made available electronically to the concerned registered persons (recipients)</li> <li>- in Part A of <b>FORM GSTR-2A</b>, in <b>FORM GSTR-4A</b> and in <b>FORM GSTR-6A</b> as the case may be.</li> </ul> </td> </tr> </table>	<p>(1) The details of outward supplies furnished by the supplier in <b>FORM GSTR-1</b> or using the IFF</p>	<ul style="list-style-type: none"> <li>- Shall be made available electronically to the concerned registered persons (recipients)</li> <li>- in Part A of <b>FORM GSTR-2A</b>, in <b>FORM GSTR-4A</b> and in <b>FORM GSTR-6A</b> as the case may be.</li> </ul>
<p>(1) The details of outward supplies furnished by the supplier in <b>FORM GSTR-1</b> or using the IFF</p>	<ul style="list-style-type: none"> <li>- Shall be made available electronically to the concerned registered persons (recipients)</li> <li>- in Part A of <b>FORM GSTR-2A</b>, in <b>FORM GSTR-4A</b> and in <b>FORM GSTR-6A</b> as the case may be.</li> </ul>		

	<p>(2) The details of invoices furnished by an non-resident taxable person in his return in <b>FORM GSTR-5</b></p>	<ul style="list-style-type: none"> <li>- Shall be made available to the recipient of credit</li> <li>- in <b>Part A</b> of <b>FORM GSTR 2A</b></li> </ul>
<p>(3) The details of invoices furnished by an Input Service Distributor in his return in <b>FORM GSTR-6</b></p>	<ul style="list-style-type: none"> <li>- Shall be made available to the recipient of credit</li> <li>- in <b>Part B</b> of <b>FORM GSTR 2A.</b></li> </ul>	
<p>(4) The details of tax deducted at source furnished by the deductor under section 39(3) in <b>FORM GSTR-7</b></p>	<ul style="list-style-type: none"> <li>- shall be made available to the deductee</li> <li>- in <b>Part C</b> of <b>FORM GSTR-2A</b></li> </ul>	
<p>(5) The details of tax collected at source furnished by an e-commerce operator under section 52 in <b>FORM GSTR-8</b></p>	<ul style="list-style-type: none"> <li>- Shall be made available to the concerned person</li> <li>- in <b>Part C</b> of <b>FORM GSTR 2A.</b></li> </ul>	
<p>(6) The details of the integrated tax paid on the import of goods or goods brought in domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry</p>	<ul style="list-style-type: none"> <li>- shall be made available</li> <li>- in <b>Part D</b> of <b>FORM GSTR-2A</b></li> </ul>	
<p>(7) An auto-drafted statement containing the details of input tax credit</p> <ul style="list-style-type: none"> <li>- shall be made available to the registered person</li> <li>- in <b>FORM GSTR-2B</b>, for every month, and shall consist of –</li> </ul>		
<p><b>(i) The details of outward supplies furnished by his supplier,</b></p> <p>[other than a supplier required to furnish return for every quarter under proviso to sub-section (1) of section 39 ie QRMP,]</p> <ul style="list-style-type: none"> <li>- in <b>FORM GSTR-1</b>,</li> <li>- between the day immediately after the due date of furnishing of <b>FORM GSTR-1</b> for the previous month</li> <li>- to the due date of furnishing of <b>FORM GSTR-1</b> for the month;</li> </ul>		

(ii)

- The details of invoices furnished by a non-resident taxable person in **FORM GSTR-5** and
- details of invoices furnished by an Input Service Distributor in his return in **FORM GSTR-6** and
- details of outward supplies furnished by his supplier, required to furnish return for every quarter under proviso to sub-section (1) of section 39, in **FORM GSTR-1** or using the IFF, as the case may be,-
  - for the first month of the quarter, between the day immediately after the due date of furnishing of **FORM GSTR-1** for the preceding quarter to the due date of furnishing details using the IFF for the first month of the quarter;
  - for the second month of the quarter, between the day immediately after the due date of furnishing details using the IFF for the first month of the quarter to the due date of furnishing details using the IFF for the second month of the quarter;
  - for the third month of the quarter, between the day immediately after the due date of furnishing of details using the IFF for the second month of the quarter to the due date of furnishing of **FORM GSTR-1** for the quarter;

(iii) The details of the integrated tax paid on the import of goods or goods brought in the domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry in the month.

(8) The Statement in **FORM GSTR-2B** for every month shall be made available to the registered person,-

(i)

- for the first and second month of a quarter,
- a day after the due date of furnishing of details of outward supplies for the said month,
- in the IFF by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39, or in **FORM GSTR-1**
- [by a registered person, other than those required to furnish return for every quarter under proviso to sub-section (1) of section 39, ]
- whichever is later;

(ii)

- In the third month of the quarter,
- a day after the due date of furnishing of details of outward supplies for the said month, in **FORM GSTR-1** by a registered person required to furnish return for every quarter under proviso to sub-section (1) of section 39.

~~(1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, required to furnish the details of inward supplies of goods or services or both received during a tax period under sub-section (2) of section 38 shall, on the basis of details contained in **FORM GSTR-2A**, prepare such details as specified in sub-section (1) of the said section and furnish the same in **FORM GSTR-2** electronically through the common portal, either directly or from a Facilitation Centre notified by the Commissioner, after including therein details of such other inward supplies, if any, required to be furnished under sub-section (2) of section 38.~~

~~(2) Every registered person shall furnish the details, if any, required under sub-section (5) of section 38 electronically in **FORM GSTR-2**.~~

~~(3) The registered person shall specify the inward supplies in respect of which he is not eligible, either fully or partially, for input tax credit in **FORM GSTR-2** where such eligibility can be determined at the invoice level.~~

~~(4) The registered person shall declare the quantum of ineligible input tax credit on inward supplies which is relatable to non-taxable supplies or for purposes other than business and cannot be determined at the invoice level in **FORM GSTR-2**.~~

~~(4A) The details of invoices furnished by a non-resident taxable person in his return in **FORM GSTR-5** under rule 63 shall be made available to the recipient of credit in Part A of **FORM GSTR-2A** electronically through the common portal and the said recipient may include the same in **FORM GSTR-2**.~~

~~(5) The details of invoices furnished by an Input Service Distributor in his return in **FORM GSTR-6** under rule 65 shall be made available to the recipient of credit in Part B of **FORM GSTR-2A** electronically through the common portal and the said recipient may include the same in **FORM GSTR-2**.~~

~~(6) The details of tax deducted at source furnished by the deductor under sub-section (3) of section 39 in **FORM GSTR-7** shall be made available to the deductee in Part C of **FORM GSTR-2A** electronically through the common portal and the said deductee may include the same in **FORM GSTR-2**.~~

~~(7) The details of tax collected at source furnished by an e-commerce operator under section 52 in **FORM GSTR-8** shall be made available to the concerned person in Part C of **FORM GSTR-2A** electronically through the common portal and such person may include the same in **FORM GSTR-2**.~~

~~(8) The details of inward supplies of goods or services or both furnished in **FORM GSTR-2** shall include the—~~



- (a) invoice wise details of all inter-State and intra-State supplies received from registered persons or unregistered persons;
- (b) import of goods and services made; and
- (c) debit and credit notes, if any, received from supplier.

**Rule: 61 Form and manner of furnishing of Return submission of monthly return**

**[FORM: GSTR 3]**

**(1) Every registered person**

other than

- a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 ie OIDAR supplier or
- an Input Service Distributor or
- a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52
- shall furnish a return in **FORM GSTR-3B**,
- as specified under –

(i) Section 39(1), for each month, or part thereof, on or before the 20th day of the month succeeding such month:

(ii) Proviso to section 39(1) ie QRMP, for each quarter, or part thereof, for the class of registered persons mentioned in column (2) of the Table given below, on or before the date mentioned in the corresponding entry in column (3) of the said Table, namely:–

S. No.	Class of registered persons	Due Date
1.	Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	22nd day of the month succeeding such quarter.
2.	Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24th day of the month succeeding such quarter.

**(2) Every registered person required to furnish return, under sub-rule (1)**

- shall, subject to the provisions of section 49,

- discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter
- by debiting the electronic cash ledger or electronic credit ledger and
- include the details in the return in **FORM GSTR-3B**.

(3) Every registered person required to furnish return, every quarter, under clause (ii) of sub-rule (1)

- shall pay the tax due under proviso to section 39(7),
- for each of the first two months of the quarter,
- by depositing the said amount in **FORM GST PMT-06**,
- by the 25th day of the month succeeding such month:

[Commissioner may, may extend the due date for depositing the said amount in **FORM GST PMT-06**, for such class of taxable persons as may be specified therein]

While making a deposit in **FORM GST PMT-06**, such a registered person may—

(a) for the first month of the quarter,	Take into account the balance in the electronic cash ledger.
(b) for the second month of the quarter,	Take into account the balance in the electronic cash ledger excluding the tax due for the first month.

(4) The amount deposited by the registered persons under sub-rule (3) above,

- shall be debited while filing the return for the said quarter in **FORM GSTR-3B**, and
- any claim of refund of such amount lying in balance in the electronic cash ledger, if any, out of the amount so deposited
- shall be permitted only after the return in **FORM GSTR-3B** for the said quarter has been filed.

~~(1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return specified under sub-section (1) of section 39 in **FORM GSTR-3** electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.~~

~~(2) Part A of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through **FORM GSTR-1**, **FORM GSTR-2** and based on other liabilities of preceding tax periods.~~

~~(3) Every registered person furnishing the return under sub-rule (1) shall, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in Part B of the return in **FORM GSTR-3**.~~

	<p><del>(4) A registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in Part B of the return in <b>FORM GSTR-3</b> and such return shall be deemed to be an application filed under section 54.</del></p> <p><del>(5) Where the time limit for furnishing of details in <b>FORM GSTR-1</b> under section 37 or in <b>FORM GSTR-2</b> under section 38 has been extended, the return specified in section 39(1) shall, in such manner and subject to such conditions as the Commissioner may, by notification, specify, be furnished in <b>FORM GSTR-3B</b> electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:</del></p> <p><del>Provided that where a return in <b>FORM GSTR-3B</b> is required to be furnished by a person referred to in sub-rule (1) then such person shall not be required to furnish the return in <b>FORM GSTR-3</b>.</del></p>
<p><b>Rule: 61A Manner of opting for furnishing quarterly return</b></p>	<p>(1) Every registered person intending to furnish return on a quarterly basis under proviso to section 39(1) [ie QRMP],</p> <ul style="list-style-type: none"> <li>- shall indicate his preference for furnishing of return on a quarterly basis,</li> <li>- from the 1st day of the second month of the preceding quarter</li> <li>- till the last day of the first month of the quarter for which the option is being exercised:</li> </ul> <p>Provided that where such option has been exercised once, the said registered person shall continue to furnish the return on a quarterly basis for future tax periods, unless the said registered person,—</p> <div style="border: 1px solid black; padding: 5px;"> <p>(a) Becomes ineligible for furnishing the return on a quarterly basis as per the conditions and restrictions notified in this regard; or</p> <p>(b) Opts for furnishing of return on a monthly basis, electronically, on the common portal:</p> <p>Provided further that a registered person shall not be eligible to opt for furnishing quarterly return in case the last return due on the date of exercising such option has not been furnished.</p> </div> <p>(2) A registered person,</p> <ul style="list-style-type: none"> <li>- whose aggregate turnover exceeds 5 crore rupees during the current financial year,</li> <li>- shall opt for furnishing of return on a monthly basis,</li> <li>- from the first month of the quarter, succeeding the quarter during which his aggregate turnover exceeds 5 crore rupees.</li> </ul>

# Chapter 15

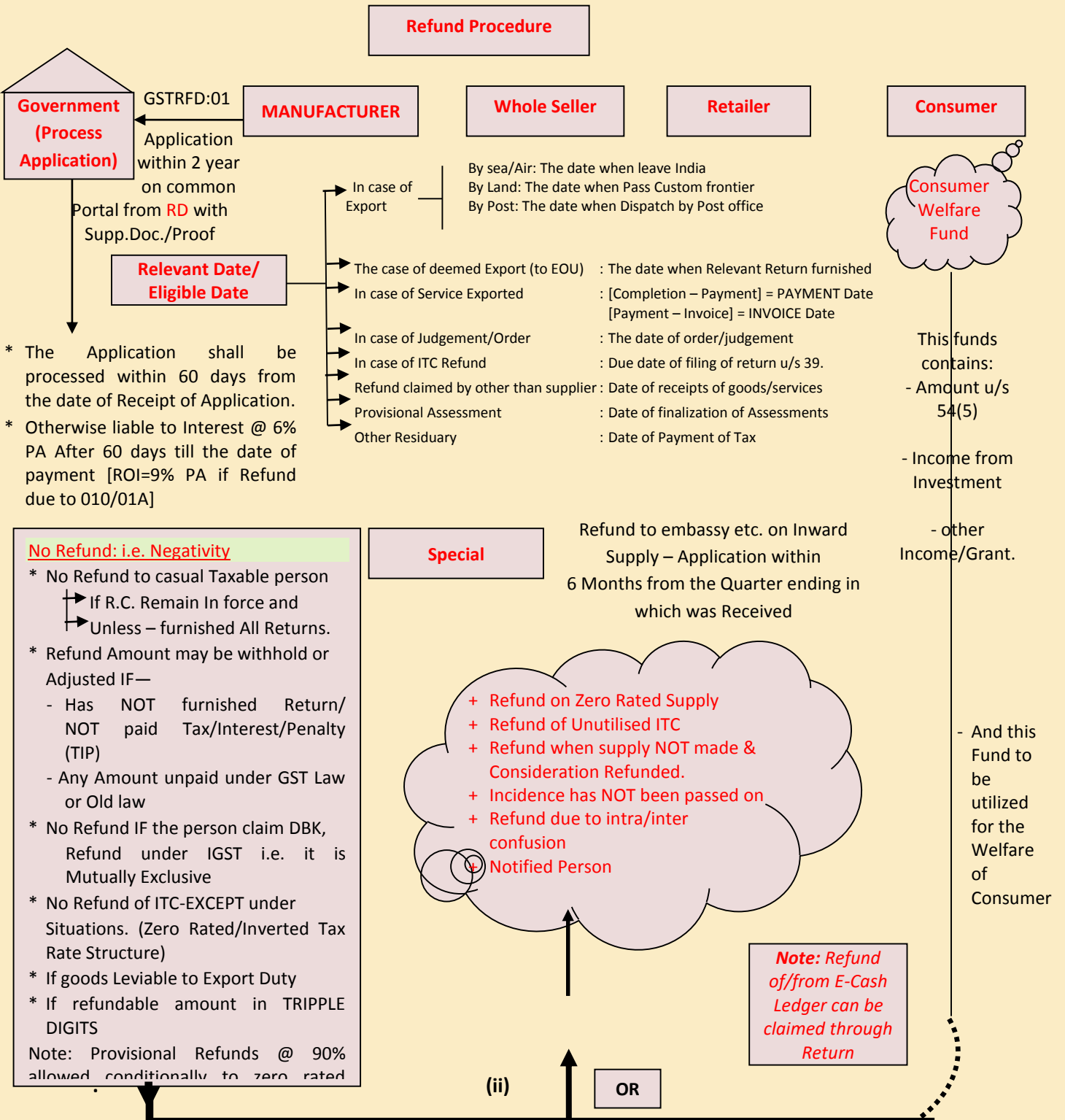


## REFUND

### WHY REFUND

- (1) Zero Rated Supply [Export to Abroad/SEZ (Unit/Developer)]
  - (a) Pay GST & After EXPORT claim Refund.
  - (b) On Export (Abroad/SEZ): Do Not Pay Tax: (Instead: Execute BOND/L.U.T.)
- (2) Inverted Tax Rate Structure.
- (3) Refund of Excess Amount Deposited in E-Cash Ledger.
- (4) Refund to C.T.P./N.R.
- (5) First of all Provisional Assessment ₹ = 70,000/- & later on finalization @ ₹ 50,000/- Refund of ₹ 20,000/-
- (6) Refund due to Intra/Inter confusion.
- (7) Refund of Excess Payment of Tax.
- (8) Refund to UN/Embassy.
- (9) Refund due to any Judgment/Order etc.
- (10) Refund due to any Retrospective Amendment.
- (11) Refund to Tourist on Leaving India.
- (12) Advance Payment Received & No Supply made.
- (13) Etc.

**Rule: 89** Refund to Whom: Any person **who borne the incidence of TAX.**



(i) Transfer to Consumer Welfare Fund [on the basis of presumption u/s 49(9)]

Note: (1) Application: No need to file separate application in case of Refund from E-cash Ledger, Refund to casual taxable person /Non Resident [claim through return].

Note: (2) Two year: Time limit of 2 year not applicable on UIN holders but limit of 18 months will be applicable.

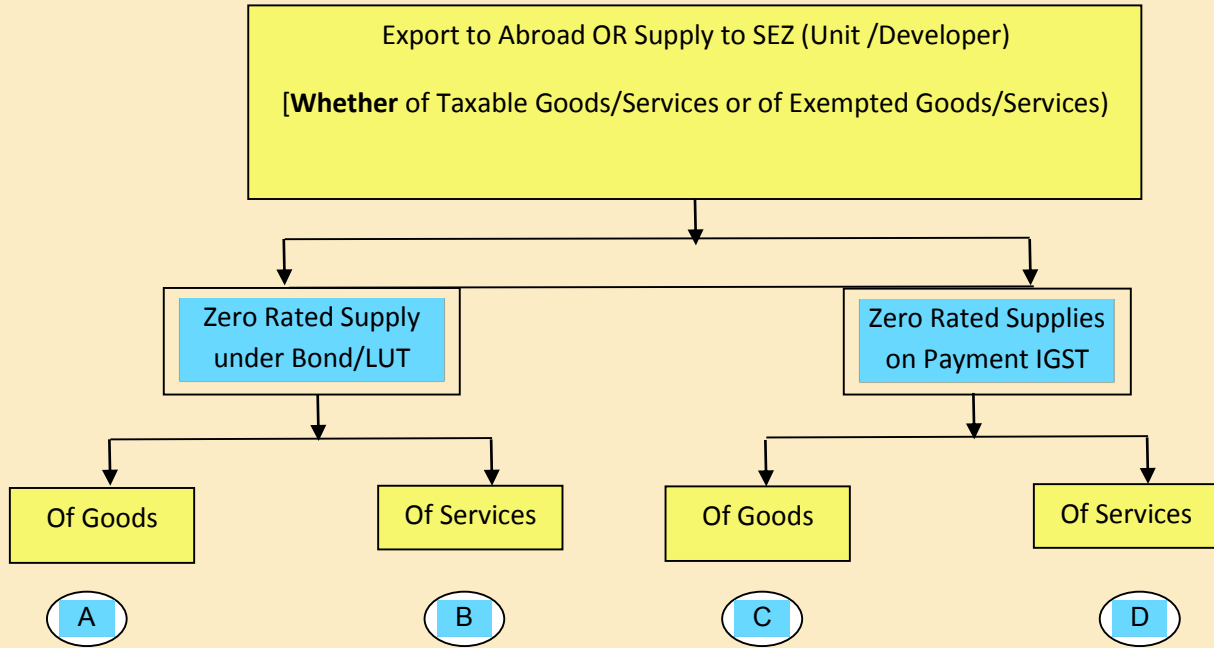
Note: (3) Supportive Documents: for Incidence of tax – required only when claim amount is of 2 lakh or more otherwise declaration is sufficient.

Note: (4) No double benefit shall be allowed.

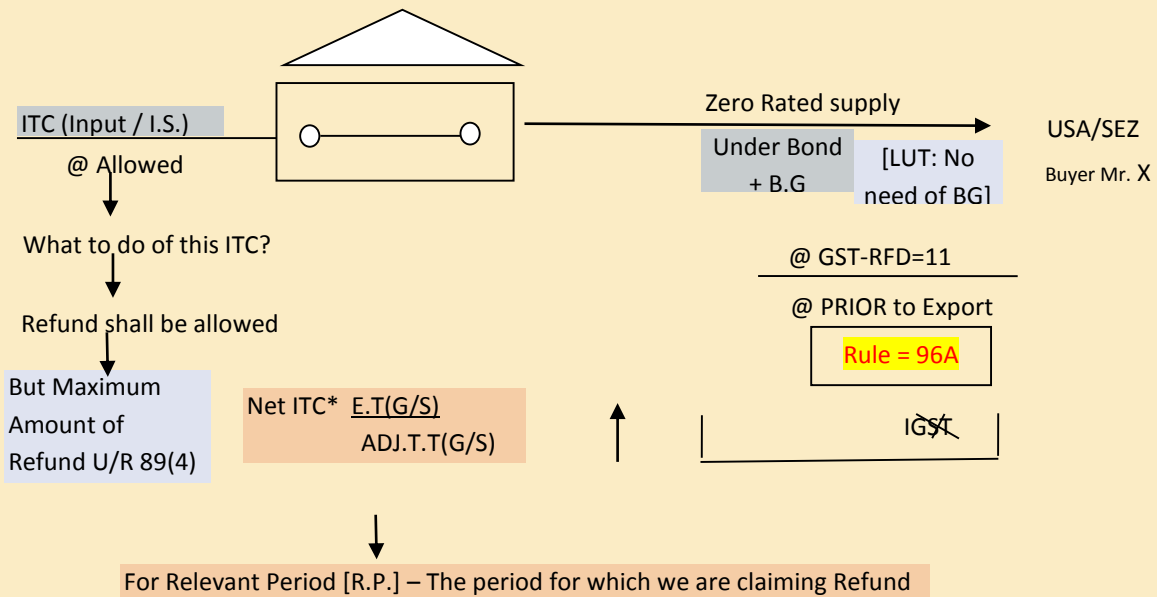
Note: (5) where claiming refund of ITC then equal amount of ITC need to be deducted/ Reversed from E- Credit Ledger.

Note: (6) Refund is subjected to any other liability.

**Section: 16(3) of IGST Act + Section 54(3) of CGST Act + Rule: 89(4) + Rule: 96A**



**[A] Zero Rated Supply of Goods under Bond / LUT : Rule:89(4)**





Note:1- It is Data of R.P. [Which may be 1/2/3 etc. Months] ie if any opening Balance of ITC is given then that shall be ignored

* NET ITC: ITC of Input /Input Services
* E.T. (of Goods and Services)
▪ Export T/O of Goods under Bond/LUT OR
▪ 1.5. Times of like domestic supplies [Whichever is Lower]
▪ Export T/O of Service [Payment Received]
[+] Past Advances <span style="float:right">***</span>
[-] Future Advances <span style="float:right">***</span>
*Adjusted T.T: = ET (G&S) + Other Turnover

Note: 2: Excluding Exempted supply But if Exempted supply is Exported then it will be called as zero Rated supply & to be Included in calculation

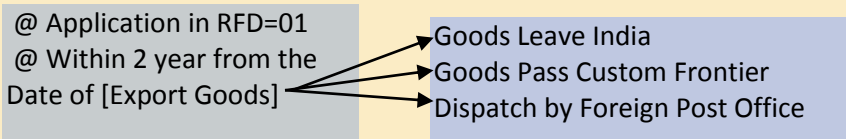
Note 3: Where Any Refund or Benefit is Claimed By supplier U/R- 89(4A/4B) then such supply to the extent shall be Excluded with Respect to Turnover & Corresponding ITC.

**Journal Entry**

Purchase A/C	Dr 10000
ITC A/C	Dr 1800
To Bank	11800
Bank A/C	Dr. 1800
To ITC	1800

Mr. X	Dr 15000
To Sales	15000
Bank A/C	Dr.15000
To Mr. X	15000

**Procedure**



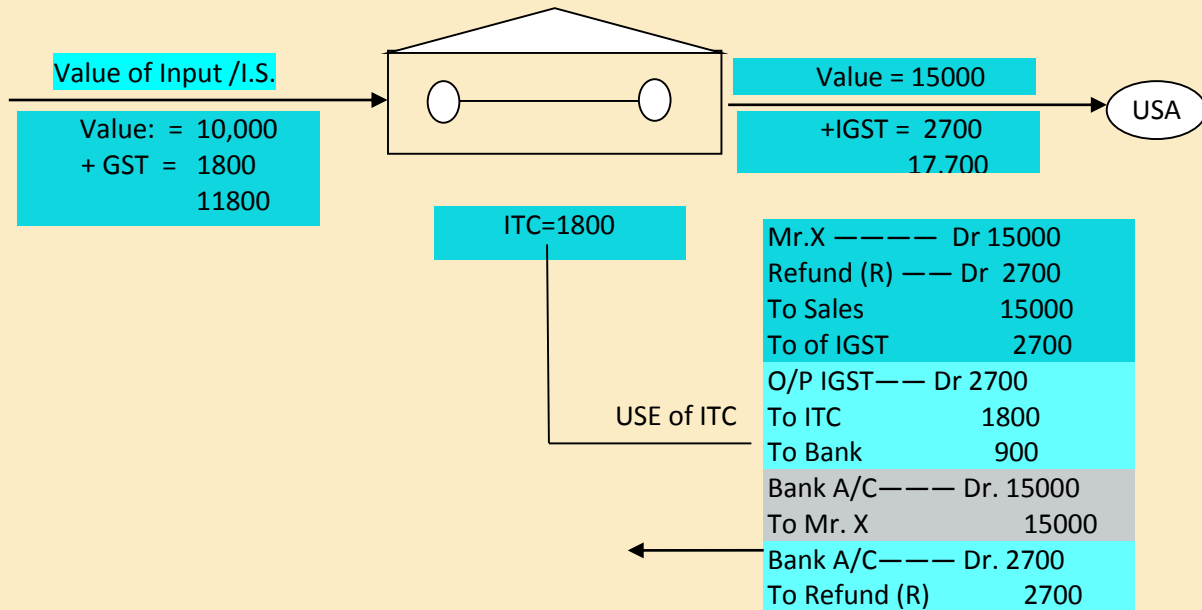
**With Supportive Documents:**

- \*In Case of Real Export: Shipping Bill / Bill of Export and Invoice
- \*In case of SEZ: Invoice, SEZ officer Certificate, Declaration that No GST charged From SEZ (Unit /Developer)

**[C] Export of Goods on payment of GST**

**[But Not to Charge from Customer]**

Special Provision @ Refund by  
Customs Department [Auto Refund]



**@ With Supportive Documents:**

\***In case of Export:** Invoice, Bank Realisation Certificate [Proof of Foreign Currency Payment]

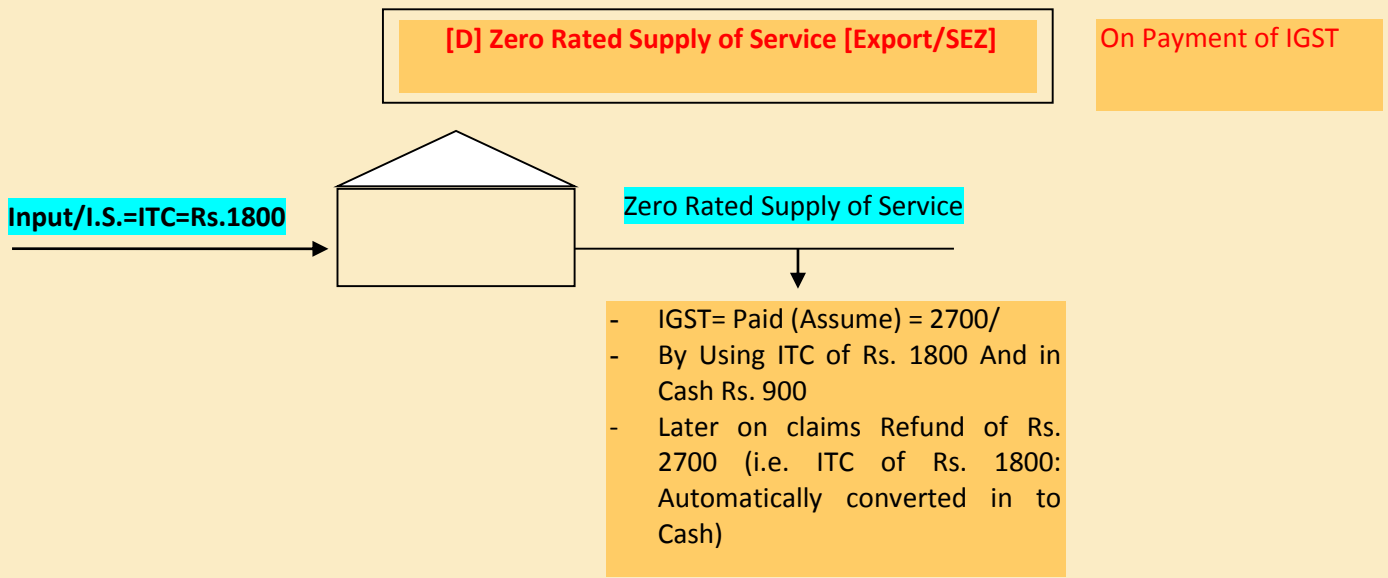
Here ITC of 1800= automatically converted into Cash

\***In case of SEZ:** Invoice, Payment Proof, Declaration as No GST has been charged, certificate of SEZ officer

**Process of Refund (Auto Process)**

- \* Need to File GST-RFD=01= No
- \* Refund of IGST shall be given by customs Department
- ⇒ Shipping Bill/Bill of Export shall be treated as Refund Applications (Provided: Export manifest filed By Person in charge of conveyance.
- ⇒ GSTR-1 @ Auto transmit to Customs for Verification and Exporter Need to submit Valid Return (GSTR=1 and 3B and it is also transmit to customs department.
- ⇒ Now Custom officer – **Process the Refund and Amount Shall be transferred to Exporter.**





**Process:**

- \* File Application RFD=01 for Rs. 2700
- \* within 2 year of "Export of Service" ie Completion
- OR (Whichever is LATER)
- Payment
- OR (Whichever is LATER)
- Invoice
- \* With Supportive Documents: "Same an earlier"
- **In case of Export:** Invoice, Payment Proof (For Export)
- **In case of SEZ:** Invoice, Payment Proof, Certificate of SEZ officer Declaration as No GST has been Charged from SEZ"

**Provisional Refund [RFD: 04]**

This Facility is Available to "All kind of Zero Rated Supplier of Goods/ Service (Export/SEZ): Except..

- Export of Goods to Abroad (Where Refund is Automatic
- The Person who was prosecuted in Last 5 years for an amount of Rs. 2.5. Crore Plus (under GST law/old law)

**\* Refund Amount will be: 90% of Amount claimed: ITC OR output IGST**

Provisional ITC = (Matched ITC): But till Now Matching Mechanism Not Active so 90% of Provisional ITC shall be allowed.

**[1A] Deemed Export****Note: It is not ZERO Rated supply**

**"Deemed Export"**  
**of "Goods"**  
 Value = 1,00,000  
 GST = 18,000  
 1,18,000  
 GST Always be charged  
 Payment of GST to Government = 18,000  
 NOW

↓  
 - Supply to Abroad  
 - Supply to SEZ (U/D)

**Option 2**

S

OR

By R

**Option: 1**

R Authorise Suppliers to claim Refund  
 R Not to Book ITC or claim Refund

Claim ITC  
 OR  
 Claim Refund

**Process**

@ Application: RFD=01 from the date of furnishing of Valid Return (GST= Rs.18,000 paid)

@ With supportive Documents: (Invoice, Declaration etc. if any.)

**Question:**

- (i) ITC in Relevant period = Rs.14, 00,000 [Input and I.S.]  
 [Which Includes ITC Related to Rule: 89 (4A/4B) of Rs. 120,000]
- (ii) Zero Rated Supply to USA = Rs. 40,00,00 (under Bond) and value of like domestic goods Rs. 32,00,000
- (iii) Supply to SEZ = 5,00,000 (under Bond)
- (iii) Supply to 100% EOU = 15,00,000
- (iv) Total Payment Received for Service in Relevant period Rs. 50, 00,000 which Includes Rs. 8,00,000 for Future [Moreover Rs. 7,00,000 was Received Before Relevant period But Services is Completed in Relevant period]
- (v) Exempted supplies = 20,00,000
- (vi) Other Taxable Supplies Rs. 30,00,000 Find out maximum Amount of Refund U/R= 89(4)

**Answer**

ITC Max = NET ITC \*  $\frac{\text{E.T. (Goods and Services)}}{\text{Adjusted T/T}}$   
 Refund

\* NET ITC: [Input/I.S] = 14,00,000  
 [ITC- Rule: 89(4A/4B)] = 1,20,000  
12, 80,000

**\* Export Turnover [ET]**

Goods: Under @ Bond: Zero Rated

-USA= 40 Lakh

-SEZ= 5 Lakh

45 Lakh @ Declared value

OR

1.5 Times Domestic value ( 32 Lakh × 1.5) = 48 Lakh

[whichever is lower ie Rs. 45 lakh]

For Services – in Relevant Period = Payment Received: 50Lakh

-Advance for future = 8 Lakh

+ Past Advances for services = 7 Lakh

Total= 49 Lakh

**Total ET: 45+49= 94 Lakh**

**Adjusted Total T/O** : Zero Rated Value under bond = 94 Lakh

+ Other turnover = 30Lakh

Total Turnover = **124 Lakh**

MAX Amount of Refund = NET ITC × ET/ Adjusted Total Turnover

=12,80,000 ×  $\frac{94 \text{ Lakh}}{124 \text{ Lakh}}$  = **Rs. 9,70,323**

## Circular No. 147/03//2021: Clarification on refund related issues

### Clarification in respect of refund claim by recipient of Deemed Export Supply

1. System need Reversal of ITC: Representations have been received in respect of difficulties being faced by the recipients of the deemed export supplies in claiming refund of tax paid in respect of such supplies since the system is not allowing them to file refund claim under the aforesaid category **UNLESS THE CLAIMED AMOUNT IS DEBITED IN THE ELECTRONIC CREDIT LEDGER.**

In this regard, it is submitted **THAT IN ORDER TO ENSURE THAT THERE IS NO DUAL BENEFIT TO THE CLAIMANT; THE PORTAL ALLOWS REFUND OF ONLY INPUT TAX CREDIT (ITC) TO THE RECIPIENTS** which is required to be debited by the claimant while filing application for refund claim. Therefore, whenever the recipient of deemed export supplies files an application for refund, the portal requires debit of the equivalent amount from the electronic credit ledger of the claimant.

2. As per earlier Provision of Circular- NO ITC shall be given to Recipient if Claiming Refund: [Para 41 of Circular No. 125/44/2019](#) has placed a condition that the recipient of deemed export supplies for obtaining the refund of tax paid on such supplies shall submit an undertaking that he has not availed ITC on invoices for which refund has been claimed.

Thus, it is contradictory.

3. Position As per The 3rd proviso to **Rule 89(1)**: allows for refund of tax paid in case of a **deemed export supply to the recipient or the supplier** of deemed export supplies. The said proviso is reproduced as under:

“Provided also that in respect of supplies regarded as deemed exports, the application may be filed by, -

(a) the recipient of deemed export supplies; or

(b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund”

**From the above, it can be seen that there is no restriction on recipient of deemed export supplies in availing ITC of the tax paid on such supplies when the recipient files for refund claim. The said restriction has been placed by the [Circular No. 125/44/2019](#).**

4. CLARIFICATION FOR REMOVING CONTRADICTION, EARLIER CIRCULAR AMENDED: THEREFORE, THE PARA 41 OF CIRCULAR NO. 125/44/2019 IS MODIFIED TO REMOVE THE RESTRICTION OF NON-AVAILMENT OF ITC BY THE RECIPIENT OF DEEMED EXPORT SUPPLIES ON THE INVOICES, FOR WHICH REFUND HAS BEEN CLAIMED BY SUCH RECIPIENT.

**CRUX:**

**Mandatory steps to be taken for claiming refund by RECEPIENT (in case of deemed export..)**

- (a) First of all - Book ITC
- (b) At the time of refund application Reduce Equal Amount from E-credit ledger
- (c) Now submit your Refund Application [RFD 01]

### THE MANNER OF CALCULATION OF ADJUSTED TOTAL TURNOVER UNDER RULE 89(4) OF CGST RULES, 2017

It is clarified that for the purpose of Rule 89(4),

- The value of export/zero-rated supply of goods to be included while calculating “adjusted total turnover” will be same as being determined as per the amended definition of “Turnover of zero-rated supply of goods” in the said sub-rule.
- The same can explained by the following illustration where actual value per unit of goods exported is more than 1.5 times the value of same/ similar goods in domestic market, as declared by the supplier:

**Illustration:** Suppose a supplier is manufacturing only one type of goods and is supplying the same goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table below:

Net admissible ITC = ₹ 270

Outward Supply	Value per unit	No of units supplied	Turnover	Turnover as per amended definition
Local (Quantity 5)	200	5	1000	1000
Export (Quantity 5)	350	5	1750	1500 (1.5*5*200)
<b>Total</b>			<b>2750</b>	<b>2500</b>

THE FORMULA FOR CALCULATION OF REFUND AS PER RULE 89(4) IS :

$REFUND\ AMOUNT = (TURNOVER\ OF\ ZERO-RATED\ SUPPLY\ OF\ GOODS + TURNOVER\ OF\ ZERO-RATED\ SUPPLY\ OF\ SERVICES) \times NET\ ITC \div ADJUSTED\ TOTAL\ TURNOVER$

$TURNOVER\ OF\ ZERO-RATED\ SUPPLY\ OF\ GOODS\ (AS\ PER\ AMENDED\ DEFINITION) = ₹\ 1500$

$ADJUSTED\ TOTAL\ TURNOVER = ₹\ 1000 + ₹\ 1500 = ₹\ 2500\ [AND\ NOT\ ₹\ 1000 + ₹\ 1750]$

$NET\ ITC = ₹\ 270$

$REFUND\ AMOUNT = ₹\ 1500 \times 270/2500 = ₹\ 162$

THUS, THE ADMISSIBLE REFUND AMOUNT IN THE INSTANT CASE IS ₹ 162.

**CRUX:****Under Rule 89(4): Maximum Amount of Refund=**

EXPORT Turnover of GOODS and Services

*(ET of goods :- Export value OR 1.5 times of Domestic Value,- whichever is lower)* X NET ITC

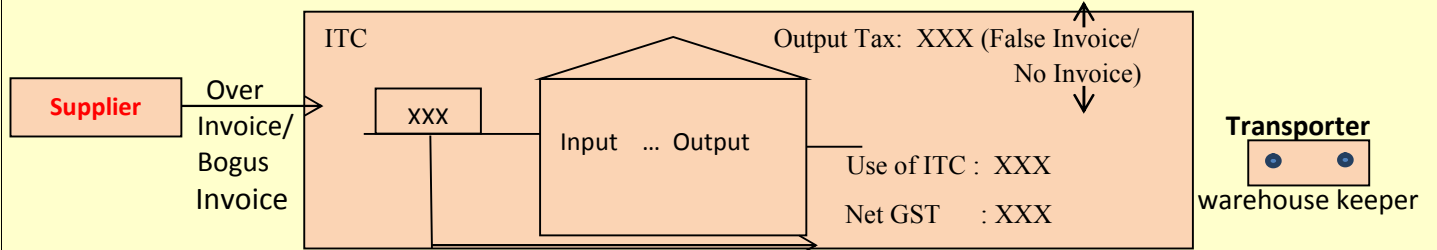
Adjusted Total Turnover [ET + OTHER TURNOVER]

*(ET of goods:- Export value OR 1.5 times of Domestic Value- whichever is lower)*

# Chapter 18

# AUDIT, INSPECTION

## INSPECTION: SECTION: 67(1)

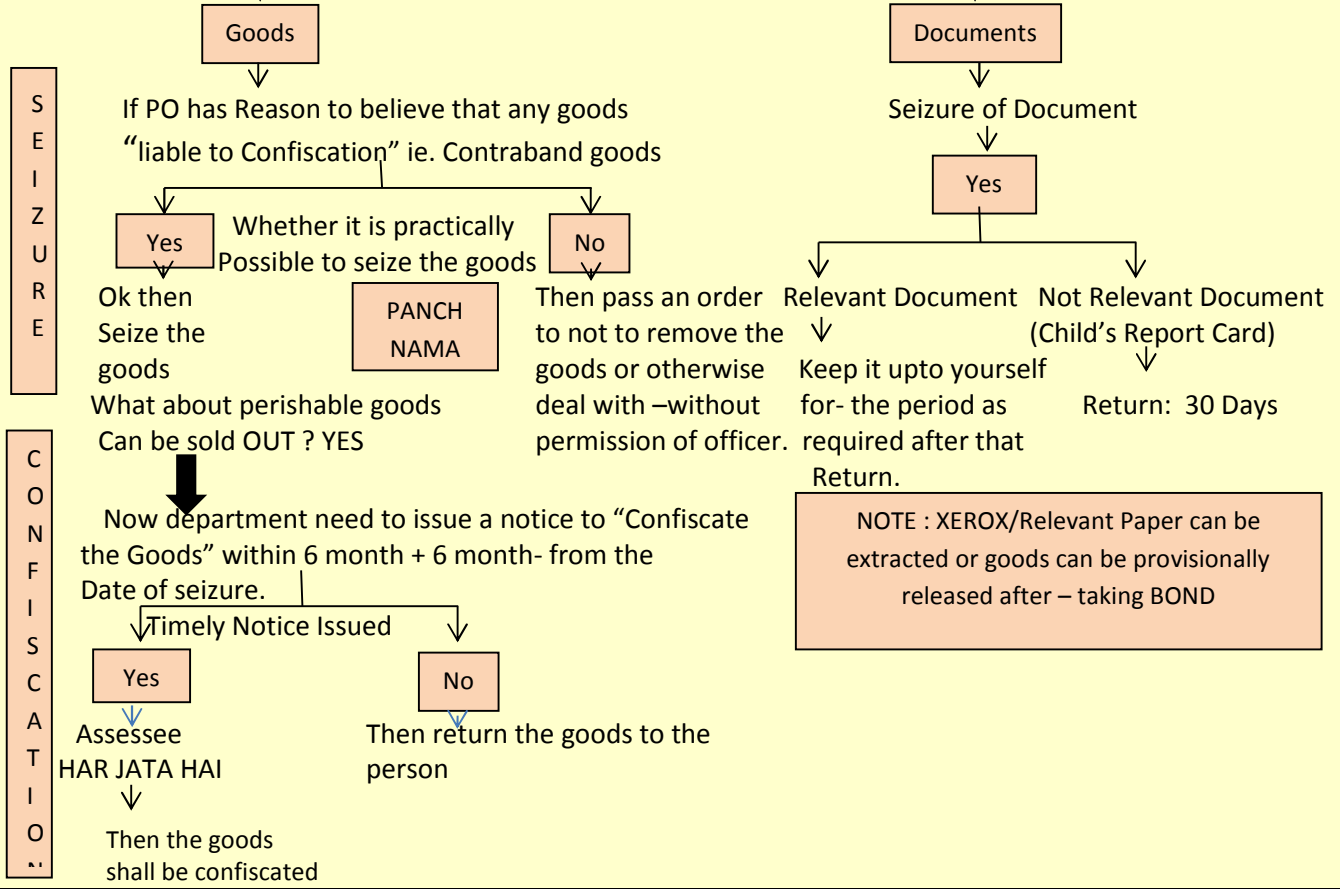


\*And other contravention of law

Main Party

Inspection of Main Party/II Party@ Business Place

## SECTION 67(2) : SEARCH & SEIZURE/RAID @ Business Premises/ Residence



## Instructions No. 01/2020-21: Instructions/Guidelines regarding procedures to be followed during Search Operation

1. Specific instances have come to the notice of the Board and Central Vigilance Commission wherein proper procedures have **apparently not been followed during search proceedings** and/or **the Panchnamas/ statements have not been recorded as per extant guidelines & instructions.**

2. Section 67 of the CGST Act, 2017 contains the provisions for search. Following guidelines must be adhered to while carrying out search proceedings:

- (i) **Search should be carried out only with a proper search authorization issued by the Competent Authority.**
- (ii) The instructions related to generation of DIN for each search authorization shall be scrupulously followed by the officer authorizing search.
- (iii) The premises of a person cannot be searched on the authority of a search warrant issued for the premises of some other person. Where a search warrant, through oversight, has been issued in the name of a person who is already dead, the authorised officer should report to the Competent Authority and get a fresh warrant issued in the names of the **legal heirs.**
- (iv) In case of search of a **residence, a lady officer** shall necessarily be part of the search team.
- (v) The search shall be made in the presence of **two or more independent witnesses** who would preferably be respectable inhabitants of the locality, and if no such inhabitants are available or willing, the inhabitants of any other locality should be asked to be witness to the search. PSU employees, Bank employees etc., may, be included as witnesses during sensitive search operations to maintain transparency and credibility. The witnesses should be informed about the purpose of the search and their duties.
- (vi) The officers conducting the search **shall first identify themselves by showing their identity cards** to the person in-charge of the premises. Also, before the start of the search, the officers as well as the independent witnesses shall offer their personal search. After the conclusion of the search all the officers and the witnesses should again offer themselves for their personal search:
- (vii) The search **authorization shall be executed before the start of the search** and the same shall be shown to the person in charge of the premises to be searched and his/her signature with date and time shall be obtained on the body of the search authorization. The signatures of the witnesses with date and time should also be obtained on the body of the search authorization.
- (viii) **A Panchnama containing truthful account of the proceedings of the search shall necessarily be** made and a list of documents/goods/ things recovered should be prepared. It should be ensured that time and date of start of search and conclusion of search must be mentioned in the Panchnama. The fact of offering personal search of the officers and witnesses before initiation and after conclusion of search must be recorded in the Panchama.



- (ix) In the sensitive premises videography of the search proceedings may also be considered and the same may be recorded in Panchnama.
- (x) While conducting search, the **officers must be sensitive towards the assessee /party. Social and religious sentiments of the person(s)** under search and of all the person(s) present, shall be respected at all times. Special care/ attention should be given to **elderly, women and children** present in the premises under search. **Children should be allowed to go to school, after examining of their bags.** A woman Occupying any premises, to be searched, has the right to withdraw before the search party enters if according to the customs she does not appear in public if to Person in the premises is not well, to medical practitioner may be called.
- (xi) The person from **whose custody any documents are seized may be allowed to make copies** thereof or take extracts therefrom for which he/she may be provided a suitable time and place to take such copies or extract therefrom. However if it is felt that providing such copies or extracts therefrom pre-judicially affect the investigation, the officer may not provide such copies, If such request for taking copies is made during the course of search, the same may be incorporated in Panchnama, intimating place and time to take such copies
- (xii) The officer authorized to search the premises **must sign each page of the Panchnama** and annexures. A copy of the Panchnama along with all its annexures should be given to the person in-charge of the premises being searched and acknowledgement in this regard may be taken. If the person in- charge refuses to sign the Panchnama the same may be pasted in a conspicuous place of the premises, in presence of the witnesses. Photograph of the Panchnama pasted on the premises may be kept on record.
- (xiii) In case any statement is recorded during the search **each page of the statement must be signed** by the person whose statement is being recorded. Each page of the statement must also be signed by the officer recording the statement as `before me`.
- (xiv) After the search is over, **the search authorization duly executed should be returned to the officer who had issued the said search authorization** with a report regarding the outcome of the search. The names of the officers who had participated in the search should be written on the reverse of the search' authorization If search authorization could not be executed due to any reason, the same should be mentioned in the reverse of the search authorization and a copy of the same may be kept in the case tile before returning the same to the officer who had issued the said search authorization.
- (xv) The **officers should leave the premises immediately after completion of Panchnama** proceedings.
- (xvi) **During the prevalent COVID–19 pandemic situation, it is imperative to take precautionary measures such as maintaining proper social distancing norms, use of masks and hand sanitizers etc. The search team should take all measures as contained in the guidelines of Ministry of Home Affairs, and Ministry of Health & Family Welfare, and also the guidelines issued by the State Government from time to time.**

**CRUX**

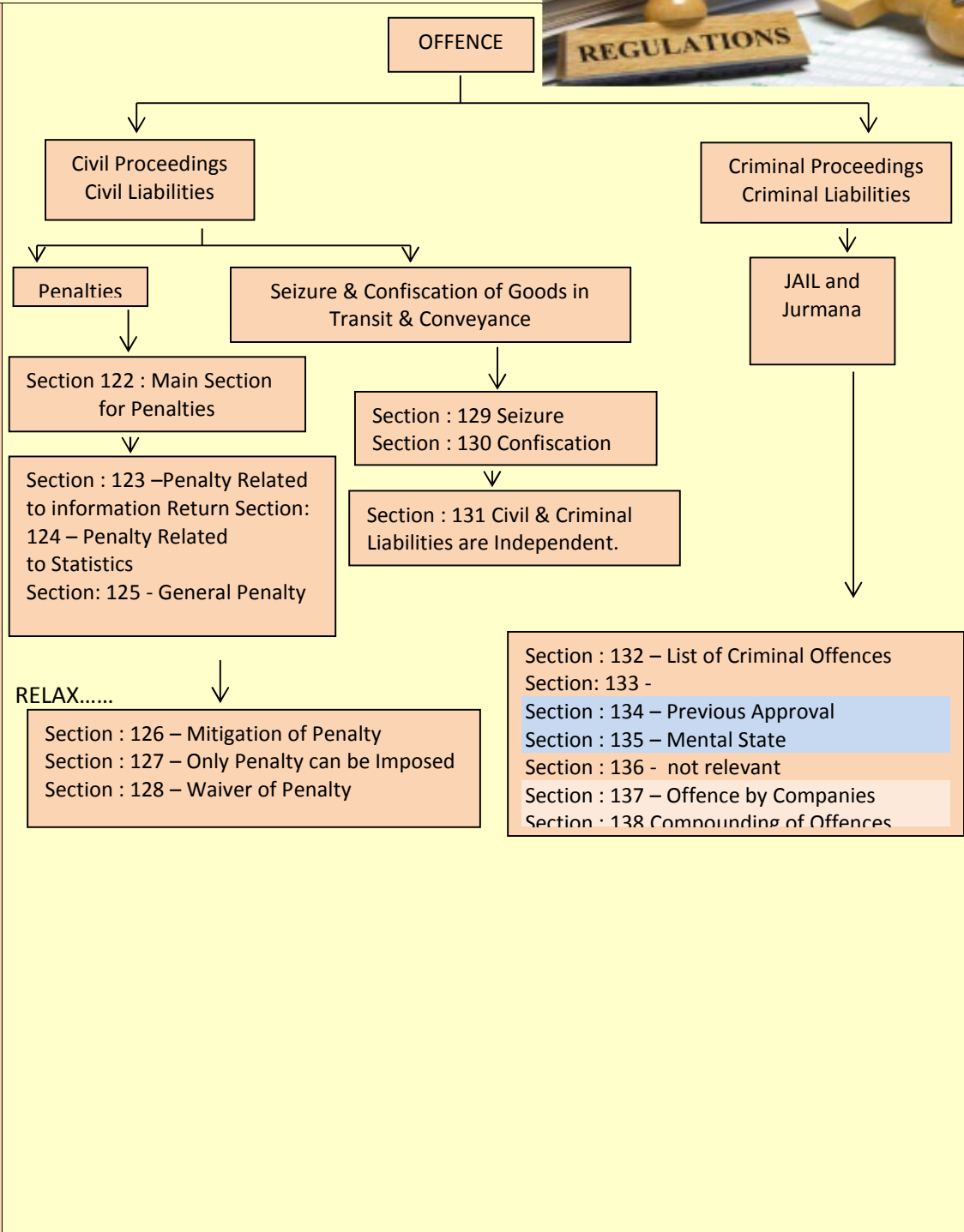
1. Proper Authentication- with name - in advance
2. Going to search home- a lady officer must be there
3. At entry- call witness
4. Officer and witness- shall offer for personal search
5. Take care of kids/ladies/old age/Religion
6. If necessary make video of search
7. Prepare panchnama, sign properly and deliver copy to the person or affix at premises.
8. Follow COVID precautions
9. Leave the premises just after search
10. Report to senior about the search.

# Chapter 20

# PENALTIES



## SECTIONS LIST



## Section 122: Penalty for certain offences

### Nature of offences and penalties thereof

- (1) Where a **taxable person** who—
- (i) supplies any goods or services or both **without issue of any invoice or issues an incorrect or false invoice** with regard to any such supply;
  - (ii) **issues any invoice or bill without supply** of goods or services or both in violation of the provisions of this Act or the rules made thereunder;
  - (iii) collects any amount as tax but fails to pay the same to the Government **beyond a period of 3 months from the date on which such payment becomes due**;
  - (iv) collects any tax in contravention of the provisions of this Act **but fails to pay the same to the Government beyond a period of 3 months** from the date on which such payment becomes due;
  - (v) **fails to deduct the tax** in accordance with the provisions of section 51(1), or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;
  - (vi) **fails to collect tax** in accordance with the provisions of section 52(1), or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;
  - (vii) **takes or utilises input tax credit without actual** receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;
  - (viii) **fraudulently obtains refund of tax** under this Act;
  - (ix) **takes or distributes input tax credit in contravention of section 20**, or the rules made thereunder;
  - (x) **falsifies or substitutes financial records or produces fake accounts or documents** or furnishes any false information or return with an intention to evade payment of tax due under this Act;

- (xi) is liable to be registered under this Act but **fails to obtain registration**;
- (xii) **furnishes any false information** with regard to registration particulars, either at the time of applying for registration, or subsequently;
- (xiii) **obstructs or prevents any officer** in discharge of his duties under this Act;
- (xiv) **transports any taxable goods without the cover of documents** as may be specified in this behalf;
- (xv) **suppresses his turnover** leading to evasion of tax under this Act;
- (xvi) **fails to keep, maintain or retain books** of account and other documents in accordance with the provisions of this Act or the rules made thereunder;
- (xvii) **fails to furnish information or documents** called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;
- (xviii) supplies, transports or stores any goods which he has reasons **to believe are liable to confiscation under this Act**;
- (xix) issues any invoice or document **by using the registration number of another registered person**;
- (xx) **tampers with, or destroys** any material evidence or document;
- (xxi) **disposes off or tampers with any goods** that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ₹10,000 or **an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently**, whichever is higher.

(1A) Any person

- **Who retains the benefit of a transaction covered under clauses [Subsection (1)]**
- **(i) [Supply without Invoice]**
- **(ii) [Invoice without Supply]**
- **(vii) [ITC without taking Supply]**

- **(ix) [Wrong distribution of ITC by ISD]**
- at whose instance such transaction is conducted,
- shall be liable to a penalty
- of an amount Equivalent to the tax evaded or
- input tax credit availed of or passed on.

### Analysis

Fraudulent persons / MASTER MINDS- make firms in the name of Gardner, servant, Driver and get the benefit behind the curtain..

**Now such master minds also liable to a penalty under section 122.**

## PUNISHMENT

### Section 132: Punishment for certain offences

Circumstances for  
punishment and  
punishment  
thereof

- (1) **Whoever commits or causes to commit and retain the benefits arising out of**, any of the following offences, namely:-
- (a) supplies any goods or services or both **without issue of any invoice**, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
  - (b) **issues any invoice or bill without supply** of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
  - (c) **avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;**
  - ~~(c) **avails input tax credit** using such invoice or bill referred to in clause (b);~~
  - (d) **collects any amount as tax but fails to pay the same** to the Government beyond a period of **3 months** from the date on which such payment becomes due;
  - (e) **evades tax, fraudulently avails input tax credit** or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

- (f) **falsifies** or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
- (g) **obstructs or prevents any officer** in the discharge of his duties under this Act;
- (h) **acquires possession of,** or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
- (i) **receives or** is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
- (j) **tampers with or destroys** any material evidence or documents;
- (k) **fails to supply any information** which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or
- (l) **attempts to commit, or abets the commission** of any of the offences mentioned in clauses (a) to (k) of this section,

shall be punishable—

- (i) In cases where the amount of tax evaded or the amount of **input tax credit** wrongly availed or utilised or the amount of refund wrongly taken **exceeds ₹ 5 crore, with imprisonment for a term which may extend to five years and with fine;**
- (ii) In cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds ₹ **2 crore,** but does not exceed ₹ **5 crore,, with imprisonment for a term which may extend to 3 years and with fine;**
- (iii) **in the case of any other offence** where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds ₹ **1 crore,** but does not exceed ₹ **2 crore,, with imprisonment for a term which may extend to one year and with fine;**

	(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to 6 months or with fine or with both.
Subsequent time offence [imprisonment may extend upto 5 yrs with fine]	(2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.
Minimum imprisonment 6 months except in special cases as considered by court	(3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.
Offences will be in nature of NON COGNIZABLE AND BAILABLE	(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non-cognizable and bailable.
Certain offences will be in nature of COGNIZABLE AND NON BAILABLE	(5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.
Prior approval mandatory for prosecution	(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

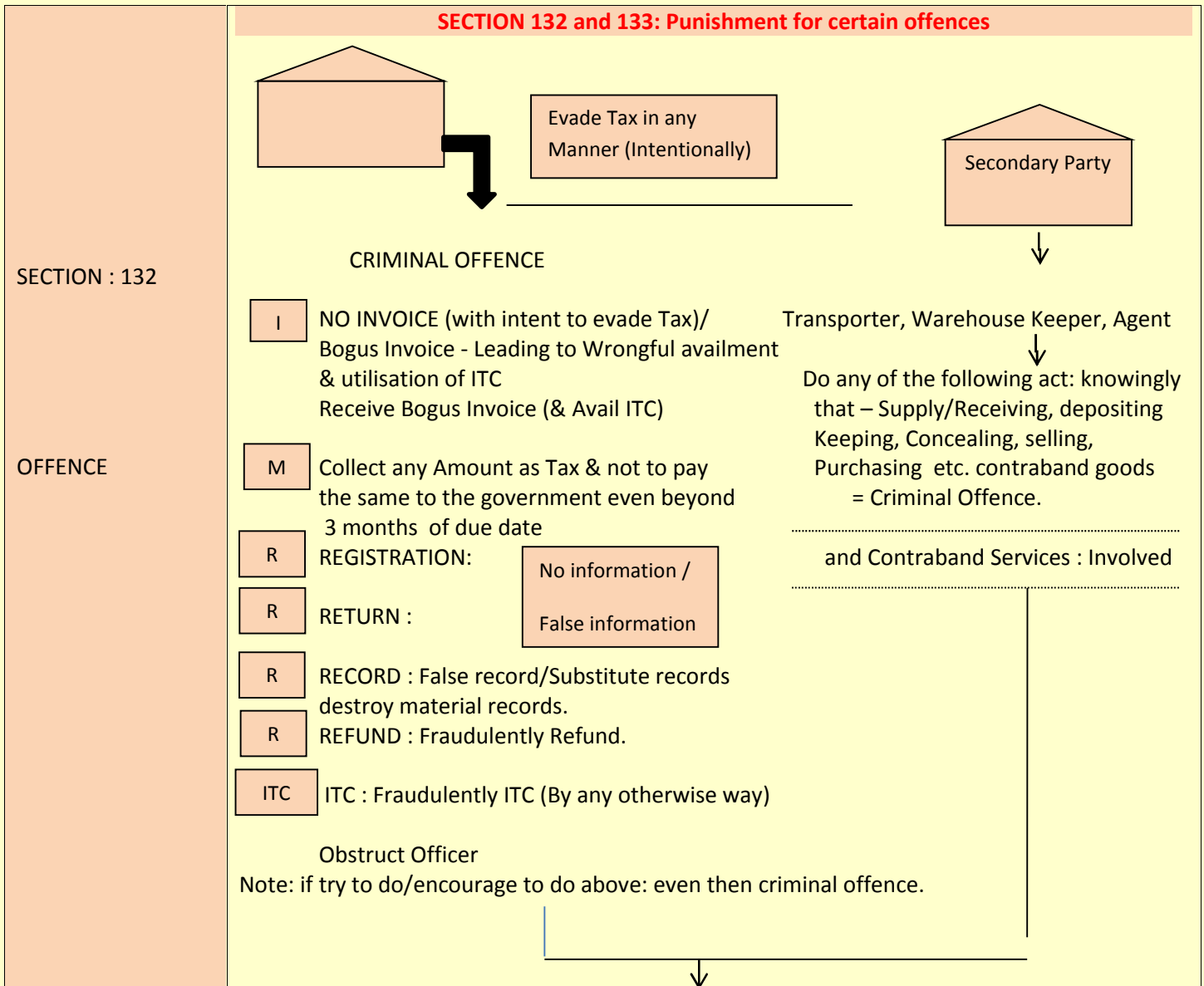


**Analysis**

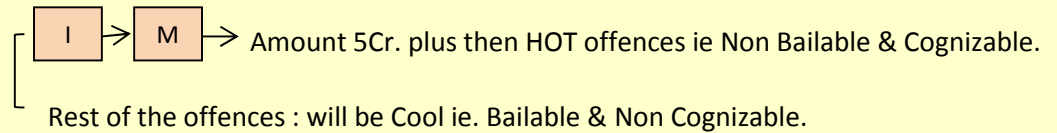
Fraudulent persons / MASTER MINDS make firms in the name of Gardner, servant, Driver and get the benefit behind the curtain..

**Now such master mind also liable to punishment under section 132.**

[Moreover if a person fraudulently avails ITC.. now as per amended provision- the person can be **arrested** for this offence under section 69 and such offence may fall under the category of **Cognizable and non bailable offence**]



PUNISHMENT	FREQUENCY	DISPUTED AMONT INVOLVED			PUNISHMENT
	First Time	1Cr.	To	2 Cr.	6 Month to 1 Year (with fine)
		2Cr.	To	5 Cr.	6 Month to 3 Year (with fine)
		5 Cr.	To	∞	6 Month to 5 Year (with fine)
Subsequent time	Any Amont			6 Month to 5 Year (with fine)	



NOTE : 6 Month SAJA (imprisonment) can be reduced in special cases which will be decided by the Court.

**NOTE: If Offence: Record wala/Obstruct wala/SABUT MITANA → Jail Upto 6 Month.**

# Chapter 22

## E-WAY BILL

Validity/Life of  
E- Way Bill

Sn.	Distance	Validity period
1.	Upto <del>100</del> 200 km.	One day in cases other than Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship]
2.	For every <del>100</del> 200 km. or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship]
3.	Upto 20 km	One day in case of Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship]
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo [or multimodal shipment in which at least one leg involves transport by ship]

Extension :   
    By commissioner : in Certain Cases  
    By EWB Generator: Extend it.

Note: The validity of the e-way bill may be extended within 8 hours from the time of its expiry.

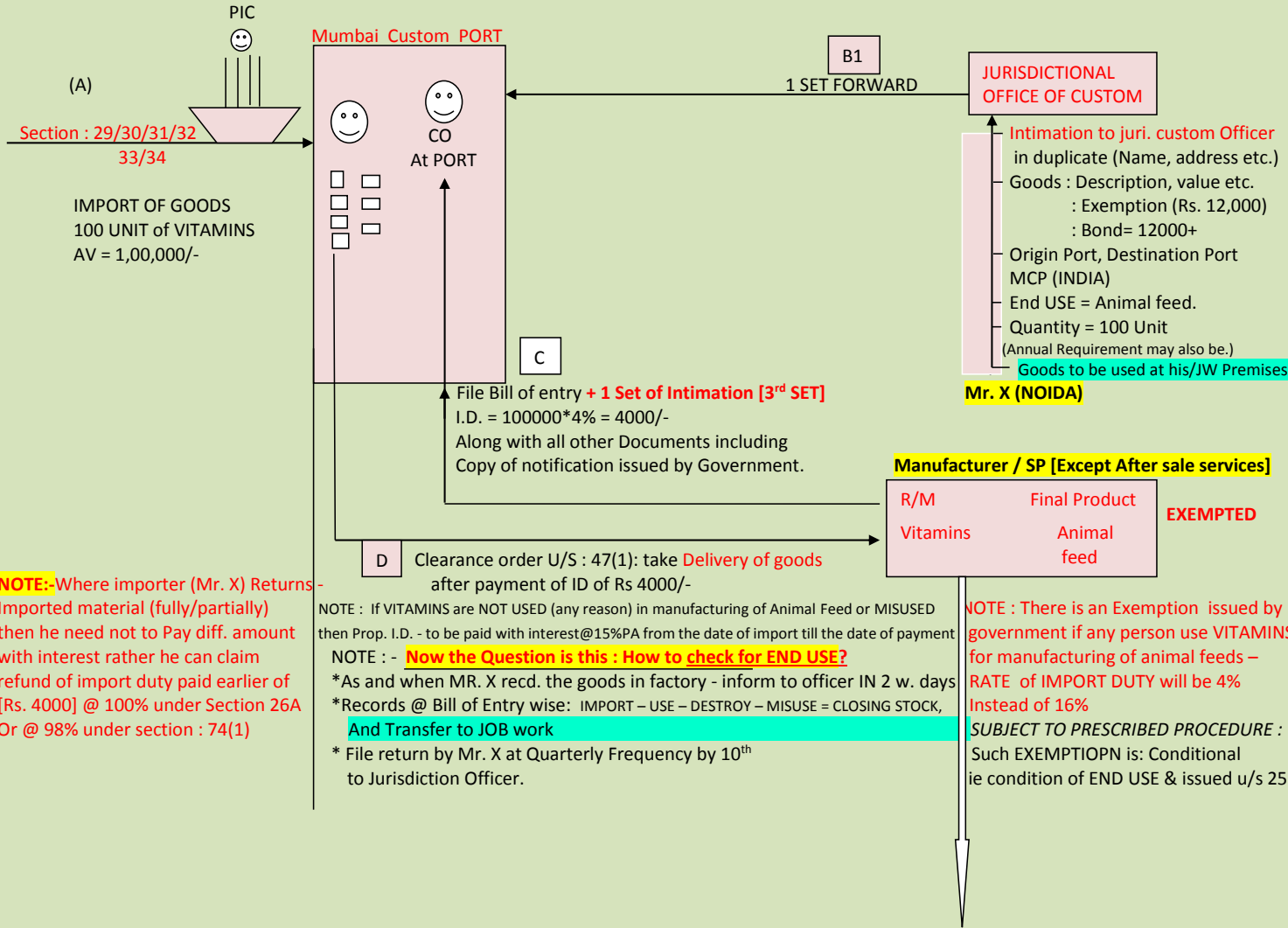
### Analysis



## Blocking of E-way Bill:

No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, who,—

- (a) Being a person paying tax under section 10, [or availing the benefit of notification No. 02/2019,] has not furnished the [statement in FORM GST CMP-08] for two consecutive [quarters]; or
- (b) Being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two tax periods ~~two months~~;
- (c) When a person has not furnished the statement of outward supplies (GSTR: 1) for any two months or quarters, as the case may be.
- (d) Being a person, whose registration has been suspended under Rule 21(1)(2)(2A). [When to suspend RC. When application for cancellation of RC made by the person, when officer finds some irregularity, WHEN THERE IS AN ANAMOLY IN GSTR 1 AND GSTR 2A]

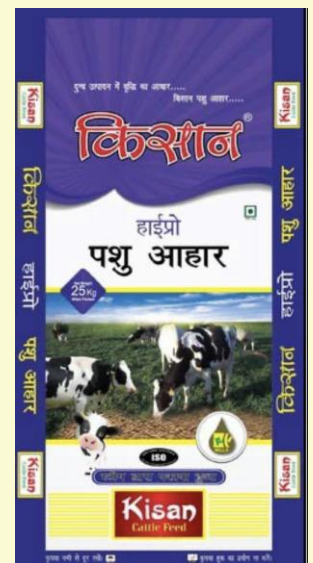


**IMPORTED GOODS CAN BE TRANSFERRED TO JOB WORKER [EXCEPT GEMS AND JEWELLERY SECTOR] AND AFTER THAT JOB WORKER RETURN BACK THE GOODS TO PREMISES SUBJECT TO SPECIFIED PROCEDURE WHICH IS AS FOLLOWS....**

- 1. IMPORTER WILL GIVE AN INTIMATION IN DUPLICATE TO JURISDICTIONAL CUSTOM OFFICER...**
  - **ABOUT HIS INTENT TO DO SO**
  - **NAME AND ADDRESS OF JOB WORKER**
  - **NATURE AND DESCRIPTION OF JOB WORK**
  - **QUANTITY AND DESCRIPTION OF GOODS TRANSFERRED**
- 2. ABOVE JURISDICTIONAL OFFICER SHALL TRANSFER ONE COPY TO "JURISDICTIONAL CUSTOM OFFICER OF JOB WORKER".**
- 3. IMPORTER SEND GOODS TO JOB WORKER UNDER A CHALLAN SHOWING DESCRIPTION AND QUANTITY OF GOODS.**
- 4. MAXIMUM PERIOD OF JOB WORK WILL BE 6 MONTHS FROM THE DATE OF CHALLAN.**
- 5. JOB WORKER SHALL MAINTAIN RECORD AS FOLLOWS..**
  - **RECEIVED, PRODUCED/ CONSUMED / AND WASTE QUANTITY OF GOODS.**
  - **ON DEMAND PRODUCE THE RECORDS BEFORE JURISDICTIONAL OFFICER.**
- 6. AFTER THE JOB WORK- JOB WORKER WILL TRANSFER THE GOODS TO IMPORTER OR ANOTHER JOB WORKER AS PER THE INSTRUCTION GIVEN BY IMPORTER.**
- 7. IN CASE OF CHEATING PROVISION OF RULE 8 AND 8A SHALL APPLY ON IMPORTER [AND NOT ON JOB WORKER]**

# Chapter 4

## Customs (IGCRD) Rules, 2017



<b>Rule 1:</b> <b>Short title and commencement -</b>	<p>(1) These rules may be called the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.</p> <p>(2) They shall come into force on the <b>1st day of July, 2017</b>.</p>
<b>Rule 2:</b> <b>Application</b>	<p>(1) These rules shall apply to an importer, who intends to avail the benefit of an exemption notification issued under <u>section 25(1)</u> and where the benefit of such exemption is dependent upon the use of imported goods covered by that notification <b>for the manufacture of any commodity or provision of output service</b>.</p> <p>(2) These rules shall apply only in respect of such exemption notifications which provide for the observance of these rules.</p>
<b>Rule 3:</b> <b>Definition</b>	<p>In these rules, unless the context otherwise requires, -</p> <p>(a) <b>“Act”</b> means the Customs Act, 1962.</p> <p>(aa) <b>“Capital goods”</b> means goods, the <b>value of which is capitalised</b> in the books of account of the importer;</p> <p>(b) <b>“Exemption Notification”</b> means a notification issued under <u>section 25(1)</u> of the <u>Act</u>;</p> <p>(c) <b>“Information”</b> means the information provided by the manufacturer who intends to avail the benefit of an exemption notification;</p> <p>(ca) <b>“Job work”</b> means</p> <ul style="list-style-type: none"> <li>○ any treatment, process or manufacture, consistent with the exemption notification</li> <li>○ undertaken by a person on goods belonging to the importer</li> <li>○ <b>[except gold, jewellery and articles thereof, and other precious metals or stones;]</b></li> <li>○ and the term “job worker” shall be construed accordingly.</li> </ul> <p>(d) <b>“Jurisdictional Custom Officer”</b> means an officer of Customs of a rank equivalent to the rank of Superintendent or an Appraiser exercising jurisdiction over the premises where either the imported goods shall be put to use for manufacture or for rendering output services;</p> <p>(e) <b>“Manufacture”</b> means</p> <ul style="list-style-type: none"> <li>○ the processing of raw materials or inputs by the importer in any manner</li> <li>○ that results in emergence of a new product having a distinct nature or character or use or name;</li> <li>○ and the term “manufacturer” shall be construed accordingly.</li> </ul> <p><del>(e) <b>“Manufacture”</b> means the processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;</del></p> <p>(f) <b>“Output service”</b> means Supply of service <b>[excluding after-sales service,]</b> utilizing imported goods.</p> <p><del>(f) <b>“Output Service”</b> means supply of service with the use of the imported goods.</del></p>



<p><b>Rule 4:</b> <b>Importer to give prior information</b></p>	<p>The importer shall provide information to the AC/DC having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service except after-sales service, about the following particulars, namely: -</p> <ul style="list-style-type: none"> <li>(i) The name and address of the importer and his job worker, if any;</li> <li>(ii) The goods produced or process undertaken at the manufacturing facility of the importer and/or his job worker, if any, or both;</li> <li>(iii) The nature and description of imported goods used in the manufacture of goods at the premises of the importer or the job worker, if any;</li> <li>(iv) Nature of output service rendered utilising imported goods.</li> </ul> <p><del>An importer who intends to avail the benefit of an exemption notification shall provide the information to the AC/DC having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, the particulars, namely:-</del></p> <ul style="list-style-type: none"> <li><del>(i) The name and address of the manufacturer;</del></li> <li><del>(ii) The goods produced at his manufacturing facility;</del></li> <li><del>(iii) The nature and description of imported goods used in the manufacture of goods or providing an output service.</del></li> </ul>
<p><b>Rule 5:</b> <b>Procedure to be followed</b></p>	<p>(1) The importer who intends to avail the benefit of an exemption notification shall provide information: (a) In duplicate, to the AC/DC of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, the estimated quantity and value of the goods to be imported, particulars of the exemption notification applicable on such import and the port of import in respect of a particular consignment for a period not exceeding one year; and</p> <p>(b) In one set, to the AC/DC at the Custom Station of importation.</p> <p>(2) The importer who intends to avail the benefit of an exemption notification shall submit a continuity bond with such surety or security as deemed appropriate by the AC/DC of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, with an undertaking to pay the amount equal to the difference between the duty leviable on inputs but for the exemption and that already paid, if any, at the time of importation, along with interest, at the rate fixed by notification issued under <u>section 28AA</u> of the <u>Act</u>, for the period starting from the date of importation of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay.</p> <p>(3) The AC/DC of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, shall forward one copy of information received from the importer to the AC/DC of Customs at the <b>Custom Station of importation</b>.</p> <p>(4) On receipt of the copy of the information under sub-rule (1) (b), the AC/DC of Customs at the <b>Custom Station of importation</b> shall allow the benefit of the exemption notification to the importer who intends to avail the benefit of exemption notification.</p>

<p><b>Rule 6</b> <b>Importer to give information regarding receipt of imported goods and maintain records</b></p>	<p>(1) The importer shall provide information of the receipt of the imported goods in the premises, where the imported goods shall be put to use for manufacture of goods or job work or for rendering output service within 2 Working days of such receipt to the Jurisdictional Customs Officer.</p> <p>(2) The importer shall maintain an account in such manner to clearly indicate the quantity,-</p> <ul style="list-style-type: none"> <li>(i) and value of goods imported;</li> <li>(ii) of imported goods consumed;</li> <li>(iii) of goods sent for job work, nature of job work carried out;</li> <li>(iv) of goods received after job work;</li> <li>(v) of goods re-exported, if any, under rule 7; and</li> <li>(vi) remaining in stock, according to bills of entry,</li> </ul> <p>and shall produce the said account as and when required by the AC/DC having jurisdiction over the premises or where the imported goods shall be put to use for manufacture of goods or for rendering output service.</p> <p>(3) The importer shall submit a quarterly return, in the form appended to these rules to the AC/DC having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, by the tenth day of the following quarter.</p> <p><del>(1) The importer who intends to avail the benefit of an exemption notification shall provide the information of the receipt of the imported goods in his premises where goods shall be put to use for manufacture, within 2 days (excluding holidays, if any) of such receipt to the <b>jurisdictional Customs Officer.</b></del></p> <p><del>(2) The importer who has availed the benefit of an exemption notification shall maintain an account in such manner so as to clearly indicate the quantity and value of goods imported, the quantity of imported goods consumed in accordance with provisions of the exemption notification, the quantity of goods re-exported, if any, under rule 7 and the quantity remaining in stock, bill of entry wise and shall produce the said account as and when required by the AC/DC <b>having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service.</b></del></p> <p><del>(3) The importer who has availed the benefit of an exemption notification shall submit a quarterly return, to the AC/DC <b>having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service,</b> by the 10<sup>th</sup> day of the following quarter.</del></p>
<p><b>Rule 6A</b> <b>Procedure for allowing imported goods for job work</b></p>	<p>(1) The importer shall send the imported goods except gold, jewellery and articles thereof; and other precious metals or stones for job work, for manufacture of goods, after giving an intimation in duplicate to the Jurisdictional Customs Officer of his intention to do so.</p> <p>(2) The importer shall also specify the following particulars, namely: -</p> <ul style="list-style-type: none"> <li>(i) name and address of the job worker;</li> <li>(ii) nature and description of the job work to be carried on the imported goods in the manufacturing process;</li> <li>(iii) quantity and description of the goods intended to be sent to the job worker.</li> </ul>

	<p>(3) The Jurisdictional Customs Officer shall forward a copy of the intimation along with the particulars specified in sub-rules (1) and (2) to the concerned Customs Officer under whose jurisdiction the premises of the job worker is situated.</p> <p>(4) The importer shall send the goods to the premises of the job worker enclosing a challan, specifying the description and quantity of the goods.</p> <p>(5) The maximum period for which the goods can be sent to the job worker shall be 6 months from the date of issue of challan specified in sub-rule (4).</p> <p>(6) In case the importer is unable to establish that the goods sent for job work have been used as per the particulars of job work referred in sub-rule (2), the Jurisdictional Customs Officer shall take necessary action against the importer under rules 8 and 8A.</p> <p>(7) The job worker shall</p> <ol style="list-style-type: none"> <li>(i) maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process;</li> <li>(ii) produce the account details before the Jurisdictional Customs Officer as and when required by the said officer;</li> <li>(iii) after completion of the job work send the processed goods to the importer or to another job worker as directed by the Importer for carrying out the remaining processes, if any, under the cover of a challan or the challan of the principal manufacturer duly endorsed by him.</li> </ol>
<p><b>Rule 7: Re-export or clearance of unutilised or defective goods</b></p>	<p>(1) The importer who has availed benefit of an exemption notification, prescribing observance of these rules may <b>re-export the unutilised or defective imported goods, within 6 months</b> from the date of import, with the permission of the jurisdictional AC/DC of Customs <b>having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service:</b></p> <p><b>Provided that the value of such goods for re-export shall not be less than the value of the said goods at the time of import.</b></p> <p>(2) <b>Clearance of defective goods:</b> The importer who has availed benefit of an exemption notification, prescribing observance of these rules <b>may also clear the unutilised or defective imported goods,</b> with the permission of the jurisdictional AC/DC of Customs <b>having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service,</b></p> <ul style="list-style-type: none"> <li>▪ within a period of 6 months from the date of import on payment of import duty</li> <li>▪ equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation,</li> <li>▪ along with interest, at the rate fixed by notification issued <b>under section 28AA of the Act,</b></li> <li>▪ <b>for the period starting from the date of importation of the goods on which the exemption was availed and</b></li> <li>▪ <b>ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay.</b></li> </ul>

	<p>(3) The importer, with the permission of the jurisdictional AC/DC having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, may clear the imported capital goods, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA of the Act, on the depreciated value allowed in straight line method, as specified below, namely : -</p> <p>(i) for every quarter in the first year @ 4%;</p> <p>(ii) for every quarter in the second year @ 3%;</p> <p>(iii) for every quarter in the third year @ 3%;</p> <p>(iv) for every quarter in the fourth and fifth year @ 2.5%;</p> <p>(v) and thereafter for every quarter @ 2%.</p> <p><b>Explanation.</b> - (1) For the purpose of computing rate of depreciation for any part of a quarter, a full quarter shall be taken into account.</p> <p>(2) There shall be no upper limit for such depreciation.</p> <p>(3) The depreciation shall be allowed from the date when the imported capital goods have come into use for the purpose as specified in the exemption notification upto the date of its clearance.</p>
<p><b>Rule 8</b> <b>Recovery of duty in certain case</b></p>	<p>(1) The importer who has availed the benefit of an exemption notification shall:</p> <ul style="list-style-type: none"> <li>▪ use the goods imported in accordance with the conditions mentioned in the concerned exemption notification or</li> <li>▪ take action by re-export or</li> <li>▪ clearance of unutilised or defective goods under rule 7 and:</li> </ul> <p>In the event of any failure,</p> <ul style="list-style-type: none"> <li>▪ the AC/DC <b>having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service</b></li> <li>▪ shall take action by invoking the Bond to initiate the recovery proceedings of the amount equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of importation,</li> <li>▪ along with interest, at the rate fixed by notification issued under <u>section 28AA</u> of the <u>Act</u>,</li> <li>▪ for the period starting from the date of importation of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay.</li> </ul> <p>(2) Notwithstanding anything specified in these rules in relation to removal and processing of imported goods for job work, the importer shall be responsible for ensuring that the said goods are used in accordance with the purposes provided in the exemption notification and in the event of failure to do so, the Jurisdictional AC/DC having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, shall take action under these rules, without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.</p>

<b>Rule 8A Penalty</b>	The importer or a job worker who contravenes any of the provisions of these rules or abets such contravention, shall be liable to a penalty to an extent of the amount specified under Section 158(2)(ii) of the Act without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.
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**Rule 9:** References in any rule, notification, circular, instruction, trade notice or other order pursuant to the

- [Customs Rules, 1996](#) and any provision thereof or to the
- [Customs Rules, 2016](#) and any corresponding provisions thereof
- shall, be construed as reference to the Customs Rules, 2017.

# Chapter 5

## Import and Export Procedure

Circular No.51/2020-Customs

### Clarifications regarding availment of exemption on temporary import of durable Containers

<b>Background:</b>	<p>Notification No.104/94-Cus, which grants exemption to import of containers of durable nature, from the whole of the duty of customs and the whole of the integrated tax leviable.</p> <p>The exemption is subject to the condition that</p> <ul style="list-style-type: none"><li>○ Such containers are <b>re-exported within 6 months</b> from the date of importation and that</li><li>○ the importer <b>executes a bond</b> and furnishes documentary evidence to the satisfaction of the AC/DC to safeguard the duty in the event of non-compliance.</li></ul>
<b>Issue:</b>	<p>A representation has been received in Board regarding the eligibility of the exemption available under No.104/94-Cus., for durable containers which do not conform to the standard marine container dimensions, but which are intended for temporary import and eventual re-export.</p> <p>There is also a perceived ambiguity regarding procedural and system readiness regarding the import and re-export of such durable containers, which are not explicitly covered by the guidelines as provided under <a href="#">Circular No.31/2005-Cus., dated 25.07.2005.</a></p>
<b>Clarification:</b>	<p>For durable containers which do not conform to the standard marine container dimensions, but which are intended for temporary import and eventual re-export, the procedure to be followed is given below:-</p> <ul style="list-style-type: none"><li>(a) <b>When empty containers are imported into India</b> - The empty containers shall be required to be declared as an item in the bill of entry under section 46. The containers would be eligible for exemption from all the applicable customs duties, subject to fulfilment of conditions therein. However, the bond for re-export and the security if applicable shall be required to be furnished at the time of import.</li><li>(b) <b>When empty containers are moved out of India by sea or air</b> - The empty containers shall be required to be declared as an item in the shipping bill filed under <a href="#">Section 50</a> .</li></ul>

**CRUX**

Where durable containers are temporary imported into India-Then no duty shall be collected on it subject to the conditions

- (i) For execution of a bond (Bank Guarantee)
- (ii) File a declaration to re - export within 6 months.

## INTRODUCTION OF FACELESS ASSESSMENT



### Process of Filing of Bill of Entry Before Faceless Scheme:

- In EDI (Electronic data interchange) system [[www.icegate.gov.in](http://www.icegate.gov.in)] just bill of entry is required to be filed and a Serial number of Bill of Entry generated. It is called NOTING of Bill of Entry.  
(Note: At this stage no original documents is required to be submitted)
- After Noting, Bill of Entry will be sent to appraiser section of Custom House for assessment function.
- During assessment importer needs to submit original documents
- After assessment differential duty if any required to be paid.
- After that clearance order shall be made for clearance of goods.

## Under Faceless structure of Commissionerates will be restructured into following two distinct categories:

National Assessment Commissionerates ('NAC') for assessment proceedings	Jurisdictional Port Commissionerates ('JPC')
<ul style="list-style-type: none"> <li>▪ NAC will <b>not be physically co-located</b> but will be connected virtually;</li> <li>▪ It will comprise of various Faceless Assessment Groups ('FAG') including officers drawn from different customs locations;</li> <li>▪ FAG will be solely responsible for assessment proceedings; and</li> <li>▪ Where importer disagree with NAC's order, appellate proceedings will also be carried out via videoconferencing or other technological means.</li> </ul>	<p>For physical examination of goods where NPC finds discrepancy in B/E or documents JPCs will set up Turant Suvidha Kendra to</p> <ul style="list-style-type: none"> <li>▪ Accept bond or bank guarantee,</li> <li>▪ Generate test memo and forward the samples,</li> <li>▪ Process request for waiver of late fee,</li> <li>▪ Carry out any technical function allotted by FAG,</li> <li>▪ Defacing of documents or permit licenses, and</li> <li>▪ Debit of documents, permits and licenses.</li> </ul>

### Impacts of Faceless Assessments:

- (a) The **role of CHAs will get reduced** substantially.
- (b) The assessments will be anonymous and jurisdiction less for example- BOE filed by the important in Mumbai port **may be assessed by NAC of Delhi.**
- (c) Uniformity will improve w.r.t. classification, valuation, exemption, concessions etc. across custom ports in India.
- (d) Assessments will be **team-based** and will not be based on the opinion of one officer.
- (e) **Faster** custom clearances
- (f) Things like harassment and corruption will reduce.
- (g) For Importers the recording of transactions correctly and maintenance of records and documents will be extremely important. They will also need to reply to any queries/clarifications sought by NACs



## Circular No. 55/2020-Customs

### Faceless Assessment-Clarifications on the Issues raised by Stakeholders

After a series of consultations with various stakeholders, such as the NACs, trade and industry associations, it is felt that there is a need to further enhance the efficiency of the process involved in Faceless Assessment. **With a view to achieve this objective, certain key areas, which require immediate attention**, have been identified and the following instructions/ guidelines are being hereby issued so as to smoothen the process of Faceless Assessment by the field formations.

#### **(a) Re-assessment in accordance with the Principles of Natural Justice:**

- (i) During verification of the assessment, if there are reasons to believe that the self-assessment is not done correctly, or **additional details** are required to complete the verification, necessary clarifications should be sought from the **importer/Customs Broker through the query module of ICES**.
- (ii) While raising the query, all the aspects of additional information required for finalisation **should be covered and clearly worded**. Also, as far as possible, **multiple queries need to be avoided** and all the information may be solicited **in one-go** and not in a piece-meal manner. Further, in the event that the officer concerned is required to raise a second (or more) query/ies on the same Bill of Entry, approval shall be taken from the respective Additional Commissioner/Joint Commissioner, with full justification thereof. Needless to say, this approval should be given **only as an exception and not as a matter of routine**. **Pr.Commissioners / Commissioners** across the NACs may ensure that minimal queries are raised by the concerned FAGs and may devise their own mechanism to regularly monitor the same, in a manner that needless and repeated queries, which have the effect of delaying assessments, are avoided.
- (iii) Based on the reply to the query, the FAG may **either accept the self-assessment or proceed to re-assess** the Bill of Entry.
- (iv) While re-assessing the Bill of Entry, it must be ensured that the importer is given an **opportunity to justify** the self-assessment either in writing or in person through Video Conferencing. The importer, can, if he so desires, waive off this requirement in writing. No re-assessment, which would lead to change in classification, valuation and/or applicability of notification etc, should be carried out, unless an opportunity is provided to the importer for presenting his/her viewpoint.
- (v) Where the assessing officer re-assesses the Bill of Entry and where the importer does not accept the change in assessment in writing, through the query module in ICES, the proper officer shall **mandatorily issue a speaking order** without delay and in accordance with [Section 17\(5\) of Customs Act, 1962](#).

**(b) Complete description of imported goods:**

It has been brought to the notice of the Board that one main reason for the raising of a query is that in many instances, the importers do not give complete description of the imported goods, while filing the Bill of Entry. This constrains the assessing officer and delays the process of verification of the assessment by the FAG. **Therefore, it is important that the importers/Customs Brokers are advised to give the complete description of the imported goods while filing the Bill of Entry, in the first instance.** In this context, the attention of the importers/Customs Brokers may be drawn to the following fields that are available in the electronic Bill of Entry format:

- (i) **Generic Description** : The description in generic text relevant to text provided in the duty exemption notification that is claimed/Anti-Dumping (ADD)/IGST levy, as applicable.
- (ii) **Specific Description**: The description specific to the product and as given in the invoice, trade name or specific product details to be provided (Brand name or model details may be avoided-same needs to be provided separately).
- (iii) **Model and Brand Name**: Model details and Brand Name may be provided and if the imported goods are unbranded, the text "UNBRANDED" may be used.
- (iv) **Supplier and Manufacturer Details**: In cases where duty applicability is based on manufacturers such as Anti-Dumping Duty (ADD), Safeguard Duty (SD) etc, the details of manufacturer may be provided. In case of products attracting ADD, these details would be required to be mandatorily provided.
- (v) **Item Qualifiers**: Some imported items may have specific distinguishing characteristics or have industry specific names (e.g. scientific names, IUPAC names etc.). These item names or qualifiers may be declared, as applicable. The illustrative list of such item qualifiers are at Annexure A. DG Systems, CBIC would shortly issue a detailed advisory for guidance of the trade, in this regard.
- (vi) **Previous Bills of Entry**: The Bill(s) of Entry details of previous import may be mentioned, if available.

**(c) Enhancement in the monetary limit for assessment by the Appraising Officers:** As of the present, all Bills of Entry with an assessable value of up to ` 1 lakh are assessed only by the Appraising Officers. All Bills of Entry beyond the above threshold, are necessarily subjected to a two-step scrutiny, first by the Appraising Officer and then by the Deputy/Asst. Commissioner of Customs.

**(d) Assessments in respect of Liquid Bulk Cargo :** The Board has also received representations in respect of delays in the assessment of liquid bulk cargo. One common refrain of the trade here is the unnecessary resort to the First Check System of assessment, in such cases. With respect to import of 'liquid bulk cargo', it is stated that the assessments are to be carried out on a provisional basis. This is primarily on account of the ascertainment of actual imported quantity which is done subsequently. Also, at times, there may be a doubt with respect to the composition, product specification etc. Both these aspects do not warrant a First Check system of assessment.

The respective Co-Convenors of the NACs assessing such consignments are advised to ensure that all such consignments are subjected to the Second Check system of assessment, with duty being assessed on a provisional basis.

**Crux**

1. Quarries to be asked will be minimum, clearly worded and only relevant in ONE go, if more than one time quarries to be asked then need approval from senior officer.
2. Order will be a speaking order.
3. Complete description should be given by the assessee to avoid quarries.
4. etc

# FOREIGN TRADE POLICY

1. Foreign Trade Policy 2015 -2020 extended upto 30/09/2021 hence FTP 2015 -2020 will be applicable for NOV 2021 Exam.
2. In case of import under AAS, EPCG, EOU/EHTP/STP/BTP units. Exemption from IGST and compensation cess extended upto 30/09/2021.
3. MEIS replaced with new scheme namely “Remission of duties and Taxes on Exported Products” [RODTEP] - as per this scheme export benefit will be credited to Exporter’s Credit Ledger account. An exporter desires of availing the benefit of the RODTEP scheme is required to declare his intension for each export item in the shipping bill or bill of export. The RODTEP is allowed subject to specified conditions.