

# CHAPTER 1

## INTRODUCTION TO GST

### 1. INTRODUCTION TO TAX

- Tax is a money that people pay to the Government, which is used to provide public services.
- It is a pecuniary burden on taxpayers to fulfill the socio-economic objectives of the Government.
- It is not a voluntary payment or donation, but an enforced contribution, exacted as per legislative authority.

Direct Tax	Indirect Tax
1. Burden & Liability to pay Tax lies on Same Person	Burden & Liability to pay lies on Different Person
2. Burden of Tax is not shifted	Burden of Tax is shifted to consumer
3. Progressive Taxation → Higher Income, Higher Tax	Regressive Taxation → Same tax levied on all irrespective of level of income
4. Levied on Income of Assessee	Levied on supply of goods, service or both and also on Imports. Also called Consumption Tax.
5. Concept of 'Previous year' and 'Assessment Year'	No such concept. Financial year is considered.

Economists world over agree that direct and indirect taxes are complementary and therefore, a rational tax structure should incorporate in itself both types of taxes.

### 2. GST

Gabbar Singh Tax

Good & Simple Tax

Goods & Services Tax

It is an indirect tax levied/ imposed/ charged on supply of goods or services or both except taxes on the supply of the alcoholic liquor for human consumption.

Earlier Tax Regime/ Pre-GST 01/07/2017

1. Excise duty levied on Manufacture/ Prodn. of goods	GST levied on supply of goods/ services/ both
2. Sale Tax on sale of goods	
3. Service Tax on provision of services	
4. Multiple other Central and State taxes	

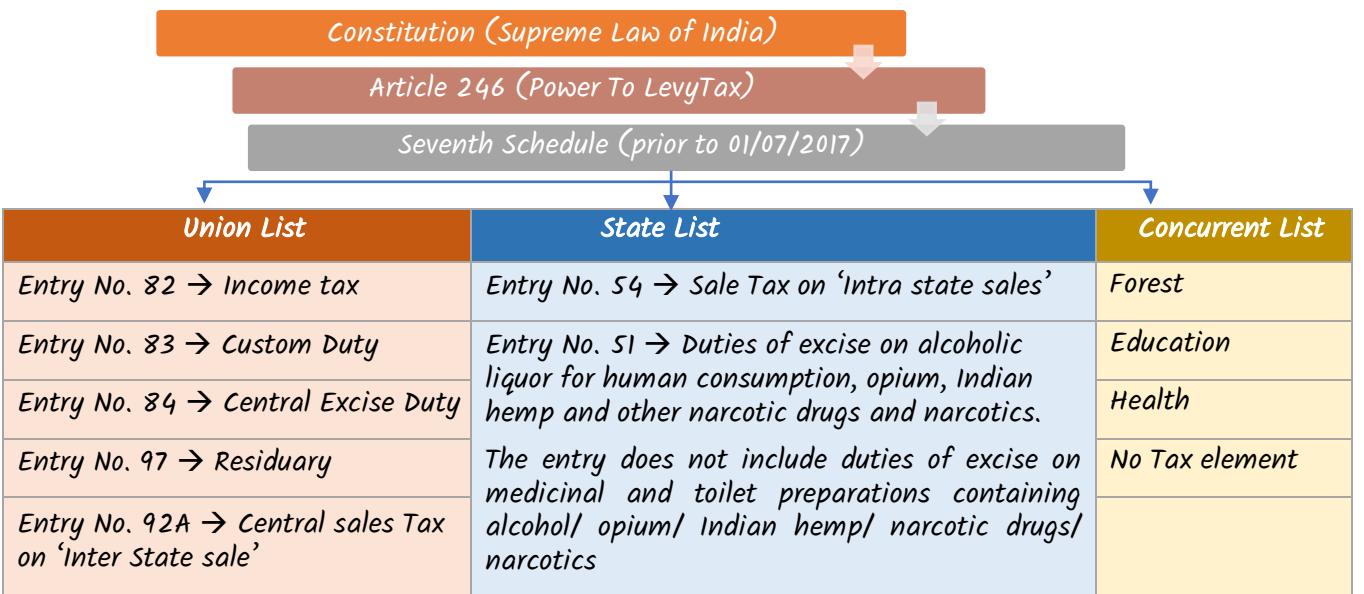
**3. JOURNEY OF GST**

<b>2000</b>	Atal Bihari Vajpayee, Prime Minister of India, set up a committee to design GST model for India
<b>2004</b>	GST Recommended by Kelkar Task Force on national basis
<b>2006</b>	Finance Minister P. Chidambaram announced in 2006-07 budget that GST would be introduced on 1/4/2010
<b>1/07/2017</b>	GST came into effect in Rest of India
<b>8/07/2017</b>	GST came into effect in Jammu & Kashmir
For detailed timeline, refer Pg 1.5 of ICAI Study Material (not relevant for exams)	

**4. WHY SO MUCH DELAY / DIFFICULTY IN INTRODUCING GST?**

India has 3-tier federal structure comprising of CG/ SG/ LA. Power to levy taxes is distributed among them.

<b>Article 265</b>	Prohibits arbitrary collection of Tax i.e. no Tax shall be levied or collected except by authority of law.
<b>Article 245</b>	Power for enacting law is conferred on Parliament and State Legislative Assembly.



<b>Inter Nation</b> → Between two Nations	<b>Inter-state</b> → Between two States
<b>Intra Nation</b> → Within the Nation → Inter state	<b>Intra-state</b> → Within the State

~~CG = National GST~~ → CG shall collect GST & later distribute share to respective State Govts.  
 India adopted Dual GST system. Brazil & Canada also follows 'Dual GST'.

- Initially, focus was to implement National GST model under which CG shall collect full GST and later distribute the share of State Governments to respective State Governments.
- As seen above, in the earlier Indirect Tax regime, fiscal powers between Centre and the States were clearly demarcated.

- CG had exclusive power to levy tax on services & manufacturing of goods, except alcoholic liquor for human consumption, opium, narcotics etc. Similarly, SG had exclusive power to levy tax on sale of goods.
  - State Governments were not willing to let go their power of levying tax on goods.
  - Accordingly, India adopted Dual GST Model, under which both 'CG' and 'SG' has powers to simultaneously/ concurrently levy tax on supply of Goods or Services or both.
  - Hence, it was necessary to amend the constitution for redistribution of powers to levy tax on goods or services or both by CG & SG.
  - This was done through 'Constitution [101<sup>st</sup> Amendment] Act 2016; which introduced "Article 246A" for empowering the CG & SG to simultaneously levy and collect GST.
  - **Note:** For amendment in Constitution, at least 2/3<sup>rd</sup> of Rajya Sabha & Lok Sabha members must vote in its favour.
- All decisions related to GST, viz. rate of tax, exemption etc. is taken by a GST Council [Article 279A].
  - GST Council comprises of
    - a) Union Finance Minister as Chairman;
    - b) Union Minister of State in charge of Revenue or Finance;
    - c) Ministers in charge of Finance/ Taxation or any other Minister nominated by each of the States & UTs with Legislatures. These members may choose one amongst themselves to be the Vice-Chairperson of the Council.
  - To pass any decision in GST council, 3/4<sup>th</sup> votes of members present and voting is required.
 

Weight of CG Votes → 1/3 of total votes cast

Weight of SG Votes combined → 2/3 of total votes cast

Hence, to pass any decision, support of both CG & majority of SG is required. (co-operative federalism)

## 5. WORKING OF GST

### 1. Before VAT regime

Manufacturer		Wholesaler/ Dealer		Retailer	
Raw Material purchased		Purchase Cost		Purchase Cost	
Processing Exp. @ 10%		Profit @ 10%		Profit @ 10%	
<b>Cost of production</b>					
Profit @ 10%		Sale Tax @ 10%		Sale Tax @ 10%	
		<b>Sale Price</b>		<b>Sale Price</b>	
Excise Duty @ 10%					
Sale Tax @ 10%					
<b>Sale Price</b>					
<b>Total Tax Payable</b>					

**2. During VAT regime**

Manufacturer		Wholesaler		Retailer	
Raw Material purchased		Purchase Cost		Purchase Cost	
Processing Exp.		Profit @ 10%		Profit @ 10%	
<b>Cost of production</b>					
Profit @ 10%		VAT @ 10%		VAT @ 10%	
		<b>Sale Price</b>		<b>Sale Price</b>	
Excise Duty @ 10%					
Sale Tax @ 10%					
<b>Sale Price</b>					
<b>Tax Payable</b>					
Excise Duty @ 10%		Output Tax Liab.		Output Tax Liab.	
Sale Tax @ 10%		Less: ITC		Less: ITC	
		<b>Net Tax payable</b>		<b>Net Tax payable</b>	

Ideally, every person should pay tax on their own value addition/ contribution.

Value Added Taxation is a mechanism of Taxation, where tax is levied at each stage of supply chain &

- tax paid on inputs i.e. purchase, is allowed as credit from Tax liability on sale;
- thereby, taxing only value added at each stage.

Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.

This results in no double taxation and no tax on tax (cascading effect).

France was the first country to implement VAT/ GST in 1954. Presently, more than 160 countries have implemented VAT/ GST in some form or the other.

**Three Rules for lifetime**

<b>Rule 1</b>	Tax paid/ payable on purchase → Purchase made is not the value addition of buyer. Accordingly, such tax paid on purchase is not his liability to pay but still paid. Hence, treat such tax paid/ payable on purchase as 'Tax Asset' and not as part of cost.
<b>Rule 3</b>	Tax charged on Sale/ received on sale → It is Government money which seller as received. Seller must pay it to Government. Hence, treat such tax collected on sale as Tax Liability.
<b>Rule 3</b>	Net Tax payable = Tax on Sales – Tax on purchases

**Three Cases on Allowability of Input Tax Credit**

Case I	Case II	Case III



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As seen above, 'tax on input' is allowed as credit from output tax liability, only when both are payable to same Government.

In case Input tax is paid to one Government & output tax is payable to another Government, credit is not allowed. Such tax paid on Input is treated as part of cost.

To resolve this & few other shortcomings of VAT regime, 'GST' was introduced.

**3. "During GST" [1/7/2017 onwards] Assume effectiveness rate → 12%**

Manufacturer		Wholesaler		Retailer			
Raw Material purchased		Purchase Cost		Purchase Cost			
Processing Expenses		Profit @ 10%		Profit @ 10%			
<b>Cost of production</b>							
Profit @ 10%		CGST @ 6%		CGST @ 6%			
		SGST @ 6%		SGST @ 6%			
CGST @ 6%		<b>Sale Price</b>		<b>Sale Price</b>			
SGST @ 6%							
<b>Sale Price</b>							
			CGST	SGST		CGST	SGST
		Output Tax			Output Tax		
		(-) ITC			(-) ITC		
		<b>Net Tax payable</b>			<b>Net Tax payable</b>		

**Total Value Addition =**

=

**GST payable = Total value addition x 12%**

=

=

**Total GST paid =**

=

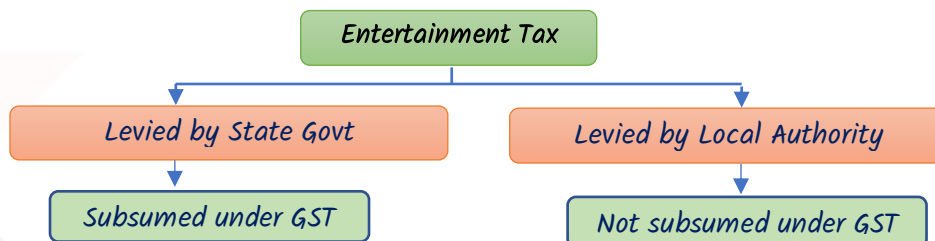
GST → Comprehensive VAT → No double taxation → No tax on tax [cascading effect] → Reduced prices

## 6. TAXES SUBSUMED IN GST

Central Taxes	State Taxes
1. Central Excise duty except on DAMN & Tobacco	1. VAT except on DAMN & alcoholic liquor for human consumption
2. Service tax	2. Luxury Tax
3. Central sales tax except on DAMN & alcoholic liquor for human consumption	3. Entry Tax
4. Countervailing duty (CVD)	4. Octroi Tax
5. Special additional duty (SAD)	5. Entertainment Tax
6. Other central surcharge & cess	6. Tax on Lottery, Betting & Gambling
	7. Tax on Advertisement
	8. Other state surcharge & cess

## 7. TAX NOT SUBSUMED UNDER GST

1.	Central Excise duty on 'DAMN' <ul style="list-style-type: none"> <li>- 'D' – High speed diesel</li> <li>- 'A' – Aviation Turbine Fuel</li> <li>- 'M' – Motor spirit (Petrol)</li> <li>- 'N' – Natural Gas</li> </ul> <div style="margin-left: 100px;"> <span style="font-size: 2em;">}</span> Petroleum Crude         </div>
2.	VAT/ CST on "DAMN"
3.	State excise duty on alcoholic liquor for human consumption
4.	VAT/ CST on alcoholic liquor for human consumption
5.	Basic custom duty
6.	Stamp duty. Thus, Real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.
7.	Electricity duty
8.	Entertainment Tax levied by 'Local Authority'



**Note:** Tobacco → Both Central Excise Duty & GST is levied

**Note:** Opium, Indian hemp and other narcotic drugs and narcotics → Both State Excise Duty & GST is levied

**Note:** 'Petroleum Gas' → Already covered under GST

**GST compensation cess on goods and services – only for knowledge**

GST compensation cess is levied by Central Government in case of supply of certain luxury or SIN goods, in order to compensate states for the loss of any revenue due to implementation of GST for a period of 5 years i.e. till June 30, 2022.

This cess will be in addition to GST payable. The ceiling on GST compensation cess is 15%, though higher cess is leviable on pan masala and tobacco products.

The levy of GST Compensation cess was extended till March 31, 2026 to repay the loans taken by the Union Government, of India in the last two fiscal years to make up for the shortfall in their revenue collection. However, the period for which states would be compensated hasn't been extended beyond June 30, 2022.

**8. STATUS AFTER GST**

S No.	Before GST	After GST
1.	Many Central & state taxes	1 GST and few other taxes
2.	Taxable event → manufacture, sale etc.	Supply
3.	Name of taxpayer → Manufacturer, Dealer etc.	Supplier
4.	Double taxation & cascading effect	No double taxation & cascading effect
5.		Article 246A, 269A, 279A, Changes in Schedule VII

**Relevant entries of Union List and State List (Post-GST):**

Union List (List-I)	State List (List-II)
<p><b>Customs duties</b></p> <p><b>Entry 83:</b> Duties of customs including export duties</p>	<p><b>State excise duties</b></p> <p><b>Entry 51:</b> Duties of excise on</p> <ul style="list-style-type: none"> <li>➤ Alcoholic liquor for human consumption; &amp;</li> <li>➤ Opium, Indian hemp, other narcotic drugs &amp; narcotics.</li> </ul>
<p><b>Central excise duties</b></p> <p><b>Entry 84:</b> Duties of excise on following goods manufactured or produced in India:</p> <ul style="list-style-type: none"> <li>➤ Petroleum crude;</li> <li>➤ High speed diesel;</li> <li>➤ Motor spirit (i.e. petrol)</li> <li>➤ Natural gas;</li> <li>➤ Aviation turbine fuel; and</li> <li>➤ Tobacco and tobacco products</li> </ul>	<p><b>State level VAT</b></p> <p><b>Entry 54:</b> Taxes on intra-state sale of following goods:</p> <ul style="list-style-type: none"> <li>➤ Petroleum crude;</li> <li>➤ High speed diesel;</li> <li>➤ Motor spirit (i.e. petrol)</li> <li>➤ Natural gas;</li> <li>➤ Aviation turbine fuel; and</li> <li>➤ Alcoholic liquor for human consumption.</li> </ul>

**9. FEATURES OF INDIRECT TAXES**

1. <b>An important source of revenue</b>	In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
2. <b>Tax on commodities and services</b>	It is known as commodity taxation & also levied on provision of services.
3. <b>Shifting of burden</b>	For example, GST paid by the supplier of the goods is recovered from the

	buyer by including the tax in the cost of the commodity.
4. <b>No perception of direct pinch</b>	Value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government.
5. <b>Inflationary</b>	It directly affects the prices of commodities and services and leads to inflationary trend.
6. <b>Wider tax base</b>	Majority of the products or services are subject to indirect taxes.
7. <b>Regressive in nature</b>	Both rich and the poor have to pay the same rate of indirect taxes on a product/service. Hence, it is more burdensome for poor people.

#### 10. DEFICIENCIES OF EARLIER TAX REGIME/ VAT REGIME & BENEFITS OF GST

1. <b>Several taxes not subsumed in VAT</b>	For a single transaction multiple taxes in multiple forms were required to be paid as taxes like Luxury tax, Entertainment tax etc. which were not subsumed in VAT
2. <b>High Compliance Cost</b>	Large number of taxes created high compliance cost for the taxpayers in form of more returns, payments etc.
3. <b>Double taxation</b>	Earlier some items were treated both as goods and Services that led to double taxation. Example: Earlier, software was subject to both service tax and VAT
4. <b>No set-off of CENVAT &amp; State Level VAT</b>	Both CENVAT and State level VAT were value added taxes but cross utilisation of credit i.e. set off of those were not possible as CENVAT was levied by Central Government and VAT levied by State Government.
5. <b>No CENVAT after Manufacturing Stage</b>	CENVAT did not include chain of value addition in the distributive trade after the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed. This led to the cascading of taxes.
6. <b>Non-Integration of VAT &amp; Service Tax</b>	VAT on Goods was not integrated with service tax at the state level. So the cascading effect of service tax was not removed.
7. <b>Cascading nature of CST</b>	CST was non-vatable (i.e. no credit was allowed) and an origin based tax which had cascading effect.

#### 11. GST – A CURE OF ALL ILLS I.E BENEFITS OF GST

<b>Benefits to economy</b>	a) <b>Creation of unified national market:</b> GST enabled creation of Common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.
	b) <b>Boost to 'Make in India' initiative:</b> by making goods and services produced in India competitive in the national as well as international market.
	c) <b>Boost to investments &amp; employment:</b> Subsuming of major Central & State taxes in GST, comprehensive set-off of input tax on goods & services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services, thus boosting Investment and Employment.
<b>Simplified tax structure</b>	a) <b>Ease of doing business:</b> Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure.
	b) <b>Certainty in tax administration:</b> Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods or services along with timelines for every activity ensures



	certainty in tax administration across India.
<b>Easy tax compliance</b>	a) <b>Automated procedures with greater use of IT:</b> GST is technology driven. The interface of the taxpayer with the tax authorities is through the common portal (GSTN).
	b) <b>Easier tax compliance:</b> Harmonization of laws, procedures and rates of tax has made compliance easier and simple. There are common definitions, common forms/ formats, common interface through common portal resulting in efficiencies and synergies.
<b>Advantages for trade and industry</b>	a) <b>Benefits to industry:</b> Average tax burden on trade and industry has come down, which has resulted in reduction in prices of goods and services. This has resulted in more consumption, which means more production & thereby boosting growth of industries.
	b) <b>Mitigation of ill effects of cascading:</b> GST is a destination-based consumption tax. It has been designed in a manner so that tax is collected at every stage and the credit of tax paid at the previous stage is available to set off the tax to be paid at the next stage of transaction. This eradicates “tax on tax” & allows cross utilization of ITC.
	c) <b>Benefits to small traders and entrepreneurs:</b> GST has increased the threshold limit for GST registration for small businesses. Small businesses have also been provided the benefit of composition scheme.

## 12. GST COMMON PORTAL

Common GST Electronic Portal – [www.gst.gov.in](http://www.gst.gov.in) – a website managed by Goods and Services Network (GSTN) [a company incorporated under the provisions of section 8 of the Companies Act, 2013] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

The GST portal is accessible over Internet (by taxpayers and their CAs/ Tax Advocates etc.) and Intranet by Tax Officials etc. The portal is one single common portal for all GST related services.

However, common GST Electronic Portal for furnishing electronic way bill is [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in)

Further, website for uploading/ reporting of e-invoices by the notified persons is Invoice Registration Portal (IRP.)

These two websites are managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India].

## 13. HOW TO STUDY GST

Laws/ Concepts	Procedures
Taxable Event (Supply)	Registration
Charge Under GST	Tax Invoice, Debit & Credit Note and E-Way Bill
Place of Supply	Accounts and Records
Exemption from GST	Returns
Time of Supply	Payment of GST
Value of Supply	Assessment, Refunds, Audit, Appeals etc.
Input Tax Credit	



## CHAPTER 2

# SUPPLY UNDER GST

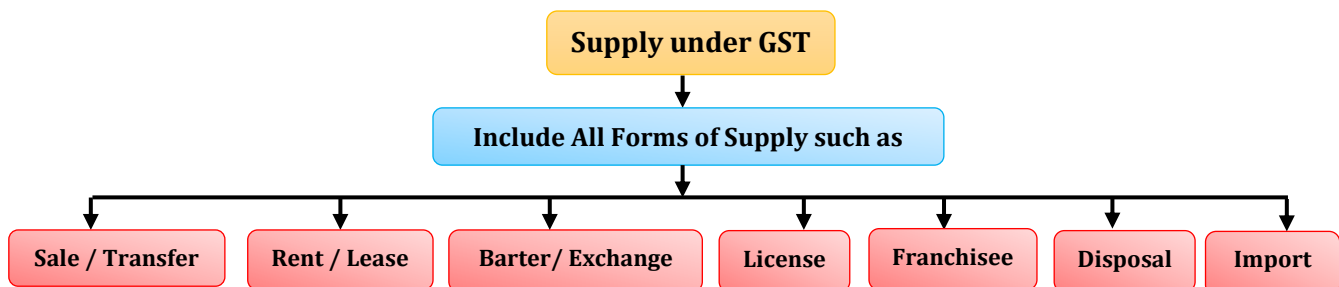
### I. SUPPLY [SEC 7]

A taxable event is any transaction or occurrence that results in levy of tax. It determines the point at which tax would be levied.

Supply is the taxable event for levy of GST as per section 9 of CGST Act/ section of 5 of IGST Act. i.e. GST is levied when Supply of Goods or Service or both takes place.

Supply includes all forms of supply of goods or service or both

- made or agreed to be made
- for **consideration**
- in course or furtherance of **business**.



#### Examples of few inclusions:

Terms like Sale, Transfer, Rent etc. has to be understood in general terms.

Sale takes place when ownership i.e title is transferred.

Transfer takes place when possession is transferred.

#### Examples:

- a) A shopkeeper sells a pen for INR 100 to the buyer. After the sale, the pen belongs to the buyer and shopkeeper does not have any right on the pen. This is a transaction of sale.
- b) A company transfers goods from its factory to the depot for sale purposes. This is 'transfer' of goods where the sale has not yet taken place.

**Barter** – Exchange of goods/services for another goods/service.

- a) A person having grains exchanges it for fruits.
- b) A barber cuts hair of a doctor who provides medical consultancy. Medical consultancy is a SUPPLY of services by doctor. It is a consideration for the hair cut by the barber.

**Exchange:** Goods and services are partly paid for in goods and partly in money.

- i) Old phone is exchanged for a new one and some additional cash.
- ii) A new car worth INR 5,00,000 is purchased in exchange of an old car along with the monetary consideration of INR 4,00,000 paid for the said purchase.

**License:** Permission to do a business from an Authority which is otherwise not allowed. Example: Banking license, mining, telecom business.

**2. SUPPLY/ FOR LEVY OF GST, 5 CONDITIONS ARE TO BE SATISFIED**

Taxable Person 2(107)	Taxable Territory 2(109)	Taxable Supply of Goods / Services 2(52) & 2(102)	Consideration 2(31)	In the course or furtherance of business [2(17)]
<p>Supplier should be a taxable person.</p> <p>Taxable person is a person who is either</p> <p>a) registered under GST or</p> <p>b) liable to be registered u/s 22/ 24</p> <p style="text-align: center;">↓</p> <p>Hence, even an unregistered person who is liable to be registered is a taxable person.</p> <p>Similarly, a person not liable to be registered, but has taken voluntary registration is also a taxable person.</p>	<p>a) Territory of India</p> <p>b) ITW, Continental shift &amp; EEZ</p> <p>Air space above (a) &amp; (b)</p>	<p>GST follows a comprehensive approach for taxing Goods/ service.</p> <p>It means GST is levied on supply of all goods/ services unless exempted by Govt.</p> <p style="text-align: center;">↓</p> <p><b>Taxable Goods / Services = All Goods/ services – Exempt goods/ services</b></p>	<p>Quid pro quo</p> <p>May be Monetary or Non- monetary</p> <p>Can be Direct (from recipient) or Indirect (from person other than recipient)</p> <p style="text-align: center;">↓</p> <p><b>1 exception - Schedule I</b></p>	<p>GST is a tax only on commercial transactions.</p> <p>Supplies in personal capacity is not treated as supply</p> <p style="text-align: center;">↓</p> <p><b>1 exception - Import for consideration is treated as Supply even if it is not in the course or furtherance of business</b></p>

**2.1. ILLUSTRATIONS ON TAXABLE PERSON**

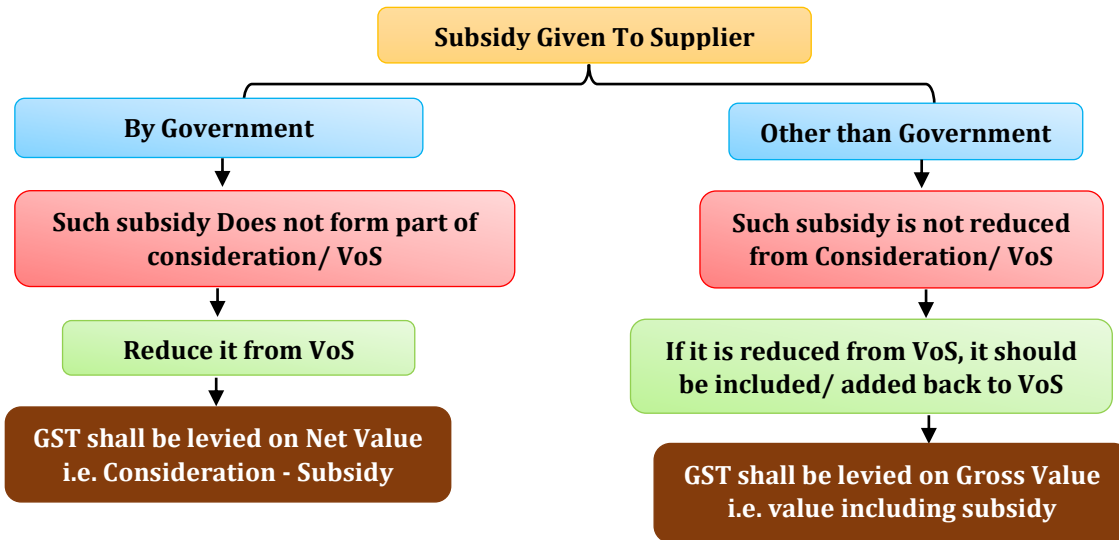
S No.	Question	Whether Person is a Taxable person?
1.	Ram is a retailer having turnover exceeding threshold limit u/s 22 but he is not registered under GST.	Yes, as Ram is liable for registration u/s 22.
2.	Shyam is a dealer whose aggregate turnover does not exceed threshold limit u/s 22. He has opted for voluntary registration.	Yes, as Shyam is a registered person.
3.	Roshan is a dealer whose aggregate turnover does not exceed threshold limit u/s 22. He has not taken registration under GST.	No, as Roshan is neither registered, nor liable for registration.

The restriction of being a taxable person is only on Supplier. Recipient can be either taxable or non-taxable. Further, there is no condition that supply needs to be made to another person, i.e. supplies made to self are also taxable.

**2.2. CONSIDERATION [SEC 2(31)]**

**Additional Points**

- a) Any payment for not doing an activity is also included in the definition of consideration. Example: Non-compete fee.
- b) Consideration does not include Any subsidy given by Central Government or State Government to Supplier in relation to goods/service.  
It includes subsidy given by any person other than CG/ SG.
- c) Security deposit given in respect of the supply of goods/services shall not be considered as payment made for such supply unless the supplier applies/ adjusts such deposit as consideration for the supply.

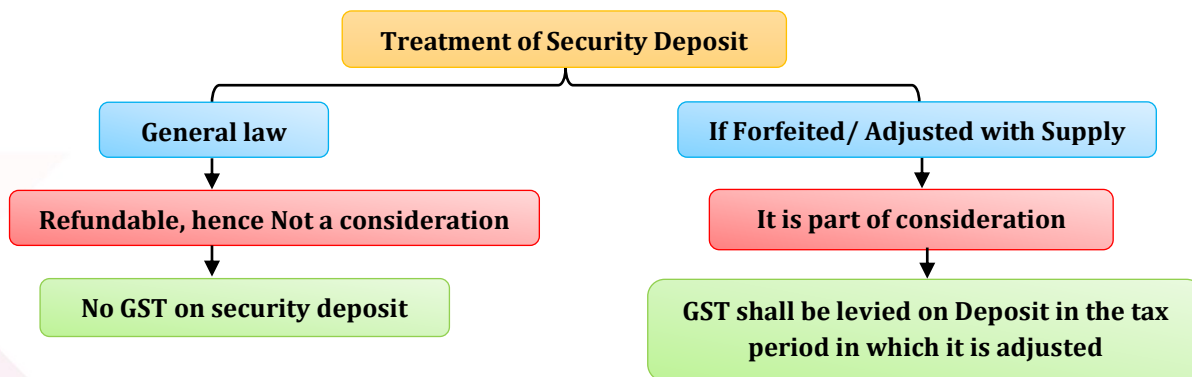


*Note: General subsidy, not linked to price of goods/ service is not deducted from VoS.*

*Note: Subsidy provided to receiver has no impact on value of supply.*

*Example: Tax limited is selling product for INR 2,000 but Government has given subsidy of INR 200. In this case, consideration shall be INR 1,800 and GST shall be payable on INR 1,800.*

*If subsidy is given by any person other than Govt., consideration for purpose of GST shall be INR 2,000.*



*Example: Muhafiz has taken a property on rent for INR 20,000 p.m. and has given security deposit of INR 60,000. In this case, consideration for GST shall be INR 20,000 p.m.*

*If Muhafiz fails to pay rent for two months and the owner has adjusted INR 40,000 out of security towards rent, such security of 40,000 shall now be treated as consideration.*

**Clarification on existence of Consideration in following cases:**

<p><b>Donations received by charitable institutions from individual donors, without quid pro quo</b></p>	<p>Display of Name of donor in premises of Charitable organization receiving donation or gift from</p> <ul style="list-style-type: none"> <li>➤ Individual donor &amp;</li> <li>➤ Purpose should be philanthropic and not advertisement;</li> <li>➤ In such case, there is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (i.e. supply a service).</li> </ul> <p>Therefore, there is no GST liability on such payment made.</p> <p><b>Examples:</b></p> <p>a) Bhushan donated a blackboard to a charitable yoga institution. The institution printed underneath the blackboard so donated - "Good wishes from Mr. Bhushan.</p> <p>b) Smt. Durga Devi donated some money to a temple in the memory of her late father. The Temple Trust constructed a room in the temple complex from such donation and wrote "Donated by Smt. Durga Devi in the memory of her father" on the door floor of the room.</p>
<p><b>Art works sent by artists to galleries for exhibition</b></p>	<p>No consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.</p> <p>It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply</p>

**2.3. IN THE COURSE OR FURTHERANCE OF BUSINESS [SEC 2(17)]**

General	Specific Activities
<ul style="list-style-type: none"> <li>▪ Trade/ Commerce, Manufacturing, Profession,</li> <li>▪ Wager,</li> <li>▪ Vocation (especially suited for an activity)</li> <li>▪ including incidental/ ancillary any activity.</li> </ul> <p><b>Note:</b> Frequency, volume, continuity or regularity of such transaction or obtaining pecuniary benefit from it is not a pre-requisite.</p>	<ul style="list-style-type: none"> <li>▪ Supply/acquisition of goods including capital goods &amp; services in connection with business</li> <li>▪ Admission to any premises for consideration (zoo)</li> <li>▪ Provision of services by club/ Association to its members for consideration</li> <li>▪ Activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club</li> <li>▪ Activity by CG, SG, local authority as public authority.</li> </ul>

**Examples of few inclusions**

<p>a) Rishabh buys a car for his personal use and after a year, sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act as its not in the course or furtherance of business.</p>
<p>b) Manikarnika sold her old gold bangles and earrings to 'Bhola Jewellers'. This will not constitute supply as the same is not in the course or furtherance of business of the individual.</p>
<p>c) Sundaram Acharya, an actor, paints some paintings and sells them. Consideration from such sale is donated to a Charitable Trust. Such sale qualifies as supply even though it is a one-time occurrence.</p>
<p>d) A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.</p>



e) Services by way of admission to circus, cinema halls, amusement parks etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.

f) Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

**Note:** One exception to this 'Course or Furtherance of Business' Rule i.e. Import of service for a consideration.

### 3. SCHEDULE I (SUPPLY WITHOUT CONSIDERATION) → DEEMED SUPPLY

In following 4 cases, a transaction is treated as Supply even if it is made without consideration.

Permanent Disposal	Principal → Agent Agent → Principal	Related Person or Distinct Person	Import of Service
<p>Permanent disposal of</p> <ul style="list-style-type: none"> <li>➤ Business asset on which</li> <li>➤ Input Tax Credit has been claimed is</li> <li>➤ deemed as Supply even without consideration.</li> </ul> <p>Includes</p> <ul style="list-style-type: none"> <li>▪ Gift; Donation</li> <li>▪ Free sample</li> <li>▪ Transfer of Business asset from holding to Subsidiary company.</li> </ul> <p><b>Note:</b> Only goods is covered.</p>	<p>Transfer of Goods by</p> <ul style="list-style-type: none"> <li>➤ Principal to Agent where Agent undertakes to supply such goods on behalf of Principal; or</li> <li>➤ by Agent to Principal where Agent undertakes to receive such goods on behalf of Principal;</li> <li>➤ deemed as Supply even without consideration.</li> </ul> <p>An agent is considered as agent under Schedule I only if</p> <ul style="list-style-type: none"> <li>➤ he has authority to receive and transfer title in his own name i.e. he can issue invoice to recipient in his own name.</li> </ul> <p><b>Note:</b> Only goods is covered.</p>	<p>Supply of goods/ services between</p> <ul style="list-style-type: none"> <li>➤ Related persons or</li> <li>➤ distinct persons</li> <li>➤ without consideration</li> <li>➤ is deemed as supply if such supply is</li> <li>➤ in the course or furtherance of business</li> </ul>	<p>Import of service by a person without consideration is deemed as supply if import is from a</p> <ul style="list-style-type: none"> <li>➤ related person or from his establishment outside India, &amp;</li> <li>➤ in the course or furtherance of business.</li> </ul>

**Permanent transfer/ disposal** of following business assets, without consideration, will not be covered under schedule I and thus will not be deemed as supply:

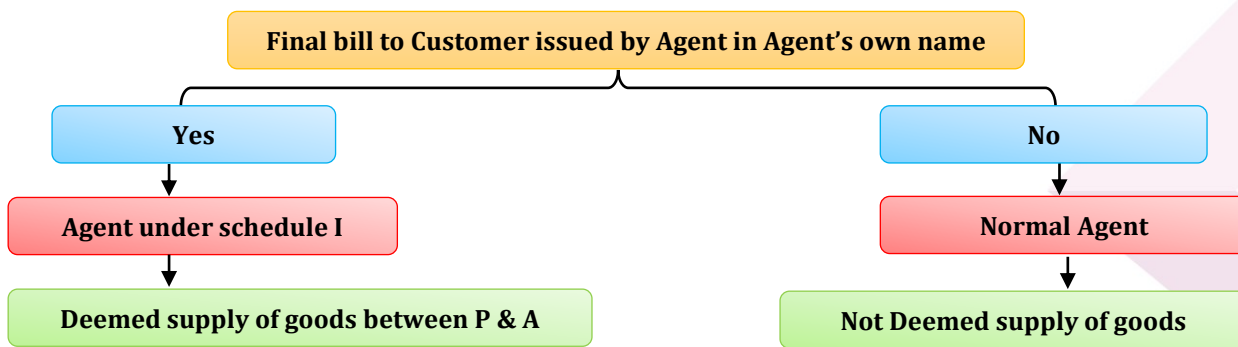
- i) Business assets on which ITC is blocked/ not available under GST.
- ii) Business assets though eligible for ITC, ITC has not been availed by the registered person.

#### Examples on 'Permanent Disposal of Business Asset'

- a) Dhruv gives old laptops being used in his business to his friend free of cost. This will qualify as deemed supply provided ITC has been availed by Dhruv on such laptops.  
If Dhruv had not availed ITC on such laptops, such gift shall not be deemed as Supply.
- b) Roshan, a dealer of air-conditioners, purchased a car and paid the value plus GST. ITC on this car is blocked. Later, he permanently transfers the car free of cost.  
This transaction shall not be deemed as supply as condition of availment of ITC on asset is not fulfilled.



3.1. AGENT - PRINCIPAL / PRINCIPAL - AGENT



Examples

- a) Anmol appoints Bholu to procure certain goods from the market. Bholu identifies various suppliers who can provide the goods as desired by Anmol and asks the supplier (Golu) to send the goods and to issue the invoice directly to Anmol.  
In this scenario, Bholu is only acting as the procurement agent, & has in no way involved himself in the supply or receipt of the goods. Hence, Bholu is not an agent of Anmol for supply of goods as per Sch I.
- b) Manimani Bank, a banking company, appoints Mandaar (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by Manimani Bank. The invoice for the supply of the goods is issued by Manimani Bank to the successful bidder.  
Here, auctioneer is merely providing the auctioneering services with no role played in the supply of goods. Even in this scenario, Mandaar is not an agent of Manimani Bank for supply of goods as per Schedule I.
- c) Gautam, an artist, appoints Gambhir (auctioneer) to auction his painting. Gambhir arranges for the auction and identifies the potential bidders. The highest bid is accepted and painting is sold. The invoice for the painting is issued by Gambhir on the behalf of Gautam but in his own name.  
In this scenario, Gambhir is not merely providing auctioneering services, but is also supplying the painting on behalf of Gautam to the bidder, and has the authority to transfer the title of the painting on behalf of Gautam. This scenario is covered Schedule I.
- d) A C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the agent is an agent of the principal for supply of goods as per Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.
- e) Ravi sells agricultural produce by utilizing the services of Kavi who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Kavi identifies the buyers and sells the agricultural produce on behalf of Ravi for which he charges a commission from Ravi.  
As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives a commission or percentage upon the amount involved in such transaction as remuneration.  
In cases where the invoice is issued by Kavi to the buyer, the former is an agent covered under Schedule I. However, in cases where the invoice is issued directly by Ravi to the buyer, the commission agent (Kavi) doesn't fall under the category of agent as per schedule I.

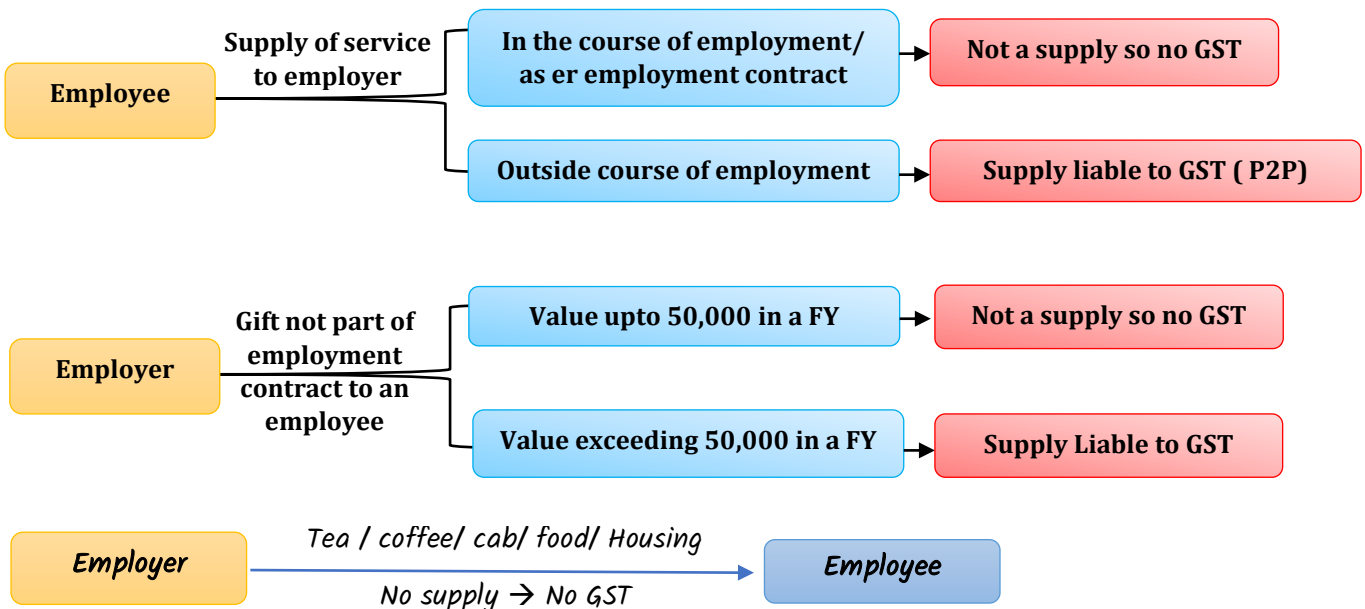
**Note:** Clarification on Del-credere agent → Refer Pg 2.38 after Ch 7: Value of Supply

**3.3. RELATED PERSON: (ONE WHO CAN INFLUENCE THE DECISION OF ANOTHER PERSON)**

- 1) Director/ Promoter/ Partner/ Employer-Employee
  - 2) Any person holding, directly or indirectly, 25 % or more shares of two entities
  - 3) One of them controls the other or some other third-party controls both the entity, directly or indirectly.
  - 4) Sole agent or sole distributor or sole concessionaire of the other
  - 5) Members of the same family.
- Family means [Sec 2(49)]-
- a) The spouse and children of the person and
  - b) The parents, grandparents, brothers and sister of the person if they are wholly or mainly dependent on the said person.

**Examples**

- a) Ms. Priya holds 30% shares of ABC Ltd. and 35% shares of XYZ Ltd. ABC Ltd. and XYZ Ltd. are related.
- b) Q Ltd. has a deciding role in corporate policy, operations management and quality control of R Ltd. It can be said that Q Ltd. controls R Ltd. Thus, Q Ltd. and R Ltd. are related.



**Perquisites provided by the employer to the employee not liable to GST:**

**Conditions:**

- a) It should be as per contractual agreement between employer & employee.
- b) Employer should not avail ITC on inward supply of such goods/service.  
If employer has already availed ITC, needs to reverse it.

**Note:** Reverse ITC → Add to output tax liability → Pay tax to Government

The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to company (C2C).

**Certain Illustrations on Services carried out during the course of employment**

Nature of transaction	Whether regarded as 'services carried out during the course of employment'?
-----------------------	-----------------------------------------------------------------------------

Nature of transaction	Whether regarded as 'services carried out during the course of employment'?
Amount paid by employer to employee for premature termination of contract of employment	Yes. Thus, it is not a Supply under GST and hence, such amount would not be liable to GST.
Services provided by a casual worker to employer who gives wages on daily basis to the worker	Yes. Thus, it is not a Supply under GST and hence, such amount would not be liable to GST.
In case the casual workers are employed by a contractor, like a building contractor or security agency services who deploys them for execution of a contract or for provision of security services	Yes. Services provided by casual workers to contractors are in the course of employment. No Supply, No GST. However, services provided by the contractor to his client by deploying such workers would be taxable as such supply is not in the course of employment.
Services provided on contract basis by a person to another (P to P)	No. such service is not provided in the course of employment. Thus, it is a supply liable to GST.
Note: Any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act and cannot be considered for providing services in the course of employment.	

Illustrations on transactions between Family Members & its taxability under schedule I → Refer class discussion.

### 3.2. DISTINCT PERSON [SEC 25]

A person who has

- Obtained or is required to obtain **more than one registration**,
- whether in one State/ Union territory or more than one State/ Union territory shall,
- **in respect of each such registration, be treated as distinct persons.** [Sec 25(4)]

Further, where a person having registration or is required to obtain registration in one State or UT in respect of an establishment,

- has an establishment in another State or UT,
- then such establishments shall be treated as establishments of distinct persons. [Sec 25(5)]

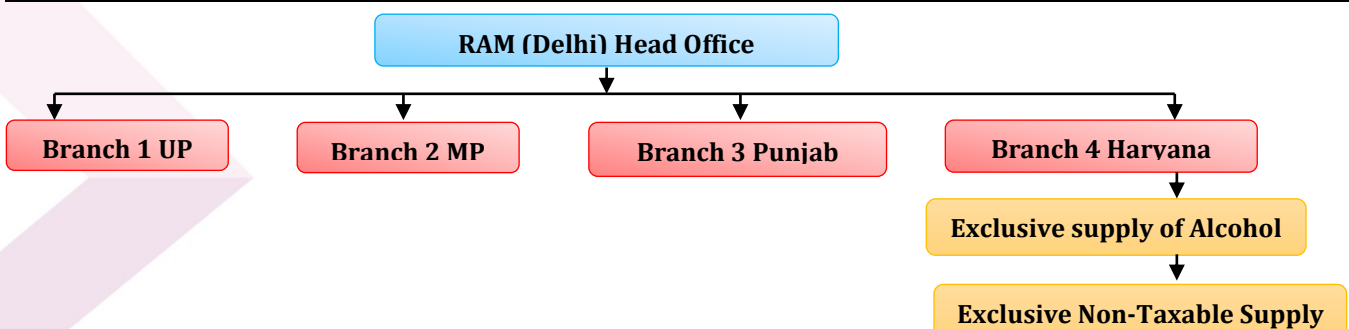
**Registration under GST law is origin based.**

Registration needs to be taken in each state where Taxpayer has place of business (PoB) making Taxable Supply [wholly or partly].

Each such unit will have different 15-digit PAN based registration number known as 'GSTIN'.

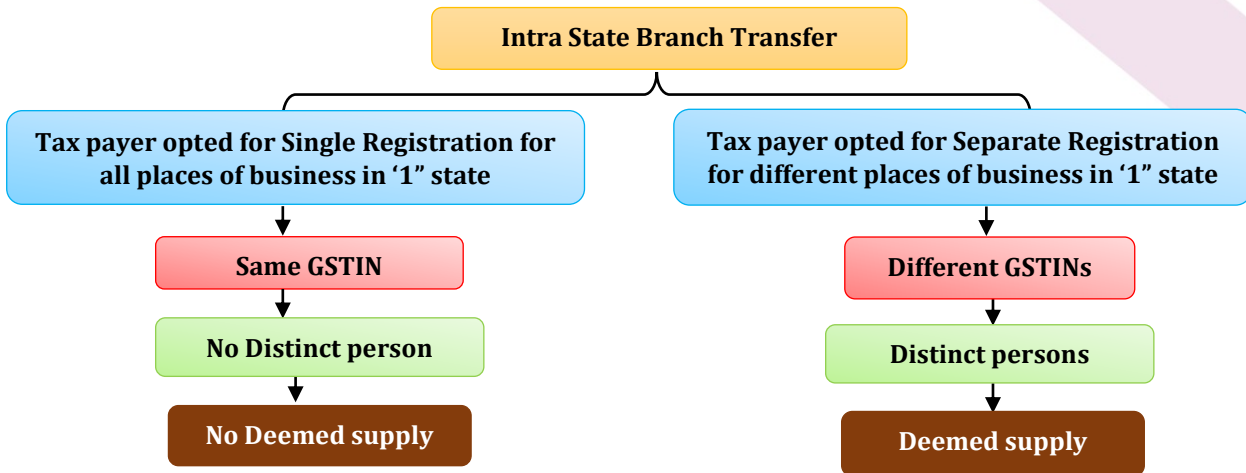
1 Person = 1 PAN

1 Person = Place of business in Multiple states = Mandatory to take registration in each state  
= Multiple 15-digit PAN based GSTINs = DISTINCT PERSONS



All 4 units, having different GSTINs shall be treated as ‘establishment of distinct person’.  
Also, ‘Branch 4’ shall also be treated as distinct person even though it is not liable for registration.  
Hence, transfer of stock between them even without consideration is treated as Deemed supply, provided it is in the course or furtherance of business. These transactions are termed as **self-supplies**.

Inter-state branch transfer → Different GSTINs → Distinct Persons → Deemed supply

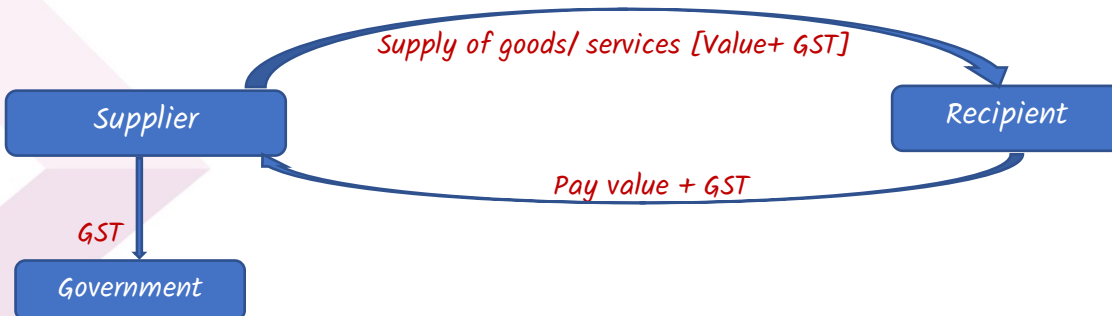


**Examples**

- a) Rishabh Enterprises, a registered supplier, owns an air-conditioned restaurant in Virar, Maharashtra. It has opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption. Since supply of alcoholic liquor for human consumption in Uttarakhand is a non-taxable supply, Rishabh Enterprises is not required to obtain registration in Uttarakhand.  
In this case, restaurant in Maharashtra and liquor shop [though unregistered] in Uttarakhand shall be treated as establishments of distinct persons. Supply by Maharashtra restaurant to Uttarakhand shop, in course or furtherance of business, even without consideration will qualify as supply.
- b) Raghurib Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghurib Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.
- c) Raghurib Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its PPoB and Kanpur showroom as its APoB.  
Since no consideration is charged, supply of goods from factory to retail showroom in same State under single registration does not constitute supply.

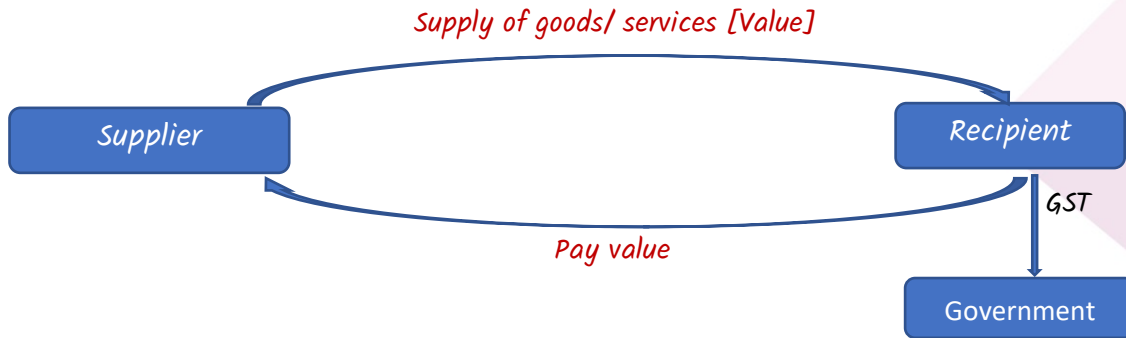
**3.4. CONCEPT OF FORWARD CHARGE & REVERSE CHARGE MECHANISM**

**General Law/ Forward Charge Mechanism (FCM)**





**Reverse Charge Mechanism: (Exceptional cases u/s 9(3)/(4))**



Burden of Tax → Kishan [recipient]  
 Liability of pay → Kishan [recipient]  
 So, taxability of GST under RCM is against the principal of Indirect Tax.

**Points to Note w.r.t. RCM:**

1. There is no threshold limit for registration in case of recipient liable to pay GST under RCM. Hence, a person importing service of 1,000 is also liable to get registered under GST & pay GST to Govt.
2. Under GST, tax paid on inward supply is allowed to be adjusted from tax payable on outward supply. However, tax liability of recipient under RCM is his tax liability on inward supply & not on outward supply. Hence, such recipient cannot use ITC to pay their GST liability under RCM & need to pay entire GST under RCM in cash (electronic cash ledger).

Available ITC	10,000
Liability to pay GST under RCM	18,000
GST payable in cash	
Total available ITC	

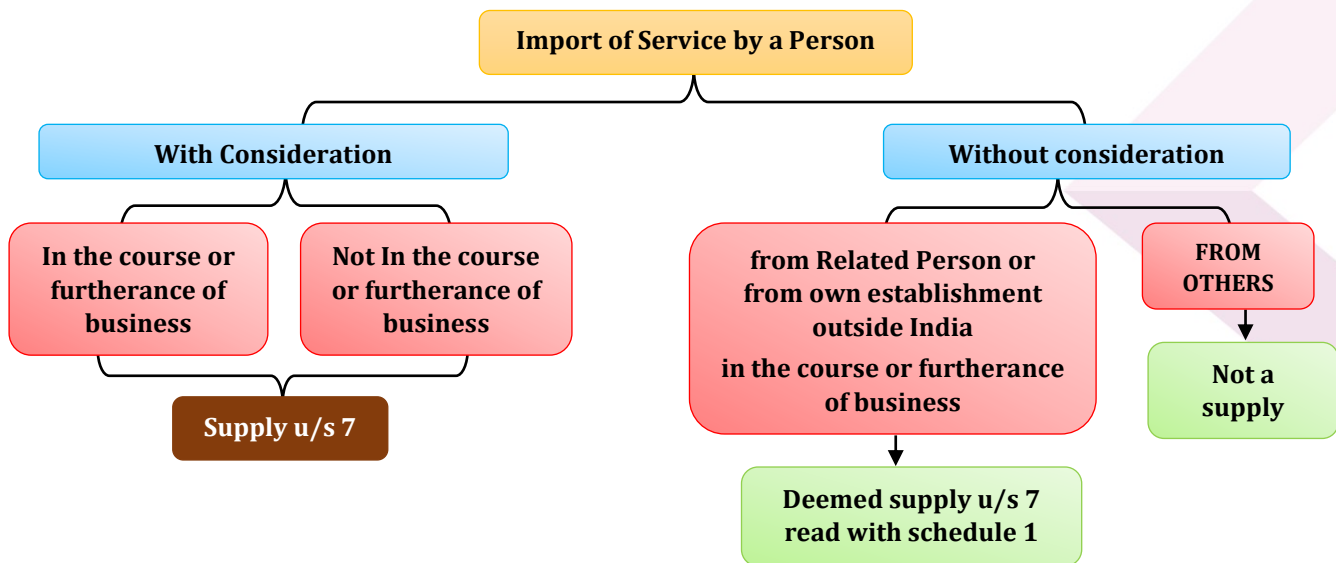
3. Since GST paid by recipient under RCM is tax on inward supply, it is allowed as ITC when paid. It can be then used to pay tax on outward supply.

**CRUX:**

- a) ITC can be adjusted from outward tax liability but not from liability under RCM.
- b) Liability under RCM needs to be paid fully in cash.
- c) Once liability under RCM is paid, it is allowed as ITC which can be used to pay outward tax liability.



3.4.1. IMPORT OF SERVICE BY A PERSON



**Import for consideration → Always Supply U/S 7**  
*Example:* Ramaiyaa, a proprietor, has received the architect services for his house from an architect located in New York at an agreed consideration of \$ 5,000.  
 The import of services by Ramaiyaa is supply u/s 7 even though it is not in course or furtherance of business.

**Import without consideration → Not a supply**  
*Exception:* Import of services from Related person or from own establishment outside India in the course or furtherance of business is treated as “Deemed supply u/s 7 read with schedule 1”.

**Illustrations:**

S No.	Cases	Answer
1.	Import of legal services without consideration from brother, lawyer in Germany, for a house dispute.	Not deemed supply as per schedule 1 read with sec 7. <b>Reasons:</b> a) Brother is not family person, as he is not dependant. Hence, he is not a related person. b) Not in the course or furtherance of business.
2.	Import of legal services without consideration from brother, lawyer in Germany, for business dispute	Not deemed supply as per schedule 1 read with sec 7. <b>Reason:</b> Brother is not family person, as he is not dependant. Hence, he is not a related person.
3.	Import of IT services by Infosys India from Infosys USA without consideration.	Deemed supply u/s 7 read with schedule 1 as it is import from own establishment outside India in the course of business.
4.	Import of IT services by Infosys India from Google USA without consideration.	Not deemed supply as per schedule 1 read with sec 7. <b>Reason:</b> Import is from independent third party.
5.	Import of legal services from brother (wholly dependent) for house dispute	Not Deemed supply under schedule 1 read with sec 7. <b>Reason:</b> Not in the course or furtherance of business
6.	Import of legal services from brother (wholly dependent) for business dispute	Deemed supply as per schedule 1 read with sec 7.

		<p><b>Reasons:</b></p> <p>a) Members of same family member are considered related person. Dependent brother is a family member and hence related person.</p> <p>b) Import is in the course or furtherance of business</p>
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**Transactions between a Person, Other than an Individual, and its Members/ Constituents for consideration**

Activities or transactions, (involving supply of goods or services)

- Between a person, other than an individual (i.e. association, club, etc.),
- to its members or constituents,
- for cash, deferred payment or other valuable consideration
- are covered within the ambit of 'supply' as per section 7(1)(aa).

Such person (association, club, etc.) and its members shall be deemed to be two separate persons & supply of activities/transactions between them shall be deemed to take place from one such person to another.

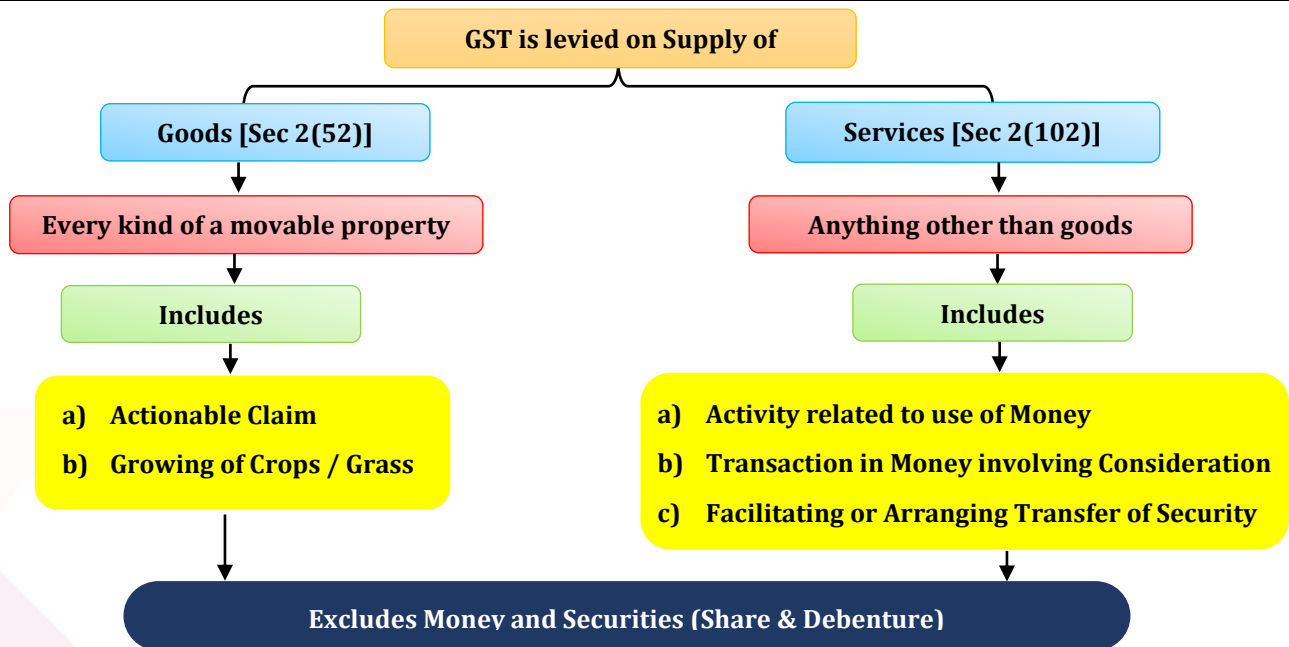
**Examples**

a) Resident Welfare Association (RWA) of Sanskriti Society supplies air-conditioners to its members at a concessional price.

b) A RWA collects maintenance charges from its members for services provided.

Here, in both the aforesaid examples, it shall be deemed that the RWA and its members are two separate persons and it shall be deemed that the supply has taken place from RWA to its members.

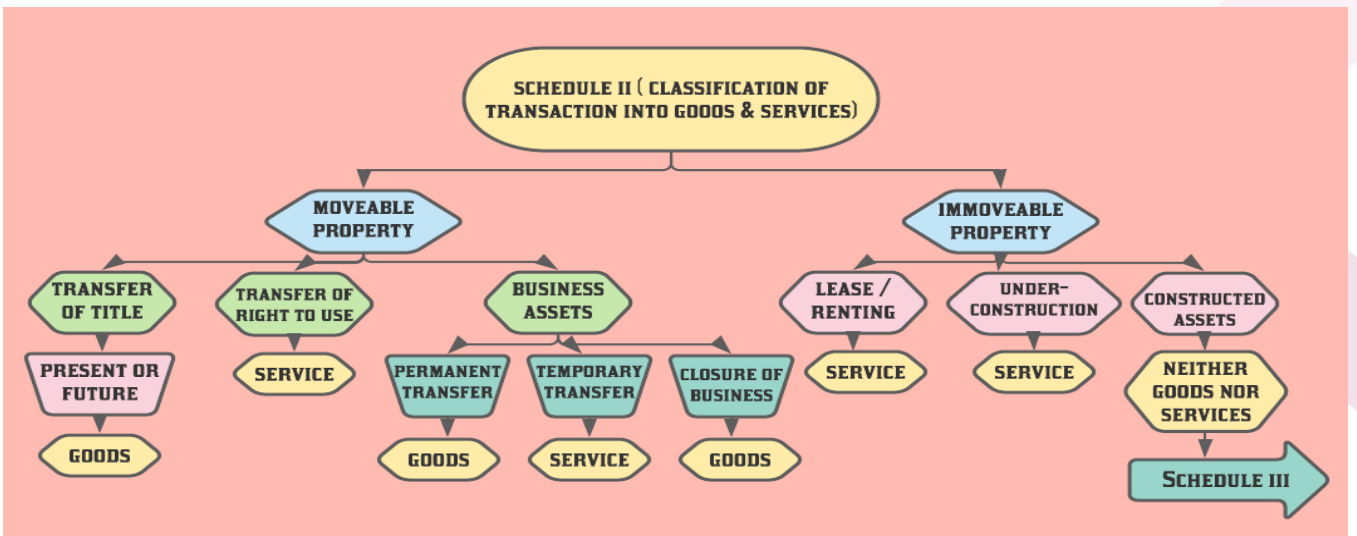
**4. MEANING OF GOODS AND SERVICES UNDER GST**



**Note:** Money refers to currency notes, coins, negotiable instruments like cheque, draft, foreign currency etc. except when held for numismatic value i.e. whose value > face value due to rarity or other factors.

**Note:** Government wants to levy GST on lottery, betting & gambling. Hence, these three actionable claims are treated as goods. Other actionable claims, like Right to recover insurance money, claim for arrears of rent unsecured loans, unsecured debentures, bills of exchange, promissory notes, bank guarantee, Fixed Deposit Receipt etc. are neither supply of goods nor service. [Schedule III]

**5. CLASSIFICATION OF TRANSACTIONS INTO SUPPLY OF GOODS OR SERVICES [SCHEDULE II]**



Cases	Nature of Supply
1. Shivaji sells ready-made garments to its customers.	
2. Genius Equipments Ltd. gives a machinery on rent to Suhaasi Manufacturers.	
3. Dhruva Capitals supplied goods on hire purchase basis to customers.	
4. Optima Manufacturers supplies toys to retailers on 'sale or return basis'.	
5. Lease agreement for land.	
6. A shop let out in a busy market area.	
7. A person manufacturing & selling wooden furniture takes one chair manufactured by him for use at his house.	
8. Renting of a commercial complex/ precincts of a religious place/ property to an educational institution	
9. Permitting use of immoveable property for placing vending/ dispensing machines.	
10. Rathi Builders has constructed individual residential units for agreed consideration of 1.2 crore per unit. 90 lakh per unit were received before issuance of completion certificate by the competent authority, and balance after completion.	

**Closure of business** – Taxable person ceases to be a taxable person.  
 In case a taxable person ceases to be a taxable person/ closes business,

- Goods forming part of Assets remaining at the time of closure of business shall be
- deemed to be supplied by him, in the course or furtherance of his business,
- immediately before he ceases to be a taxable person.

**Example:** A, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him and GST shall be payable.

**Exceptions:**

- i) Business is transferred as a going concern to another person.
- ii) Business is carried on by a personal representative who is deemed to be a taxable person.

<b>Classification of Other Transactions as per Schedule II</b>	<b>Nature of Supply</b>
1. Restaurant/ catering	Service
2. Works contract (indivisible contract of material & labour)	Service
3. Job work [It doesn't matter whether principal supplies material or not]	Service
4. Temporary transfer or permitting use of copyright / patent etc.	Service
5. Information technology related activities 'service' [upgradation design, modification, development]	Service
6. Agreeing to an obligation a) to Refrain from an act, or b) to Tolerate an act or situation, or c) to Do an act.	Service

**Clarification regarding GST Applicability on Liquidated Damages, Compensation and Penalty arising out of Breach of Contract or Other Provisions of Law**

**A. Agreeing to the obligation to REFRAIN from an act**

- i) Non-compete agreements, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.
- ii) Cable operator - Sakharam has entered into an agreement with Cable operator – Aatmaram that Sakharam will not provide cable connections in the specified areas where Aatmaram is providing the connections. Non-compete agreements constitute supply of service.
- iii) Builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight,  
An industrial unit refraining from manufacturing activity during certain hours against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.

**B. Agreeing to the obligation to tolerate an act or a situation**

- i) Shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker
- ii) RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

**C. Agreeing to the obligation to do an act**

- i) Industrial unit agrees to install equipment for zero emission/discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation.

**Above three activities must comply with the following Conditions:**

**1. There must be an expressed or implied agreement or contract must exist**

One of the parties to such agreement/contract (the first party) must be under a contractual obligation to either (a) refrain or (b) tolerate or (c) do.

Such contractual arrangement must be an independent arrangement in its own right.

Thus, a person (the first person) can be said to be making a supply by way of refraining from doing something or tolerating some act or situation to another person (the second person) if the first person was under an obligation to do so and then performed accordingly.



Such a contract cannot be imagined or presumed to exist just because there is a flow of money from one party to another.

### 11. Consideration must flow in return to this contract/agreement

Some “consideration” must flow in return from the other party to this contract/agreement (the second party) to the first party for such (a) refraining or (b) tolerating or (c) doing.

Taxability of some of the transactions has been discussed in detail as under:

Taxability of some of the transactions has been discussed in detail as under:

#### 1) Liquidated Damages

‘Liquidated Damages’ refers to cash compensation payable to aggrieved party for breach of contract.

Liquidated damages cannot be said to be a consideration received for tolerating the breach or non-performance of contract. They are rather **payments for not tolerating** the breach of contract.

Payment of liquidated damages is stipulated in a contract to ensure performance and to deter non-performance, unsatisfactory or delayed performance.

Liquidated damages are a **measure of loss & not a remedy** for breach of contract.

A contract is entered into for execution and not for its breach. The liquidated damages or penalty are not the desired outcome of the contract.

Hence, where ‘liquidated damages’ is paid only to compensate for loss or damage suffered by the aggrieved party due to breach of the contract, and

- there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages,
- such payments do not constitute consideration for a supply & are **not taxable**.

**Examples of such cases are:**

- a. Damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright,
- b. Penalty stipulated in a contract for delayed construction of houses,
- c. Forfeiture of earnest money by a seller in case of breach of ‘an agreement to sell’ an immovable property by the buyer or

by Government or local authority in the event of a successful bidder failing to act after winning the bid, for allotment of natural resources.

Forfeiture of such earnest money is not a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders.

Such payments being merely flow of money are not a consideration for any supply and are not taxable.

The key in such cases is to consider whether payments constitute consideration for another independent contract envisaging tolerating an act or situation or refraining from doing any act or situation or simply doing an act.

If the answer is yes, then it constitutes a ‘supply’ irrespective of by what name it is called, otherwise it is not a “supply”.

**Examples:**

- a) A contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty.



	<p>b) A contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up.</p> <p>c) A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer.</p> <p>d) A contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty.</p> <p>e) Some banks similarly charge pre-payment penalty if the borrower wishes to repay the loan before the maturity of the loan period.</p> <p>In the above examples, amounts paid as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of prepayment of loan and of making arrangements for the intended supply by the tour operator respectively.</p> <p>Therefore, such payments, even though they may be referred to as fine or penalty, are actually consideration for supply, and are subject to GST.</p> <p>Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be assessed as the principal supply.</p> <p>Naturally, such payments will not be taxable if the principal supply is exempt.</p>
<p><b>2) Cheque dishonor fine/ penalty</b></p>	<p><b>The supplier wants payment to be received on time and does not want cheque to be dishonoured.</b></p> <p>There is never an implied or express offer or willingness on part of the supplier that he would tolerate deposit of an invalid, fake or unworthy instrument of payment against consideration in the form of cheque dishonour fine or penalty.</p> <p>The penalty imposed is not for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation.</p> <p>Therefore, cheque dishonor fine or penalty is <b>not a consideration</b> for any service and <b>not taxable</b>.</p>
<p><b>3) Penalty imposed for violation of laws</b></p>	<p><b>Penalty imposed for violation of laws such as traffic violations, or for violation of pollution norms or other laws are also not consideration for any supply received and are not taxable.</b></p> <p>Laws are not framed for tolerating their violation. They stipulate penalty not for tolerating violation but for not tolerating, penalizing and deterring such violations.</p> <p>There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty.</p> <p>Hence, these are <b>not consideration</b> for any supply received and are <b>not taxable</b>.</p> <p>Examples: Fines for traffic violations, or for violation of pollution norms</p>
<p><b>4) Forfeiture of salary or payment of bond amount in the event of employee leaving employment before the minimum agreed period</b></p>	<p>Such provisions are incorporated in the employment contract to discourage non-serious candidates from taking up employment.</p> <p>The said amounts are recovered by the employer <b>not as a consideration for tolerating the act of such premature quitting of employment but as penalties</b> for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation.</p> <p>Therefore, such amounts recovered by the employer are <b>not taxable</b> as consideration for the service of agreeing to tolerate an act or a situation.</p>
<p><b>5) Late payment surcharge or fee</b></p>	<p>Facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply.</p>

	<p>Almost all service providers across the world provide the facility of accepting late payments with late fine or penalty.</p> <p>Since it is ancillary to and naturally bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply.</p> <p>However, same cannot be said of cheque dishonor penalty as discussed earlier.</p>
6) Fixed charges for power	<p>Both the components of the price charged for electricity by the power generating companies from the State Electricity Boards (SEBs)/DISCOMS or by SEBs/DISCOMS from individual customers, namely the</p> <ul style="list-style-type: none"> <li>➤ minimum fixed charges/ capacity charges and the variable/energy charges</li> <li>➤ are charged for sale of electricity and are thus</li> <li>➤ not taxable as electricity is exempt from GST. (Refer ch 5)</li> </ul>
7) Cancellation charges	<p>Suppliers of services such as hotel accommodation, tour and travel, transportation etc. provide the facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee.</p> <p>This cancellation facility against payment of charges is a natural part of supply.</p> <p>The amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies</p> <ul style="list-style-type: none"> <li>➤ should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.</li> </ul> <p>Cancellation charges of railway tickets for a class would attract GST at the same rate as applicable to the class of travel (i.e., 5% GST on first class or air-conditioned coach ticket and nil for other classes such as second sleeper class). Same is the case for air travel.</p> <p><b>Note:</b> However, as discussed earlier, forfeiture of earnest money by a seller in case of breach of ‘an agreement to sell’ an immovable property by the buyer or such forfeiture by Government or local authority in the event of a successful bidder failing to act after winning the bid for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money.</p> <p>Forfeiture of earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders.</p> <p>Such payments being merely flow of money are not a consideration for any supply and are not taxable.</p>

## 6. NON-SUPPLIES UNDER GST I.E. NEGATIVE LIST - NEITHER GOODS NOR SERVICE

### A. Activities/ transactions specified under Schedule III of the CGST Act

‘T’ →	Services by Tribunal & Courts
‘A’ →	Actionable claim other than Lottery, betting and Gambling
‘B’ →	Burial, cremation, funeral, transportation of deceased person & mortuary services.
‘L’ →	Land & Building other than “under-construction Building”.
	Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. Sale of such developed land is also covered

	<p>under Schedule III and accordingly, does not attract GST. However, any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST.</p>
'E' →	<p>Service by Employee to Employer in the course of employment. Service by MP, MLA, Panchayat members &amp; constitutional posts. <b>Example</b> Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attorney General of India, in that capacity</p>

### B. Non supplies notified vide Notification

- Activity in relation to Panchayat/Municipality functions entrusted by Constitution.  
Example: Sanitation, Solid waste management, Clean drinking water, Public health, Irrigation, Small scale Industry development etc.
- Granting of license for alcohol by State Government.  
Other licenses by Government is taxable.

### C. Non supplies clarified by way of clarification

- Inter -state movement of various modes of conveyance between distinct persons.
- Inter- state movement of Rigs, Tools & spares between distinct persons.  
However, applicable CGST/ SGST/ IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

### Clarifications by CBIC: Taxability of 'Tenancy Rights'/ Pagadi under GST

Pagadi system, is a form of lease or renting of property and such activity is specifically declared as a service as per Schedule II. It is prevalent in some states like Maharashtra.

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST since merely because a transaction require registration and payment of registration fee and stamp duty, it would not exclude them from the 'scope of supply' and from payment of GST.

Transfer of tenancy rights cannot be treated as sale of land/ building under Schedule III.

To sum up, transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

**Note:** It is important to note that grant of tenancy rights to an unregistered person in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt from tax.

**7. COMPOSITE SUPPLY [SECTION 2(30)]**

2 or more Taxable Supply

Naturally Bundled & provided Together

in Ordinary Course of Business

One of whom is Principal supply i.e Predominant element of supply

Treated as supply of Principal supply

**Rate of Tax → Rate applicable to Principal supply u/s 8(a)**

Nature of Transaction	Constituent Supplies	Treated as Supply of
a) Flipkart	Goods + Services like transportation, Insurance, packing etc.	Goods
b) Airlines/Tejas Train	Transportation service + food service + free lounge	Transportation service
c) Hotel	Accommodation service + free breakfast + free Laundry	Accommodation service
d) TV	TV + Installation service + Warranty service	TV
e) Mobile/ Laptop	Device + Charger	Device
f) Repair	Repairing Service + parts	Repairing Service

**Note:** Where nature / classification is specified under schedule II, no need to apply this provision.  
Example: Works contract and restaurant service

**Example:** Rati Computers supplies laptop (worth 52,000) along with laptop bag (worth 3,000) to a customer for 55,000. Being naturally bundled, supply of laptop bag along with the laptop is composite supply which is treated as the supply of the principal supply [viz. laptop].

Assuming that the rate of tax applicable on laptop is 18% and on laptop bag is 28%, in the given case, rate of principal supply, i.e. laptop @ 18% will be charged on the entire value of 55,000.

How to determine whether the services are bundled in the ordinary course of business? → Refer Pg 2.73

**Certain Illustrations on what constitutes the principal supply in the given composite supplies:**

Activity/ transaction	Principal supply
Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or	<p>In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer,</p> <ul style="list-style-type: none"> <li>➤ supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore,</li> <li>➤ such supplies would constitute supply of service.</li> </ul>



**Certain Illustrations on what constitutes the principal supply in the given composite supplies:**

Activity/ transaction	Principal supply
other contents supplied by the recipient of such printed goods	<p>In case of supply of printed envelopes, letter cards, printed boxes, tissues, pen, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods,</p> <ul style="list-style-type: none"> <li>➤ predominant supply is supply of goods and</li> <li>➤ the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore</li> <li>➤ such supplies would constitute supply of goods.</li> </ul>
Food supplied to the patients	Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.
Activity of bus body building	The principal supply may be determined on the basis of facts and circumstances of each case.
Retreading of tyres	<p>Pre-dominant element is process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply.</p> <p>Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.</p>

**8. MIXED SUPPLY [SECTION 2(74)]**

2 or more individual/ independent supply for single price

Not a Composite Supply (Not Naturally Bundled)

Treated as supply attracting highest rate

Rate of Tax → Highest Rate u/s 8 (b)

**Example:**

Combo of Tie, belt, shirt, pant	Shaving kit	Archies Gift pack
Mobile + Selfie stick	Refrigerator (+) Bottles;	Box of chocolate, cake & canned food
<p>A house is given on rent through a single rent deed - one floor of which is to be used as residence &amp; other for housing a printing press, at a lump sum rent amount. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Said supplies are mixed supply.</p>		

**Example:** Sringaar Enterprises supplies 10,000 kits (at 50 each) amounting to 5,00,000 to Raghav General Store. Each kit consists of 1 shampoo, 1 face wash and 1 kajal pencil. It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate.

Assuming the rate of tax applicable on shampoo is 18%, on face wash is 28% and on kajal pencil is 12%, in the given case, highest tax rate [viz. face wash] @ 28% will be charged on the entire value of 5,00,000.



### 9. MORE THAN ONE SUPPLY MADE TOGETHER AND TAXED AT INDIVIDUAL RATES

In case an activity/ transaction involves more than one supply of goods/ services, but neither they are composite supplies nor can be categorised as mixed supplies. Each supply carry independent significance. In such a case, if separate consideration is indicated against each supply, each such supply shall be charged at the respective rate applicable to that particular supply.

#### Example

In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately

### 10. CLARIFICATIONS RELATED TO TREATMENT OF SALES PROMOTION SCHEMES UNDER GST

#### A. Free samples and gifts:

- Common practice among certain sections of trade and industry, such as, pharmaceutical companies.
- Such samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the CGST Act.

#### B. Buy one get one free offer:

- Sometimes, companies announce offers like ‘Buy One, Get One free’. For example, “buy one soap and get one soap free” or “Get one tooth brush free along with the purchase of tooth paste”.
- It may appear at first glance that in case of offers like “Buy One, Get One Free”, one item is being “supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.
- Taxability of such supply depend upon whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the CGST Act.

### 11. APPLICABILITY OF PROVISIONS OF CGST ACT TO INTER-SATE SUPPLY AS WELL

Wherever any section number is mentioned in this Chalisa Notebook, it is assumed that it relates to CGST Act, unless otherwise stated.

Further, by virtue of section 20 of IGST Act, all provisions of CGST Act related to

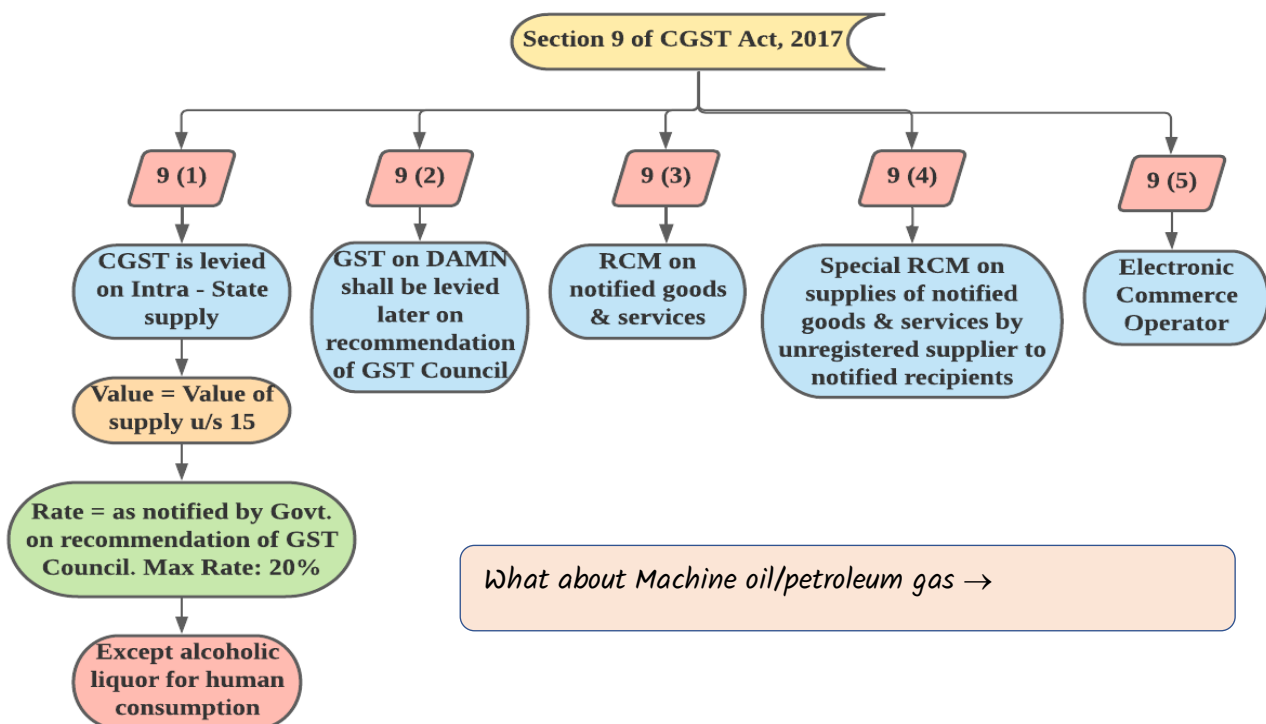
- Scope of Supply (sec 7, 8)
- Time of Supply (sec 12, 13, 14)
- Value of Supply (sec 15)
- Input Tax Credit (sec 16 to 21)
- Registration (sec 22 to 30)
- Tax invoice, credit and debit notes (sec 31 to 34)
- Accounts and Records (sec 35 to 36)
- Returns, other than late fee (sec 37 to 48)
- Payment of tax ((sec 49 to 53)
- Others

applies to Inter-state supply as well.

# CHAPTER 3

## CHARGE OF GST

### 1. SECTION 9 OF CGST ACT, 2017



1.	The provisions relating to levy and collection of CGST and IGST are contained in section 9 of the CGST Act, 2017 and section 5 of the IGST Act, 2017, respectively.	
2.	Registration under GST is 'Origin Based'. This means a person having a place of Business [POB] in multiple states, from where taxable supply is made, is required to take separate registration in each such state.	
3.	GST is a 'destination based' tax, which means tax is received by the State where goods/ services is consumed (Place of Supply).	
4.	Central Goods and Services Tax Act, 2017 extends to the whole of India. State Goods and Services Tax Act, 2017 extends to whole of that State and Union Territory with State Legislature [Delhi, Puducherry and Jammu & Kashmir]. Union Territory Goods and Services Tax Act, 2017 extends to the Union territories of:	
	a) Andaman and Nicobar Islands	b) Lakshadweep
		c) Ladakh

	d) Dadra and Nagar Haveli & Daman and Diu	e) Chandigarh	f) Other territory
5.	GST is levied in following manner based on <b>nature of Supply</b> :		
	<b>Intra - state supply</b>	<b>Inter - state supply</b>	
	Location of the supplier & place of supply within same state / Union Territory	Location of supplier & place of supply is between a) Two different states; or b) Two different UTs; or c) 1 state & 1 UT.	
	CGST → Payable to CG u/s Sec 9(1) of CGST Act, 2017 [Section 1 to 174]	IGST → Transitory Tax Payable to CG u/s Sec 5(1) of IGST Act, 2017 [Section 1 to 25]  CG shall retain its share & pay balance to destination state.	
On every transaction, both 'CG' as well as 'SG' receives their share in Tax.			
6.	<b>Article 269A</b> → Levy & collection of IGST on Inter-state supply including import of goods/ services.		

## 2. REVERSE CHARGE MECHANISM (RCM)

- Concept of RCM done in Chapter 2.
- Under normal circumstances, the statutory liability to deposit GST and undertake compliances [i.e. to obtain registration, deposit the tax with the Government, filing returns, etc.] is on the supplier while he may recover the same from its recipient.  
However, under RCM, these statutory compliances shifts from supplier to recipient.
- Two types of reverse charge scenarios are:
  - a) Supply of specified categories of goods or services, covered by section 9(3) of CGST/ SGST Act.
  - b) Supply of specified categories of goods or services made by an unregistered supplier to specified class of registered recipients, covered by section 9(4) of CGST/SGST Act.

### 2.1. SERVICES CHARGEABLE TO TAX UNDER RCM [SECTION 9(3)]

S No.	Category of Supply of Service	Supplier of Service	Recipient of Service
1.	Services of an insurance agent	An insurance agent	Any person carrying on insurance business
2.	Services of recovery agent	A recovery agent	Bank or a FI or NBFC
3.	Services of transfer or permitting use of enjoyment of a copyright relating to original work.	Music composer, photographer, artist. E.g. Arijit Singh	Music company, producer or the like. E.g. T-series
4.	Services of transfer or permitting the use of enjoyment of a copyright relating to original literary works	Author	Publisher
However, an author can choose to pay tax under forward charge if <ol style="list-style-type: none"> <li>a) he has taken registration under CGST Act and</li> <li>b) filed a declaration that he exercises the option to pay CGST under forward charge u/s 9(1) and to comply with all the relevant provisions and that</li> </ol>			

S No.	Category of Supply of Service	Supplier of Service	Recipient of Service
	<p>he shall not withdraw FCM within 1 year from the date of exercising such option; and c) he makes a declaration on the invoice issued by him in to the publisher.</p>		
5.	Sponsorship services	Any person (Status of supplier is irrelevant)	Anybody corporate or partnership firm
	<b>Illustrations</b>		<b>Taxability</b>
	i) ABC Ltd. supplies sponsorship service to XYZ Ltd.		
	ii) ABC Ltd. supplies sponsorship service to KSA & Co.		
	iii) ABC Ltd. supplies sponsorship service to Kishan		
	iv) Ram supplies sponsorship service to Kishan		
6.	Services of members of Overseeing Committee to RBI	Members of Overseeing Committee constituted	RBI
7.	Services of a director of a company/ body corporate to the company	Director of a company or a body corporate	Company or a body corporate
	<p><b>Explanation</b></p> <p>a) Services provided by an independent/ nominee/ non-executive director who are not employees of the said company to such company = Schedule III not attracted = TDS u/s 194J = RCM applicable</p> <p>b) Services provided by a director, irrespective of name and designation, if he is an employee,</p> <p>i) Activities performed by the director are in the course of employer-employee relation = Schedule III attracted = TDS u/s 192 = No GST</p> <p>ii) Activities performed by the director are not in the course of employer-employee relation = Schedule III not attracted = TDS u/s 194J = RCM applicable</p>		
8A.	Legal Services provided by an individual advocate including a senior advocate or firm of advocates	An individual advocate or a senior advocate or firm of advocates	Any business entity
8B.	Services of an arbitral tribunal	Arbitral tribunal	Any business entity
9.	Security services (services provided by way of supply of security personnel)	Any person other than a body corporate	A registered person u/s 9
	<p>However, RCM shall not apply to services provided to-</p> <p>(a) a Department/ establishment of the CG/ SG/ UT; or</p> <p>(b) Local authority; or</p> <p>(c) Governmental agencies,</p> <p>which has taken registration under the CGST Act only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.</p>		
	<b>Illustrations</b>		<b>Taxability</b>
	KK Pvt. Ltd. provides security services to Infosys		
	Kishan provides security services to Infosys		
	Kishan provides security services to composition dealer		
10.	Services of business facilitator (can	Business facilitator	A banking company



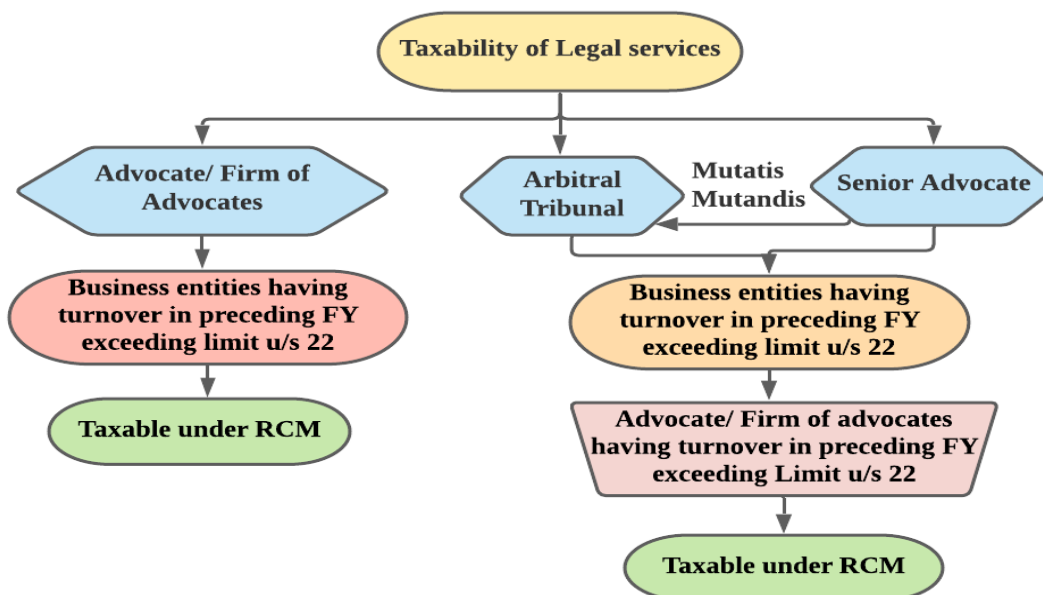
S No.	Category of Supply of Service	Supplier of Service	Recipient of Service
	refer clients & facilitate bank but can't transact on behalf of bank)		
	<b>Illustrations</b>		<b>Taxability</b>
	Services by business facilitator to Bank in rural area		
	Services by business facilitator to Bank in urban area		
11.	Services by an agent of business correspondent (entitled to transact on behalf of bank)	An agent of business correspondent	A business correspondent
12.	Services of individual Direct Selling Agents (DSAs) to bank or NBFCs	Individual DSAs other than a body corporate, partnership or LLP firm	A banking company or a NBFC
13.	Services of lending of securities under Scheme of SEBI	Lender i.e., a person who deposits securities with an approved intermediary for the purpose of lending	Borrower, i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI.
14.	Services of transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project	Any person	Promoter
15.	Service of granting long term lease of land (30 years or more) for construction of a project by a promoter	Any person	Promoter
16.	Services supplied by CG, SG, UT or local authority to a business entity except, a. Renting of immovable property, and b. services specified below- i. services by the Department of Posts; ii. services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; iii. transport of goods or passengers.	Central Government, State Government Union Territory or local authority.	Any business entity located in the taxable territory
16A.	Services supplied by CG, SG, UT or local authority by way of renting of immovable property to a person registered under CGST Act, 2017	Central Government, State Government, Union territory or local authority	Any person registered under the CGST Act, 2017
17.	Good Transport Agency (GTA) service in respect of transportation of goods by road.	GTA [Please refer the analysis given subsequently]	a. Registered factory; b. Registered society; c. Co-operative society; d. Person registered under any GST Act; e. Anybody corporate; f. A partnership firm;

S No.	Category of Supply of Service	Supplier of Service	Recipient of Service
			registered or not; g. Casual taxable person
	<p>However, RCM shall not apply to GTA services provided to-</p> <ul style="list-style-type: none"> <li>a) a Department/ establishment of the CG/ SG/ UT; or</li> <li>b) local authority; or</li> <li>c) Governmental agencies,</li> </ul> <p>which has taken registration under the CGST Act only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.</p> <p><b>Option of FCM:</b> GTA has option to take registration under the CGST Act and exercise the option to pay tax on the services of GTA under forward charge. In such case, no RCM is applicable.</p> <p><b>Condition:</b> GTA has to take registration under GST; and</p> <p>Has to issue tax invoice to the recipient charging CGST at the applicable rates and has to make the prescribed declaration on such invoice issued by him.</p>		
18.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies service to a body corporate & doesn't issue an invoice charging CGST @ 6%	Anybody corporate located in taxable territory.
19.	Service by way of renting of residential dwelling to a registered person	Any person	Any registered person

**Note:** Provisions of RCM, in so far as they apply to CG, SG, shall also apply to the Parliament and State Legislature, Courts and Tribunal.

**Example:** In respect of taxable services supplied by Courts such as renting of premises to telecom companies for installation of towers, renting of chamber to lawyers, etc is taxable under RCM.

### 2.1.1. Taxability of Legal Services



**Arbitral Tribunal** → Panel of neutral third parties who settles disputes between two parties without involvement of court.

**Note:** Legal services to Government → Exempt.

**Note:** Legal services by advocate/ firm of advocate to another advocate/ firm of advocate is exempt.

**Note:** Legal services by senior advocate to another senior advocate or by advocate/ firm of advocate to senior advocate is also exempt.

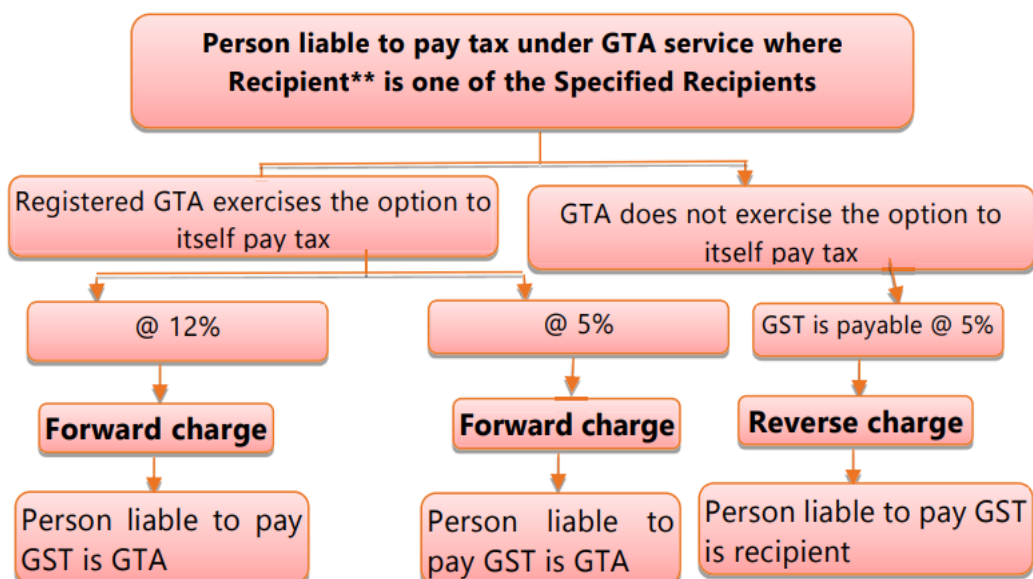
**Illustrations: 1**

Supplier of legal service	Receiver of service	Taxability
Advocate/Firm of advocates	Business entity [Turnover 18 lakhs]	
	Business entity [Turnover 22 lakhs]	
	Kishan	
	Kishan [Turnover 22 lakhs]	
	Advocate/ Firm of advocates	
	Senior Advocate	

**Illustrations: 2**

Supplier of legal service	Receiver of service	Taxability
Senior Advocate/ Arbitral Tribunal	Business entity [Turnover 18 lakhs]	
	Business entity [Turnover 22 lakhs]	
	Kishan	
	Kishan [Turnover 22 lakhs]	
	Advocate/ Firm [Turnover 18 lakhs]	
	Advocate/ Firm [Turnover 22 lakhs]	
	Senior Advocate	

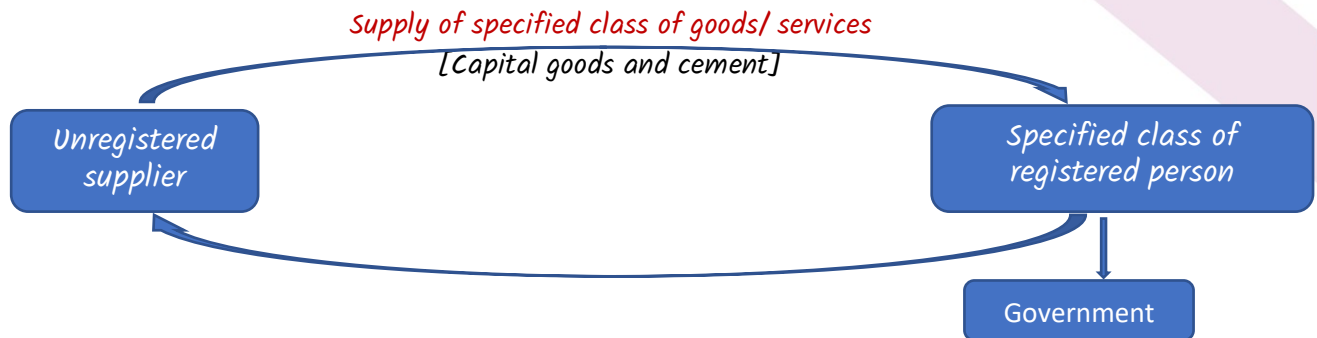
**2.1.2. Service Provided by GTA to**



**Recipient of GTA service** is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.

2.1.3. Service of Renting of motor vehicle designed to carry passengers vs Service of Transportation of passengers – Refer class discussion

## 2.2. REVERSE CHARGE [SECTION 9(4)]



## 3. TAX PAYABLE BY ELECTRONIC COMMERCE OPERATOR ON NOTIFIED SERVICES

**ECO** is any person who owns/ operates/ manages an electronic platform for supply of goods/services.

It allows third party suppliers to supply their goods/services to consumers on its electronic portal.

When a consumer places an order for a particular product/ service on this electronic portal, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.

**In case of following specific categories of services supplied through it, GST shall be paid by the ECO:**

- services by way of **transportation of passengers** by a radio-taxi, motor cab, maxi cab, motor cycle, omnibus or any other motor vehicle;
- services by way of **providing accommodation** in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, **except** where the person supplying such service through ECO is liable for registration u/s 22 of the CGST Act.
- services by way of **house-keeping**, such as plumbing, carpentering etc, except where the person supplying such service through ECO is liable for registration under u/s 22 of the CGST Act.
- supply of **restaurant service other than the services supplied by restaurant, eating joints etc.** located at **specified premises** i.e. premises providing hotel accommodation service having declared tariff of any unit of accommodation above 7,500 per unit per day or equivalent.

### Notes:

- Above provisions applies only in case of supply of **services**.
- All the provisions of the CGST/ IGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services.
- The ECO may pay GST, by furnishing the details in Form GSTR-3B, reporting them as outward taxable supplies.

### Certain Clarifications:

**ECOs not to collect TCS in respect of restaurant services so**

ECOs is not required to collect TCS (Tax Collected at Source) and file Form GSTR-8 in respect of restaurant services on which it pays tax u/s



<b>notified</b>	9(5)
<b>ECOs not required to take separate registration for paying tax on restaurant service supplied through them</b>	As ECOs are already registered under CGST Act (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service u/s 9(5).
<b>ECO to pay tax on any restaurant services supplied through them</b>	ECOs will be liable to pay GST on any restaurant service supplied through them including services supplied by an unregistered person.
<b>Supply of restaurant services to be included in aggregate turnover of person supplying such services through ECO</b>	Aggregate turnover of person supplying restaurant service through ECOs shall include the aggregate value of supplies made by the restaurant through ECOs.
<b>Restaurant services provided through ECO not to be considered as inward supply for ECOs liable to RCM</b>	ECOs are not the recipient of restaurant service supplied through them. Accordingly, these are not to be reported as inward supply (liable to reverse charge) in Form GSTR-3B.
<b>Reversal of proportionate ITC on input goods and services not required by ECO</b>	<p>ECOs provide their own services as an electronic platform &amp; as an intermediary for which it acquires inputs/input service on which ECOs avail ITC. The ECO charges commission/fee etc. for the services it provides.</p> <p>ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before.</p> <p>Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST u/s 9(5).</p> <p>It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO).</p>
<b>GST to be paid by the supplier on services not notified u/s 9(5) of CGST Act but supplied through ECO</b>	In respect of supplies not notified under section 9(5) but supplied through ECO, the liability to pay GST continues on such supplier and ECO shall continue to deposit TCS on such supplies.
<b>ECO to raise invoice in respect of restaurant service supplied through ECO</b>	The invoice in respect of restaurant service supplied through ECO u/s 9(5) will be issued by ECO.
<b>Billing in case of 'restaurant service' and goods/services other than restaurant service being sold by a restaurant to a customer under the same order</b>	There can be a situation where 'restaurant service' and goods or services other than restaurant service are sold by a restaurant to a customer under the same order. In such case, it is advisable that ECO raises separate bill on restaurant service.

**Person liable to pay GST in following cases shall be:**

<b>Case</b>	<b>Situation</b>	<b>Person Liable to pay GST</b>
Case I	If ECO is located in Taxable Territory i.e India	ECO
Case II	If ECO does not have physical presence in India	Representative of ECO in India

Case III	If ECO neither has physical presence nor any representative in India	Person appointed by ECO for paying GST
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#### 4. CLASSIFICATION UNDER GST

Under GST, different rates are prescribed for supply of different goods and services. In order to **determine the rate** applicable on a particular supply of goods or services, one needs to first determine the classification of such goods or services.

Classification of goods means identification of the chapter, heading, sub-heading and tariff item in which a particular product will be classified.

In case of goods, this is done through Harmonized System of Nomenclature ('HSN'). It is a multi-purpose internationally recognised standard product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the world in a systematic manner.

It comprises of about 5,000 commodity groups; each identified by a 6-digit code [code can be extended]. India has extended the HSN codes upto 8-digits.

Once classification for a product has been determined on this basis, applicable rate has to be determined as per the rate prescribed in the rate notification issued under GST.

##### Classification of services

A new **Scheme of Classification of Services** has been devised under GST. Under this scheme, the services of various descriptions have been classified under various sections, headings and groups. Chapter 99 has been assigned for services.

#### 5. RATES UNDER GST

Goods	CGST Act	0.125%, 1.5%, 2.5%, 6%, 9%, 14%
	IGST Act	0.25%, 3%, 5%, 12%, 18%, 28%
Services	CGST Act	0.75%, 2.5%, 3.75%, 6%, 9%, 14%
	IGST Act	1.5%, 5%, 7.5%, 12%, 18%, 28%

- Maximum rate under CGST Act can be 20% & under IGST can be 40%
- Current max rate actually levied under CGST Act is 14% & under IGST is 28%
- Services not covered under any specific heading are taxed at the rate of 18% (CGST @ 9% and SGST @ 9% or IGST @ 18%).

**PART II – COMPOSITION SCHEME [SECTION 10]**

**Optional scheme** for small taxpayers meant to reduce the compliance burden under GST.

There are two types of composition scheme:

- a) Composition scheme for Goods covered u/s 10(1) and 10(2)
- b) Composition scheme for Services covered u/s 10(2A)

**Common Points under Composition scheme:**

1. **No ITC** of tax paid on inward supply is allowed, i.e. treat GST paid on inward supply as cost.
2. **Outward GST liability → NIL** i.e., dealer opting for composition scheme can't charge outward tax. Hence, **no need of classification** of goods/ services for determination of GST rate.
3. Such dealer **can't issue Tax Invoice**; rather they need to issue Bill of Supply.
4. Such Dealer need not maintain detailed books of Account.
5. Such dealer is **required to pay tax under RCM** if covered u/s 9(3)/(4) but can't avail ITC of such tax.
6. They need to mention 'Composition Taxable Person not eligible to collect tax' on top of Bill of supply.
7. They need to mention 'Composition Taxable Person' on every notice or signboard displayed at its PPOB & APOB.
8. Compliances by Composition dealer
  - a) Dealer need to file **only 2 returns**. GSTR 4 by 30<sup>th</sup> April of next Financial Year and Annual Return in GSTR 9A upto 31<sup>st</sup> December of next FY.
  - b) Compo. dealer needs to pay a **small % of outward supply as composition tax quarterly**, upto 18<sup>th</sup> of month following the relevant quarter along with a simple declaration in CMP-08 from own pocket.

**Aggregate Turnover (calculated on all India basis having same PAN i.e. sum of all branches and agents)**

Includes	Excludes
1) Taxable supply of goods/ services/ both	a) CGST, SGST/ UTGST, IGST
2) Exempt supply of goods/ services/ both	b) GST Compensation cess
3) Zero rated supply (exports & supply to SEZ)	c) Inward supply on which tax is payable under RCM
4) Transfer between distinct persons	d) Value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount
5) In case of new registration, Value of supplies made from 1 <sup>st</sup> April of a FY up to the date when he becomes liable for registration	

**Note:** Value of exports & inter-state supplies are relevant only while determining Aggregate Turnover of preceding FY. These values are not relevant for determining Aggregate Turnover of the current FY in which the supplier has opted for composition levy as he is not permitted to make inter-state supplies and exports in the said FY.

**Illustration**

	Case I	Case II
Taxable supply	90 lakhs	100 lakhs
Exempt supply	20 lakhs	20 lakhs
Zero rated supply	10 lakhs	10 lakhs

Supply of lending services where interest earned is	6 lakhs	6 lakhs
30 outward supply under RCM	15 lakhs	15 lakhs
Inter -state branch transfer	10 lakhs	20 lakhs
Inward supply taxable under RCM	20 lakhs	20 lakhs
Intra-state branch transfer	10 lakhs	10 lakhs
CGST & SGST	5 lakhs	5 lakhs
<b>Aggregate Turnover in preceding FY</b>		
<b>Conclusion</b>		

**Example:**

1. Madhur Oils, Punjab, is engaged in supplying machine oil as well as petrol. Supply of petrol is not leviable to GST, but supply of machine oil is taxable.

In order to determine whether Madhur Oils is liable for registration, turnover of both non-taxable as well as taxable supplies would be taken into account and if the same exceeds the applicable threshold limit, Madhur Oils is liable for registration.

2. Mohini Enterprises has appointed M/s Bestfords & Associates as its agent. M/s Bestfords & Associates makes supply of goods on its own account as well as on behalf of Mohini Enterprises.

All the supplies of goods made by M/s Bestfords & Associates as agent of Mohini Enterprises as well as on its own account will be included in the aggregate turnover of M/s Bestfords & Associates.

3. Raghur Private Ltd. pays GST on sitting fees paid to its directors for the services rendered by them, under reverse charge.

Value of services provided by the directors to Raghur Private Ltd. will form part of the aggregate turnover of the directors and not of Raghur Private Ltd.

**6. COMPOSITION SCHEME FOR GOODS U/S 10(1)**

**6.1. Eligible Person:** A person having “Aggregate Turnover” in preceding FY

- upto 75 lakhs (8 states – TMANUS)
- Upto 1.5 crores (rest of India)

is eligible to opt composition scheme in the current FY upto aggregate turnover of INR 1.5 crore/ 75 lakhs.

Tripura	Manipur	Mizoram	Meghalaya
Arunachal Pradesh	Nagaland	Uttarakhand	Sikkim

**Illustration: Relevant FY 2023-24**

a) Aggregate turnover in FY 2022-23 is 1.4 crores. Aggregate turnover in FY 2023-24 is 1.7 crores.  
In this case, the person is eligible for composition scheme u/s 10(1) in FY 2023-24. GST on turnover of 1.5 crore shall be taxable u/s 10 and on turnover of 20 lakhs shall be taxable u/s 9.

b) Aggregate turnover in FY 2022-23 is 1.7 crores. Aggregate turnover in FY 2023-24 is 1.2 crores.  
In this case, the person is not eligible for composition scheme u/s 10(1) in FY 2023-24.

c) A person started business in FY 2023-24. Is he eligible for composition levy for FY 2023-24 → Yes



**Important:** Ram has one unit in Delhi and one unit in Sikkim. What shall be the limit of aggregate turnover u/s 10(1)? → 75 lakhs

## 6.2. RATES OF COMPOSITION TAX U/S 10(1)

Particulars	Total	CGST
Manufacturer other than <ul style="list-style-type: none"> <li>➤ Pan masala, Tobacco;</li> <li>➤ edible Ice/ ice-cream;</li> <li>➤ aerated water; and</li> <li>➤ fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/roofing tiles, etc.</li> </ul>	1%	0.5% of <b>Total Turnover</b> in the State/ UT in a particular tax period.
Trader	1%	0.5% of <b>Taxable Turnover</b> in the State/ UT in a particular tax period.
Restaurant service/ catering service provider	5%	2.5% of <b>Total Turnover</b> in the State/ UT in a particular tax period.

**Note:** No composition tax is payable on

- Value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

**Note:** In case of new registration, No composition tax is payable on Value of supplies from 1<sup>st</sup> April of a FY upto date when he becomes liable for registration. In other words, Turnover prior to obtaining registration will not be considered for determining the turnover in a State/Union Territory.

### Cruz:

1. Value of supplies from 1<sup>st</sup> April of a FY upto date when he becomes liable for registration under this Act i.e. Turnover prior to obtaining registration:
  - a) Will be considered for determining Aggregate Turnover.
  - b) Will Not be considered for calculating Turnover in State i.e. for calculating Tax liability.
2. Value of exempt supply w.r.t lending or discounting shall not be considered for determining:
  - a) Aggregate turnover; and
  - b) Turnover in State i.e. for calculating Tax liability.

### **Illustration 1**

XYZ started business on 01/04/2023. His total turnover till 30/06/22 was 20 lakhs. His total turnover from 01/07/22 till 31/12/22 was 130 lakhs and his total turnover from 01/01/23 till 31/3/23 was 30 lakhs.

Determine eligibility of XYZ to opt for composition scheme and GST payable by him.

Refer class discussion

### **Illustration 2**

Taxpayer 'Tolaram' is a manufacturer who has opted for composition levy for goods, having one unit – A1 in UP and another unit – A2 in MP. Total turnover of two units in last FY was INR 115 lakh (INR 85 lakh + INR 30 lakh). Turnover of units A1 and A2 in the first quarter of current financial year is INR 5 lakh and

INR 10 lakh respectively. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Tolaram'.

**Solution**

Unit	Location	Turnover in previous FY	Turnover in 1 <sup>st</sup> quarter of this FY	CGST @ 0.5%	SGST @ 0.5%	Total Tax @ 1%
A1	U.P.					
A2	M.P.					
<b>Aggregate Turnover</b>						

**Illustration 3**

Taxpayer 'Bholaram' is a trader who has opted for composition levy for goods. It has one retail showroom – A1 in Punjab and another retail showroom – A2 in Rajasthan, both selling taxable as well as exempted goods. Total turnover (including taxable and exempted goods) of the two showrooms in last FY was INR 115 lakh (INR 85 lakh + INR 30 lakh).

Turnover of showrooms A1 and A2 in the first quarter of current FY is INR 35 lakh [A1 – INR 15 lakh (INR 5 lakh from sale of taxable goods and INR 10 lakh from sale of exempted goods) and A2 – INR 20 lakh (INR 10 lakh from sale of taxable goods and INR 10 lakh from sale of exempted goods)]. Compute the amount payable under composition levy u/s 10(1) & 10(2) of the CGST Act, 2017 by 'Bholaram'.

**Solution**

Retail showroom	Location	Turnover in previous FY	Taxable Turnover in 1 <sup>st</sup> quarter of this FY	CGST @ 0.5%	SGST @ 0.5%	Total Tax @ 1%
A1	Punjab					
A2	Rajasthan					
<b>Aggregate Turnover</b>						

Above 3 suppliers can supply services, other than restaurant services, of value not exceeding higher of:

- 10% of Turnover in a particular state/ UT in preceding financial year; or
- 5,00,000

S No.	T/o in preceding FY in a state/ UT	Max. value of service allowed in current FY in that State/ UT
1.	60 lakhs	
2.	45 lakhs	
3.	2 crores	

**7. COMPOSITION SCHEME FOR SUPPLIER OF SERVICES [SECTION 10(2A)]**

**Eligible person:** Person engaged in exclusive supply of services or Majorly services who is

- Not eligible for composition levy u/s 10(1); and
- Aggregate Turnover in preceding FY is upto 50 lakhs

**Applicable composition tax rate** – 6% of Agg. Turnover [3% + 3%] upto Turnover of 50 lakhs in current FY

**Illustration**

A photographer 'Champak' has commenced providing photography services in Delhi from April this year. His

turnover for various quarters till December is as follows:

April-June	INR 20 lakh
July-Sept	INR 30 lakh
Oct-Dec	INR 20 lakh

In the given case, since Champak has started the supply of services in the current FY, his aggregate turnover in the preceding FY is Nil. Consequently, in the current FY, he is eligible for composition scheme for services. He becomes eligible for registration when his aggregate turnover exceeds INR 20 lakhs.

While registering under GST, he opts for composition scheme for services.

For determining his turnover of the State for payment of tax under composition scheme for services, turnover of April-June quarter [20 lakh] shall be excluded.

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

By the end of July-Sept quarter, his aggregate turnover reaches INR 50 lakh.

Consequently, his option to avail composition scheme for services shall lapse by the end of July-Sept quarter and thereafter, he is required to pay tax at the normal rate of 18%. Thus, the tax payable for Oct-Dec quarter is INR 20 lakh × 18%, i.e., INR 3,60,000.

## 8. COMMON POINTS

### 8.1. AGGREGATE TURNOVER V/S TURNOVER IN STATE

S No.	Aggregate Turnover	Turnover in State
1.	Relevant for determining a) Liability for registration under GST; and b) eligibility for compo. levy u/s 10(1) & 10(2A)	Relevant for determining a) Turnover on which composition tax is payable in a state/ UT.
2.	Calculated on all India basis (PAN based)	Calculated for each state separately.
3.	In case of new supplier, it includes first supplies from 1 April till the person is liable for registration.	In case of new supplier, it excludes first supplies from 1 April till the person is liable for registration
4.	It excludes service of extending loan/ advance/ deposit where consideration is represented by interest or discounting charges.	It excludes service of extending loan/ advance/ deposit where consideration is represented by interest or discounting charges.

### 8.2. PERSON NOT ELIGIBLE FOR COMPOSITION LEVY U/S 10

- 1) Person u/s 10 (1) - whose Aggregate Turnover in preceding PY > 1.5 crores [75 lakhs in 8 states]  
Person under sec 10 (2A) - whose Aggregate Turnover in preceding PY > 50 L
- 2) Supplier engaged in Inter-state supplies of goods or services
- 3) Person supplying through ECO u/s 9(5)
- 4) Person supplying non-taxable supplies of goods or services
- 5) Person supplying any goods or services through an ECO who is required to collect tax at source u/s 52
- 6) Causal taxable person & Non-resident taxable person
- 7) For sec 10(1) → Manufacturer of Pan Masala, Tabaco, Edible ice/ ice cream & other notified items.  
For sec 10(2A) → Manufacturer of above items and Supplier of service in relation to above items.
- 8) For sec 10(1) → Person supplying service other than restaurants service which is higher than Higher of

10% of turnover in State/UT in preceding year or 500,000.

### Composition levy in case of separate registration for multiple places of business

**Question:** Can a dealer opt for composition scheme for one branch & normal scheme for another branch?

**Answer:** No, composition scheme must be opted uniformly for all registered persons having same PAN.

Further, if one of the PoB [separately registered] of a registered person becomes ineligible to pay tax under composition levy, all other registered PoBs would also become ineligible to pay tax under composition levy.

### 8.3. COMPOSITION LEVY PROCEDURE

S No.	Case	Process	Effective Date of composition scheme
1.	New registration opting for composition levy in GST REG 01	Intimation is given by the Applicant in Part B of the Registration Form GST REG-1 on common portal ➤ at any time while applying for registration	From effective date of Registration
2.	Registered person opting for composition scheme	Intimation needs to be given in Form CMP-02 on common portal ➤ prior to commencement of FY for which composition scheme is opted & Need to submit Statement in prescribed form [ITC-03] for reversal of ITC w.r.t. Input & capital goods lying in stock on the date prior to effective date of composition scheme ➤ within 60 days from beginning of next year.	1 <sup>st</sup> April of next F.Y. i.e. 1 <sup>st</sup> April of FY following the FY in which intimation is given by registered person
Once opted, it remains valid as long as all conditions for composition scheme is satisfied.			

### 8.4. EXIT FROM COMPOSITION LEVY

S No.	Case	Process	Effective Date of exit from Scheme
1.	Turnover during the FY exceeded prescribed limit; or any other condition u/s 10 not satisfied	Within 7 days from relevant date, ➤ file intimation of withdrawal from compo. scheme	Date on which aggregate turnover exceeded the limit or any condition not satisfied. Sec 9 is now applicable.
2.	Voluntary withdrawal	Registered person u/s 10 needs to file application in prescribed form.	Date indicated by him in his application but can't be prior to commencement of F.Y.
3.	Denial of composition levy option by Tax Authorities	Where PO has reasons to believe that Registered person is not eligible for composition levy; he shall Issue SCN asking why action should not be taken against him. Taxpayer shall file the reply to SCN.	Effective date of denial of composition levy shall be determined by PO but it can't be prior to date of contravention



S No.	Case	Process	Effective Date of exit from Scheme
		PO shall issue order either accepting the reply or denying the option to pay tax under composition levy.	
<p><b>Note:</b> In each of the above case, within 30 days of the date on which the option is withdrawn/ denied, taxpayer is required to file a statement containing details of stock of Inputs &amp; capital goods held on the date prior to the date on which the option is withdrawn/ denied, so that taxpayer can avail ITC on it. Detailed discussion u/s 18 in Ch 8 – Input Tax Credit.</p>			

### 8.5. Imposition of penalty in case of irregular availment of the composition scheme [Section 10(5)]

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme,

- the person would be liable to penalty and the
- provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.

### 8.6. DIFFERENCES BETWEEN COMPOSITION TAXPAYER FOR GOODS & FOR SERVICES

Basis	Composition scheme for Goods u/s 10(1)	Compo. scheme for Services u/s 10(2A)
<b>Agg. T/o Threshold limit</b>	1.5 crores / 75 lakhs for 8 special category states in preceding FY.	50 lakhs in preceding FY
<b>Eligible Person</b>	Manufacturers, traders & restaurant / catering service providers. Can supply limited value of service as well.	Exclusive supplier of services or major supplier services
<b>Rate of tax payable</b>	Different for each category of specified registered persons	6% i.e. CGST 3% & SGST 3%.
<b>Non eligibility</b>	A person engaged in manufacture of notified goods, namely, ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes, aerated water, fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/ roofing tiles, etc. is not eligible.	A person engaged in manufacture of notified goods or engaged in supply of services in relation to these goods is not eligible.

## CHAPTER 4

# PLACE OF GST

### 1. INTRODUCTION

GST is a destination-based tax, i.e. the tax is levied at the place where the goods or services are consumed, rather than the place where they are produced.

'Place of supply' ('PoS') is the place where supply is consumed. Determination of PoS & 'Location of the supplier' is essential to ascertain the nature of supply, i.e. whether a supply is intra-State or inter-State.

Thus, PoS determines the jurisdiction where the tax revenue should reach.

#### Separate rules for determining PoS in respect of B2B and B2C transactions

**B2B - Business to Business transactions**

- In such type of transactions, the recipient is also a registered supplier and hence eligible to take TC

**B2C - Business to Consumer transactions**

- In such type of transactions, the recipient is consumer or unregistered and hence, cannot take ITC.

**B2B transactions** are just pass through. GST collected on B2B supplies effectively create a liability for the Supplier and an asset for the recipient of such supplies.

For B2B transactions, the location of recipient takes care in almost all the situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer.

The supply is consumed only when a B2B transaction is further converted into B2C transaction.

In B2C transaction, the supply is made to an unregistered person who consumes the same and the taxes paid actually reach the Government.

At the intermediate level, our discussion will be restricted to the provisions relating to the PoS of goods & services in domestic transactions only. [Section 10 and Section 12]

### 2. PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10] – 5 CASES

**Supply involving movement of goods**  
[Sec 10(1)(a)]

Place of supply is the **Location of the goods** at the time when the movement of goods **terminates** (ends) for delivery to the recipient.

Journey starts from their origin (from supplier) to termination (with the recipient).

This movement, can be undertaken by the supplier or recipient or even any other person (transporter) after having disclosed the destination of the movement of goods.

#### Examples

a) Babban of Nasik, Maharashtra sells 10 items to Chaggan of Pune, Maharashtra for delivery at place of business of Chaggan in Pune. PoS is Pune in Maharashtra.

	<p>b) Babban of Nasik, Maharashtra sells 20 items to Dhakkan of Ahmedabad, Gujarat for delivery at place of business of Dhakkan in Ahmedabad. PoS is Ahmedabad.</p>
<p><b>Supply involving movement of goods where goods are delivered to recipient on the instruction of third person - 'Bill to Ship to' Supply</b> [Sec 10(1)(b)]</p>	<p>This Tripartite arrangement includes cases where there is a sale of goods in transit by the original buyer/ agents.</p> <p>Where goods are delivered by the supplier to recipient at the instruction of a third party (original buyer), before or during movement of goods (but not after the movement terminates); PoS is the</p> <ul style="list-style-type: none"> <li>➤ <b>principal place of business of such third person and not of the actual recipient.</b></li> </ul> <p><b>Note:</b> Two supplies involved in this transaction; one supply is by supplier to third person (original buyer) &amp; second supply is by third person to recipient of goods.</p> <p>This provision deals with first limb of supply, i.e. supply by supplier to third person. Second limb of supply, i.e. supply by third person to recipient will be governed by the provisions of section 10(1)(a), i.e. the PoS will be the location of the goods at the time when the movement of goods terminates for delivery to the recipient.</p>
<p><b>Supply not involving movement of goods</b> [Sec 10(1)(c)]</p>	<p>PoS is the <b>Location of goods</b> at the time of delivery to the recipient.</p> <p><b>Examples</b></p> <p>a) Newton Pvt. Ltd. (New Delhi) has leased its machine (cost 8,00,000) to Gravity Pvt. Ltd. (Noida, Uttar Pradesh) for production of goods on a monthly rent of 35,000. After 12 months Gravity Pvt. Ltd. requested Newton Pvt. Ltd. to sell the machine to it for 5,00,000, which is agreed to by Newton Pvt. Ltd.</p> <p>In this case, there will be no movement of goods and the same will be sold on 'as is where is' basis. Thus, the location of the machine at the time of such sale will be the PoS, i.e. Noida.</p> <p>b) Gangadhar Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from Gajodhar Builders (Gurugram). It also enters into a separate contract with Gajodhar Builders for purchase of pre-installed office furniture and fixtures in the building.</p> <p>Though there will be no GST liability on purchase of building (Schedule III), office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the PoS of such goods is their location at the time of delivery to the recipient (Gangadhar Ltd.), i.e. Gurugram.</p>
<p><b>Supply involving installation or assembly of goods</b> [Sec 10(1)(d)]</p>	<p>PoS is the <b>Place of such installation or assembly.</b></p> <p>This is a case of composite supply of goods wherein principal supply is supply of goods &amp; installation/ assembling service is ancillary supply.</p> <p><b>Examples</b></p> <p>a) Ghoomghoom Pvt. Ltd. (New Delhi) purchases a machine from Dhoom Pvt. Ltd. (New Delhi) for being installed in its factory at Noida, Uttar Pradesh. The PoS is the site at which the machine is installed, i.e. Noida.</p> <p>b) Pure Refineries (Mumbai, Maharashtra) gives a contract to Mowgli Ltd. (Ranchi, Jharkhand) to supply a machine which is required to be assembled in a power plant in its refinery located in Kutch, Gujarat. The PoS is the site of assembly of machine, i.e. Kutch even though Pure refineries is located in Maharashtra.</p>
<p><b>Goods supplied on board a conveyance</b> [Sect 10(1)(e)]</p>	<p>PoS of goods supplied onboard a conveyance like aircraft, train, vessel, vehicle is the</p> <ul style="list-style-type: none"> <li>➤ <b>Location where such goods have been taken on board.</b></li> </ul> <p>What if supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance?</p> <p><b>Example</b></p>

Maurya (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey. The PoS of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.

**3. PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER AND RECIPIENT IS IN INDIA [SEC 12]**

Section 12 contains the provisions for determining the PoS of Domestic Supplies of services. In many cases, the section provides different PoS for a service supplied to registered & unregistered persons.

<b>General Rule</b> [Section 12(2)] – except cases covered u/s 12(3) to 12(14)	Place of Supply where:	
	<b>Recipient is registered</b>	<b>Recipient is unregistered person</b>
	Location of recipient	a) <b>Location of such unregistered recipient</b> if address of the unregistered person is available in records of Supplier, b) <b>Location of the supplier</b> of services in other cases.
<b>Examples</b>		
<p>a) There are various B2C services where the address of the recipient is not recorded by the supplier of services.</p> <p>For instance, a person may visit a bank branch where he is not a regular customer and may get a demand draft against cash or request for conversion of foreign currency into local currency. The bank branch charges commission towards its consideration for the services supplied by it.</p> <p>PoS in such cases would be determined based on the <b>location of the branch</b> of the bank as the bank branch doesn't have the address of the said service recipient as a normal business practice.</p> <p>b) Mr. Aryabhatt (CA registered in New Delhi) makes a supply of service to his client Champak Pvt. Ltd. of Noida, Uttar Pradesh (registered in Uttar Pradesh). In this case, since the supply is made to a registered person, PoS is the location of the registered recipient, i.e. Noida.</p> <p>c) Mr. Heeralal, a CA in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. Pannalal who is a resident of New Delhi but is not registered under GST.</p> <p>If the address of Mr. Pannalal is available in the records of Mr. Heeralal, location of Mr. Pannalal, i.e. New Delhi will be the PoS, else the location of Mr. Heeralal, which is Gurugram, will be the PoS.</p>		

<b>Services in relation to an immovable property or lodging accommodation in a hotel/ boat/ vessel etc.</b> [Section 12(3)]	Types of immovable property services includes:			
	a) Services provided <b>directly in relation to an immovable property</b> including those by			
	i) architects	ii) interior decorators	iii) surveyors	
	iv) estate agents	v) engineers and other related experts		
	b) Service provided by way of <b>grant of rights to use immovable property or for carrying out or co-ordination of construction work</b>			
c) Services provided by way of <b>lodging accommodation</b> by a				
Hotel	Inn	Guest house	Home stay	
Club	Campsite	House boat	Vessel	
d) Services provided by way of <b>accommodation in Immovable property for organizing</b>				



	<ul style="list-style-type: none"> <li>➤ any marriage/ reception or matters related thereto,</li> <li>➤ official, social, cultural, religious or business functions</li> <li>➤ including services provided in relation to such function at such property.</li> </ul>	
	e) Services <b>ancillary</b> to the above-mentioned services	
	<b>Place of Supply</b> → Location at which the immovable property or the boat or the vessel is located or intended to be located.	
	<b>Exceptions: If the immovable property/ boat/ vessel is</b>	
	i) Located or intended to be located outside India	PoS shall be Location of recipient of the services
	ii) Located in more than one State/ UT for example, a railway line, a national highway or a bridge on a river	<p>Service is deemed to have been supplied in each of the respective States/ UTs, and value for the services determined</p> <ul style="list-style-type: none"> <li>➤ in proportion to the terms of the contract or agreement entered into in this regard or</li> <li>➤ In the absence of such contract or agreement, shall be determined as per <b>Rule 4</b>.</li> </ul>
	<b>Examples:</b>	
	i) Sunami Builders (Mumbai) is constructing a factory building for Skylab Pvt. Ltd. (Kolkata), in New Delhi. The PoS is the location of immovable property, i.e. New Delhi.	
	ii) Shah and Shah, an architectural firm at Kolkata, has been hired by Maurya Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat. The PoS is the place where the immovable property is intended to be located, i.e. Ahmedabad.	
	iii) Kautilya, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there. The PoS of accommodation service is the place where the hotel is located, i.e. Mumbai.	
	iv) Goluram, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Bholuram of Bangalore located in Australia. Since the immovable property is located outside India, the PoS of service is the location of recipient, i.e. Bangalore and not the place where the immovable property is located (Australia).	
	<b>Manner of determining proportionate VoS in absence of a contract or agreement [Rule 4]</b>	
<b>S No.</b>	<b>Type of service in relation to immovable property</b>	<b>Factor which determines the proportionate VoS supplied in different States/ UTs</b>
(a)	Service provided by way of lodging accommodation by hotel, inn, guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/ UTs or both)	Number of nights stayed in such property
(b)	All other services provided in relation to immovable property where such property is a single property located in 2 or more contiguous States or/and UTs Services ancillary to services mentioned above	Area of the immovable property lying in each State/ UT
(c)	Services by way of lodging accommodation by a	Time spent by the boat or vessel in each such State/

	house boat or vessel and its ancillary services	UTs, to be determined on the basis of declaration made by the service provider
	<p><b>Examples:</b></p> <p>i) Dondrila Hotel chain charges a consolidated sum of 30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night.</p> <p>The PoS in this case is both Delhi and Uttar Pradesh and the service shall be deemed to have been provided in Delhi and Uttar Pradesh in the ratio of 2:1 respectively. The VoS provided will thus be apportioned as 20,000/- in Delhi &amp; 10,000/- in Uttar Pradesh.</p> <p>ii) There is a piece of land of area 20,000 square feet which is partly in State S1, say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to Munna Constructions. The ratio of land in the two States works out to 12:8 or 3:2 (simplified).</p> <p>The PoS is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.</p> <p>iii) A company C provides the service of 24 hours accommodation in a houseboat, which will transit both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider).</p> <p>The PoS of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.</p>	
<p><b>Service based on performance</b> [Section 12(4)]</p>	<b>Nature of supply</b>	<b>Place of Supply</b>
	Restaurant and catering service, personal grooming, fitness, beauty and health services	Location where supply is actually performed
	<p><b>Examples:</b></p> <p>i) Mr. Dadlani, a businessman from Hyderabad dines in a restaurant at Mumbai while on a business trip. The PoS of restaurant service is the location where such service is performed, i.e. Mumbai.</p> <p>ii) Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. The PoS is the location where such service is performed, i.e. Jaipur.</p>	
<p><b>Training and performance appraisal services</b> [Section 12(5)]</p>	PoS in this case depends upon whether the supply is B2B or B2C.	
	<b>Nature of Supply</b>	<b>Place of Supply</b>
	B2B i.e. where Recipient of service is a registered person	Location of such person
	B2C i.e. where recipient of service is a unregistered person	Location/ place where the service is actually performed
	<p><b>Example:</b> Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics for receiving training on English speaking at their New Delhi Centre. Since the recipient is unregistered, the PoS is the location where services are provided, i.e. New Delhi.</p>	
<p><b>Services by way of ADMISSION to events/</b></p>	<p>The place of supply of following services-</p> <p>a) services provided by way of ADMISSION to events being cultural, sporting, educational, scientific entertainment and artistic</p>	

<b>amusement park/ other places</b> <b>[Section 12(6)]</b>	b) services provided by way of <b>ADMISSION</b> to amusement park or any other place c) services ancillary to the above-mentioned services <b>Place of Supply</b> - place where the event is actually held or where the park or such other place is located  <b>Examples:</b> a) Virubhai Virani, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi. The PoS is the location where the circus is held, i.e. Gurugram. b) Manasvi of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh. PoS is the location where the park is located, i.e. Noida.												
	<b>Organisation of events</b> <b>[Section 12(7)]</b>	<table border="1"> <thead> <tr> <th rowspan="2">Nature of Supply</th> <th colspan="2">Place of Supply</th> </tr> <tr> <th>Recipient is registered</th> <th>Recipient is unregistered</th> </tr> </thead> <tbody> <tr> <td>Organisation of events or ancillary services or assigning of sponsorship to such events</td> <td>Location of recipient</td> <td>Location where the event is held</td> </tr> <tr> <td>Organisation of events outside India</td> <td></td> <td>Location of recipient</td> </tr> </tbody> </table> <p><b>Examples</b></p> <p>a) Mega Events, an event management company at New Delhi, organizes an award function for a Diamond Merchant of Surat (registered in Gujarat), at Mumbai.                  Since recipient is a registered person, the PoS is the location of the recipient, i.e. Surat.</p> <p>b) Mega Events, an event management company at New Delhi, organizes an award function for a Diamond Merchant of Surat (registered in Gujarat), in Mauritius.                  Since recipient is a registered person, PoS is the location of the recipient, i.e. Surat.</p> <p><b>Event held in more than one State/ UT &amp; Consolidated amount is charged</b>                  PoS of such services is deemed to be in</p> <p>➤ each of the respective States/ UTs in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.</p> <p><b>Note:</b> The above provision is applicable only when the recipient is unregistered, as for a registered recipient, the PoS is the location of such recipient.</p> <p><b>Manner of determining proportionate value of service in the absence of a contract or agreement</b>                  It is computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.</p> <p><b>Example:</b>                  An event management company has to organize some promotional events in States S1 and S2 for a recipient Mr. Atmaram (unregistered). 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of 10,00,000 from Mr. Atmaram.                  PoS of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2, the service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as 6,00,000/- in S1 and 4,00,000/- in S2.</p>		Nature of Supply	Place of Supply		Recipient is registered	Recipient is unregistered	Organisation of events or ancillary services or assigning of sponsorship to such events	Location of recipient	Location where the event is held	Organisation of events outside India	
Nature of Supply	Place of Supply												
	Recipient is registered	Recipient is unregistered											
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Organisation of events outside India		Location of recipient											
<b>Transportation of goods</b>	<b>Nature of Supply</b>	<b>Place of Supply</b>											
	<b>Recipient is registered</b>	Location of such person (recipient)											

<p><b>including mail or courier</b> <b>[Section 12(8)]</b></p>	<b>Recipient is unregistered</b>		Location at which such goods are handed over for their transportation.
	<p><b>Examples:</b></p> <p>a) M/s Sukhiram Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service. The recipient being registered person, the PoS is the location of recipient, i.e. New Delhi.</p> <p>b) Mr. Bindisaar, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab. The recipient being unregistered person, the PoS is the location where goods are handed over for their transportation, i.e. New Delhi.</p> <p>c) Pinelaps Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hezal Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi. The recipient being registered, the PoS is the location of recipient, i.e. Kanpur.</p> <p>d) Sukhwinder Transports Pvt. Ltd., a GTA based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh. The recipient being registered, PoS is the location of recipient, i.e. New Delhi.</p> <p>e) Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradesh. He hires Goel Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal. The recipient being unregistered person, the PoS is the location where goods are handed over for their transportation, i.e. Kanpur.</p>		
<p><b>Passenger transportation service</b> <b>[Section 12(9)]</b></p>	<b>Nature of Supply</b>		<b>Place of Supply</b>
		<b>Recipient is registered</b>	<b>Recipient is unregistered</b>
	<b>Passenger transportation</b>	Location of the recipient	Location where the passenger embarks on the conveyance for a continuous journey [See definition]
	<b>Issue of right to passage for future use and the point of boarding not known at the time of issue of right to passage</b>		If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person. In other cases, location of the supplier of services.
	<p><b>Note:</b> The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.</p>		
<p><b>Examples:</b></p> <p>i) Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Airjet flight. Mr. Amar has bought the tickets for the journey from Airjet's office registered in New Delhi. The PoS is the location of recipient, i.e. New Delhi.</p> <p>ii) Mr. Subramanian (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region. Recipient being unregistered person, the PoS is the address of Mr. Subramanian, i.e. Chennai. If address of Mr. Subramanian is not available with the Delhi Metro, the PoS will be the location of the supplier of services, i.e. New Delhi.</p> <p>iii) Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air</p>			



	<p>journey ticket from New Delhi to Mumbai on 5<sup>th</sup> December. He leaves New Delhi on 10<sup>th</sup> December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14<sup>th</sup> December in a morning flight and lands in New Delhi the same day.</p> <p>The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the PoS for the outward and return journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey, i.e. New Delhi and Mumbai respectively.</p> <p>iv) An airline may issue seasonal tickets, containing say 10 vouchers which could be used for travel between any two locations in the country.</p> <p>v) The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.</p>	
<p><b>Service supplied on board a conveyance</b> <b>[Section 12(10)]</b></p>	<p><b>Place of Supply</b> - Location of the first scheduled point of departure of that conveyance for the journey</p> <p><b>Notes:</b></p> <p>a) For determining the place of supply of both goods and services supplied on board a conveyance, no distinction is made between registered and unregistered recipients.</p> <p>b) Conveyance includes a vessel, an aircraft, a train or a motor vehicle.</p> <p><b>Example:</b></p> <p>Mr. Raidhan is travelling from Delhi to Mumbai in an Airjet flight. He desires to watch an English movie during the journey by making the necessary payment. The PoS of such service of showing 'movie on demand' is the first scheduled point of departure of the conveyance for the journey, i.e. Delhi.</p>	
<p><b>Telecommunication service</b> <b>[Section 12(11)]</b></p>	<p><b>Nature of Supply</b></p> <ul style="list-style-type: none"> <li>▪ Fixed telecommunication line</li> <li>▪ Leased circuits</li> <li>▪ Internet leased circuit</li> <li>▪ Cable or dish antenna</li> </ul> <p>▪ Post-paid mobile connection &amp; internet services</p> <p>▪ Pre-paid mobile connection, internet services and DTH services (recharge coupon, vouchers, net pack etc.)</p> <p>▪ Services provided through a selling agent, re-seller, distributor of subscriber identity module card or recharge voucher</p> <p>▪ Services provided by any person to final subscriber</p> <p>▪ Pre-paid services, payment for which is made through internet banking/ other electronic mode of payment</p>	<p><b>Place of Supply</b></p> <p>Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services</p> <p>Location of billing address of the recipient of services in the records of the supplier Location of the supplier of services, if the address is not available</p> <p>Address of the selling agent/ re-seller/ distributor at the time of supply</p> <p>Location where such pre-payment is received or such vouchers are sold</p> <p>Location of the recipient of services in the records of the supplier of services</p>

▪ Other cases

The address of the recipient as per the records of the supplier of services

Location of the supplier of services, if the address is not available

**Examples**

- a) Mr. Samudragupta (Kolkata) gets a landline phone installed at his home in Kolkata. PoS is the location where the telecommunication line is installed, i.e. Kolkata.
- b) Mr. Rajkumar (Mumbai) gets a DTH installed at his home in his village in Uttar Pradesh from RT Ltd. The PoS is the location where the DTH is installed, i.e. UP.
- c) Mr. Shastri (Mumbai) takes a post-paid mobile connection in Mumbai from Blubel Ltd. and gives his residence address at Mumbai as the address for billing with supplier. The PoS is the location of billing address of the recipient, i.e. Mumbai.
- d) Mr. George (New Delhi) gets his post-paid mobile bill (billing address New Delhi) paid online from Goa. PoS is the location of the billing address of the recipient, i.e. Delhi.
- e) Mr. Jhumroo (Pune) purchases a pre-paid card from a selling agent in Mumbai. The PoS is the address of the selling agent or re-seller, i.e. Mumbai.
- f) Mr. Freddy (Puducherry) gets a pre-paid mobile recharged from a grocery shop in Chennai. The PoS is the location where such pre-payment is received, i.e. Chennai.

**Leased circuit is installed in more than one State/ UT & a consolidated amount is charged for supply of services**

the PoS is deemed to be in each of the respective States/ UTs in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

**Manner of determining proportionate value of service in the absence of a contract or agreement**

It is determined in accordance with rule 6 of the IGST Rules in proportion to the number of points lying in each such State/ UT.

**The number of points in a circuit is determined in the following manner-**

- a) In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points.
- b) Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point.

**Examples**

- i) Trinity Ltd. installs a leased circuit between the Delhi and Mumbai offices of Inertia Pvt. Ltd. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra.  
The PoS of this service is in the UT of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the UT of Delhi and the State of Maharashtra, respectively.
- ii) Turbo Ltd. installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of Rio Ltd. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence, one point of this circuit is in Tamil Nadu and two points in Karnataka.  
The PoS of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.
- iii) Sriram Ltd. installs a leased circuit between the Kolkata, Patna and Guwahati offices of Srishyam Ltd. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One

	<p>point each of this circuit is, therefore, in West Bengal, Bihar and Assam.</p> <p>The PoS of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.</p>	
<p><b>Financial and stock broking services</b> [Section 12(12)]</p>	<p><b>PoS - Location of the recipient of services in the records of the supplier of services.</b> However, if the location of recipient of services is not available in the records of the supplier, the PoS is the location of the supplier of services.</p>	
	<p><b>Examples</b></p> <p>a) Mr. Debdas (Chennai) buys shares from a broker in BSE (Mumbai). The PoS is the location of the recipient of services in the records of the supplier, i.e. Chennai.</p> <p>b) Mr. Arihant (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. Arihant has crossed his limit of free ATM withdrawals. The PoS is the location of the recipient of services in the records of the supplier, i.e. New Delhi.</p> <p>c) Mr. Rishabh from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi to get a demand draft made. Mr. Rishabh does not have any account with the said bank. Therefore, since the location of recipient is not available in the records of the supplier, the PoS is the location of the supplier of services, i.e. New Delhi.</p>	
<p><b>Insurance services</b> [Section 12(13)]</p>	<p><b>Recipient is registered</b></p>	<p><b>Recipient is unregistered</b></p>
	<p>Location of recipient</p>	<p>Location of the recipient of services in the records of the supplier of services.</p>
	<p><b>Examples</b></p> <p>a) Mr. Shantaram, CEO of Shaurya Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). The PoS is the location of the registered recipient, i.e. Mumbai.</p> <p>b) Ms. Barbie (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). The PoS is the location of the recipient of services in the records of the supplier, i.e. Patna.</p>	
<p><b>Advertisement service to the Government</b> [Section 12(14)]</p>	<p><b>Nature of Supply</b></p>	<p><b>Place of Supply</b></p>
	<p>Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State/ UT identified in contract or agreement</p>	<p>Each of such States/ UTs where the advertisement is broadcasted/ run / played/ disseminated.</p>
	<p>The value of such supplies specific to each State/ UT is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/ UTs determined in terms of the contract or agreement entered into in this regard or in the absence of such other basis as may be prescribed (Rule 3)</p> <p><b>Manner of determining proportionate value of service [Rule 3]</b></p>	
	<p>i) <b>Type of advertisement</b></p>	<p>VoS attributable to dissemination in different States/ UT where advertisement is broadcasted/ run/ disseminated</p>
	<p>ii) <b>Advertisements in newspapers and publications</b></p>	<p>Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/ UT</p>
<p>iii) <b>Advertisements through printed material like</b></p>	<p>Amount payable for the distribution of a specific number of such material in each State/ UT</p>	



	<i>pamphlets, leaflets, diaries, calendars, T- shirts, etc.</i>	
iv)	<i>Advertisements in hoardings (other than those on trains)</i>	<i>Amount payable for the hoardings located in each State/ UT</i>
v)	<i>Advertisements on trains</i>	<i>Amount attributable to each State/ UT calculated in the ratio of length of the railway track in each of such State/UT, for that train</i>
vi)	<i>Advertisements on the back of utility bills of oil and gas companies, etc.</i>	<i>Amount payable to each State/ UT for the advertisements on bills pertaining to consumers having billing addresses in each of such State/ UT</i>
vii)	<i>Advertisements on railway tickets</i>	<i>Amount attributable to each State/ UT calculated in the ratio of number of Railway Stations in each of State/ UT</i>
viii)	<i>Advertisements on radio stations</i>	<i>Amount payable to such radio station, which by virtue of its name is part of each State/ UT</i>
ix)	<i>Advertisement on television channels</i>	<p><i>Amount attributable to each State/UT calculated basis the viewership of such channel in each of such State/ UT which shall be derived as under:</i></p> <ol style="list-style-type: none"> <li><i>a) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council.</i></li> <li><i>b) Figures for the last week of a given quarter is used for calculating viewership for succeeding quarter.</i></li> <li><i>c) Where the channel viewership figures relate to a region comprising of more than one State/ UT, the viewership figures for a State/ UT of that region, is calculated in ratio of the populations of that State/ UT, as determined in the latest Census.</i></li> <li><i>d) The ratio of the viewership figures for each State or UT so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or UT.</i></li> </ol>
x)	<i>Advertisements in cinema halls</i>	<i>Amount payable to a cinema hall or screens in a multiplex in each State/ UT.</i>
xi) xii)	<i>Advertisements on internet It is deemed that such service is provided all over India.</i>	<p><i>Amount attributable to each State/ UT calculated basis the internet subscribers in each of such State/ UT which shall be derived in the following manner:</i></p> <ol style="list-style-type: none"> <li><i>a) Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI).</i></li> <li><i>b) Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding FY.</i></li> <li><i>c) Where the internet subscriber figures relate to a region comprising of more than one State/ UT, the subscriber figures for a State/ UT of that region shall be calculated in the ratio of the populations of that State/UT, as determined in latest census.</i></li> </ol>



		<p>d) The ratio of the subscriber figures for each State or UT so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or UT.</p>
	<p>xiii) Advertisements through SMS</p>	<p>Amount attributable to each State/ UT calculated on the basis of the telecom subscribers in each of such State/ UT.</p> <p>a) Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter.</p> <p>b) Where such figures relate to a telecom circle comprising of more than one State/UT, the subscriber figures for that State/UT shall be calculated in the ratio of the populations of that State/UT, as determined in the latest census.</p>
<p><b>Examples:</b></p> <p>i) ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities. These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti Bachao Beti Padhao', to be published in the newspaper DEF (whose head office is in Delhi) for the editions of Delhi, Pune, Mumbai, Lucknow and Jaipur. The release order will have details of the newspaper like the periodicity, language, size of the advertisement and the amount to be paid to such a newspaper.</p> <p>The PoS of this service shall be in the UT of Delhi, &amp; States of Maharashtra, Uttar Pradesh and Rajasthan. The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the State of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise, the amount payable to the Delhi, Lucknow &amp; Jaipur editions would constitute the proportion of value attributable to the dissemination in the UT of Delhi &amp; States of Uttar Pradesh &amp; Rajasthan respectively. DEF should issue separate State-wise &amp; UT-wise invoices based on the editions.</p> <p>ii) As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of 1,00,000 pamphlets (at a total cost of 1,00,000) to be distributed in the States of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States, i.e. Haryana, Uttar Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order. Let us assume that this breakup is 20,000, 50,000 and 30,000 respectively. This breakup should be indicated in the print order.</p> <p>The PoS of this service is in Haryana, Uttar Pradesh and Rajasthan. The ratio of this breakup, i.e. 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e. 20,000 - Haryana, 50,000 - Uttar Pradesh and 30,000 - Rajasthan.</p> <p>iii) ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the 4 metros, i.e. Delhi, Mumbai, Chennai and Kolkata. The release order issued by ABC to IJ will have the city-wise, location-wise breakup of the amount payable for such hoardings.</p> <p>The PoS of this service is in the UT of Delhi and the States of Maharashtra, Tamil Nadu</p>		

and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the 4 metros will constitute the value attributable to the dissemination in the UT of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State-wise and UT-wise by IJ to ABC indicating the value pertaining to that State/UT.

- iv) ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and UT from the website [www.indianrail.gov.in](http://www.indianrail.gov.in).

The PoS of this service is in the UT of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and UT attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and UT. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is Rs. 1,20,000, then KL will have to calculate the State-wise and UT-wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and UT.

In the given example, the State-wise and UT-wise breakup works out to Delhi (5,000), Haryana (5,000), Uttar Pradesh (20,000), Madhya Pradesh (20,000), Maharashtra (30,000), Karnataka (30,000) and Goa (10,000). Separate invoices will have to be issued State-wise and UT-wise by KL to ABC indicating the value pertaining to that State or UT.

- v) ABC has issued a release order to MN for display of advertisements relating to the 'Ujjwala' scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh.

PoS of this service is in Madhya Pradesh & Chattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website [www.indianrail.gov.in](http://www.indianrail.gov.in).

Let us assume that this ratio is 713:251 and the total bill is 9,640. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works out to 7,130 and 2,510 respectively. Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that State.

- vi) For an advertisement on 'Pradhan Mantri Ujjwala Yojana' to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations.

The PoS of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. PoS of OP Delhi is in Delhi even though the studio may be physically located in another State. Separate invoices will have to be issued State-wise and UT-wise by MN to ABC based on the value pertaining to each State or UT.

- vii) ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November, 2017. In the first phase, this will be telecast in the UT of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand.

The PoS of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under:

- i QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is

1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand.

- ii) Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census.
- iii) By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1. When this ratio is applied to the viewership figures of 2,00,000 for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively.
- iv) In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively.
- v) The viewership figure for each State works out to Delhi (1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification).
- vi) This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is 20,00,000, State-wise breakup is 5,00,000 (Delhi), 9,00,000 (Uttar Pradesh) 1,00,000 (Uttarakhand), 4,00,000 (Bihar) and 1,00,000 (Jharkhand). Separate invoices will have to be issued State-wise and UT-wise by QR to ABC indicating the value pertaining to that State or UT.
- viii) ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The PoS of this service is in the States of Tamil Nadu and Telangana. The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively. Separate invoices will have to be issued State-wise and UT-wise by ST to ABC indicating the value pertaining to that State.
- ix) ABC issues a release order to WX for a campaign over internet regarding linking Aadhaar with one's bank account and mobile number. WX runs this campaign over certain websites. In order to ascertain the State-wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the TRAI figures for quarter ending March, 2017, as indicated on their website [www.traai.gov.in](http://www.traai.gov.in). These figures show the service area wise internet subscribers. There are 22 service areas. Some relate to individual States, some to two or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas.

In order to calculate the State-wise breakup,

- a) first the State-wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census.)
- b) Once the actual number of subscribers for each State has been determined, the second step for WX involves calculating the State-wise ratio of internet subscribers. Let us assume that this works out to 8:1:2..... and so on for Andhra Pradesh, Arunachal Pradesh, Assam... and so on.
- c) The third step for WX will be to apply these ratios to the total amount payable to WX so as to arrive at the value attributable to each State. Separate invoices will



have to be issued State-wise and UT-wise by WX to ABC indicating the value pertaining to that State or UT.

- x) In the case of the telecom circle of Assam, the amount attributed to the telecom circle of Assam is the value of advertisement service in Assam.
- xi) The telecom circle of North East covers the States of Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Manipur and Tripura. The ratio of populations of each of these States in the latest census will have to be determined and this ratio applied to the total number of subscribers for this telecom circle so as to arrive at the State-wise figures of telecom subscribers. Separate invoices will have to be issued State-wise by the service provider to ABC indicating the value pertaining to that State.
- xii) ABC commissions UV to send short messaging service to voters asking them to exercise their franchise in elections to be held in Maharashtra and Goa. The PoS of this service is in Maharashtra and Goa.

The telecom circle of Maharashtra consists of the area of the State of Maharashtra (excluding the areas covered by Mumbai which forms another circle) & and the State of Goa. When calculating no. of subscribers pertaining to Maharashtra & Goa, UV has to

- i obtain the subscriber figures for Maharashtra circle and Mumbai circle and add them to obtain a combined figure of subscribers;
- ii obtain the figures of the population of Maharashtra and Goa from the latest census and derive the ratio of these two populations;
- iii this ratio will then have to be applied to the combined figure of subscribers so as to arrive at the separate figures of subscribers pertaining to Maharashtra & Goa;
- iv the ratio of these subscribers when applied to the amount payable for the short messaging service in Maharashtra circle and Mumbai circle, will give breakup of the amount pertaining to Maharashtra and Goa. Separate invoices will have to be issued State-wise by UV to ABC indicating the value pertaining to that State.

- xiii) The telecom circle of Andhra Pradesh consists of the areas of the States of Andhra Pradesh, Telangana and Yanam, an area of the UT of Puducherry. The subscribers attributable to Telangana and Yanam will have to be excluded when calculating the subscribers pertaining to Andhra Pradesh.

#### 4. INTER-STATE SUPPLY [SECTION 7] & INTRA-STATE SUPPLY [SECTION 8]

Already covered under Ch 3 → Charge of GST.

#### 5. SUPPLIES IN TERRITORIAL WATERS

[SECTION 9]

The term 'Territorial waters' has not been defined in the GST law. However, as per United Nations Convention on the Law of the Sea, the term 'territorial sea' is a belt of coastal waters extending at most 12 nautical miles from the baseline of a coastal state.

Section 9 of the IGST Act provides that:

Where the location of the supplier is in the territorial waters	it shall be deemed that location of such supplier is in the coastal State or UT where the nearest point of the appropriate baseline is located.
where the place of supply is in territorial waters	the place of supply shall be deemed to be in the coastal State or UT where the nearest point of the appropriate baseline is located.



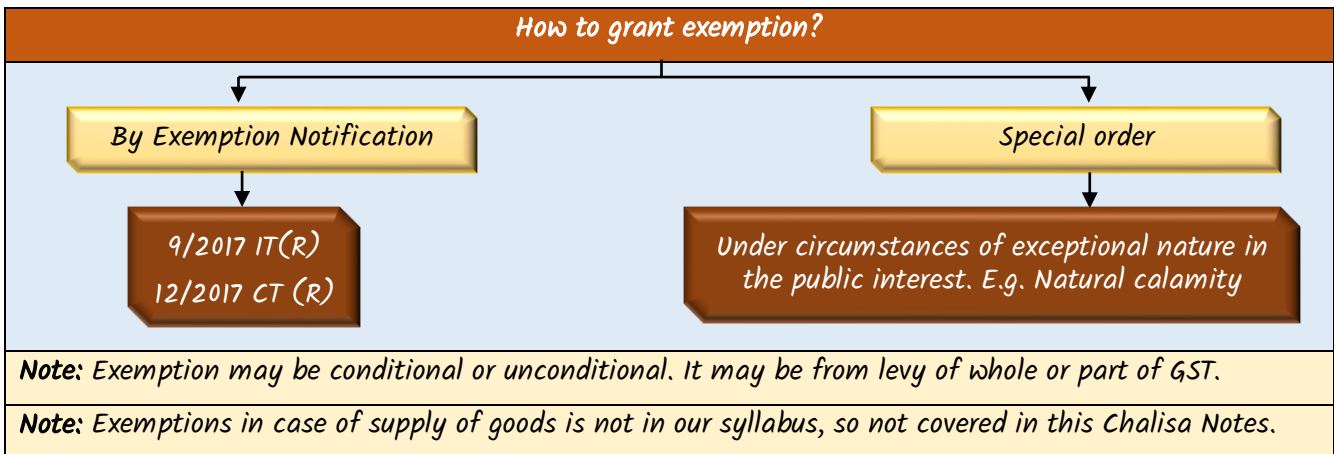
# CHAPTER 5

## EXEMPTIONS FROM GST

### 1. EXEMPT SUPPLY

Nil Rate of Tax	Wholly Exempt	Non-Taxable Supply
<p>Under GST Law, comprehensive approach is followed while levying GST on supply of Goods/ Services/ both. All goods/ services falling within definition of supply u/s 7 are subject to GST,</p> <ul style="list-style-type: none"> <li>➤ unless exempted by Govt.,</li> <li>➤ on recommendation of GST Council,</li> <li>➤ by way of Exemption Notification or Special Order.</li> </ul>		

### 2. SECTION 11 OF CGST ACT GRANTS POWER TO GOVT. TO EXEMPT GOODS/SERVICES FROM GST



### 3. GOVERNMENT SERVICES: GENERAL LAW – GOVT. SERVICES ARE EXEMPT. HOWEVER,

<p><b>Government Services w.r.t. are taxable</b></p>	→ Post office to a person other than CG/ SG/ UT (1 exception)
	→ Airport/ Port
	→ Renting to Business entity irrespective of Turnover of business entity
	→ Transportation of goods/ passengers (detailed analysis later)
	→ Service to business entity having <ul style="list-style-type: none"> <li>a) Aggregate Turnover &gt; limit u/s 22; and</li> <li>b) Value of service (single or aggregate) &gt; 5,000 in a year.</li> </ul>

**Exception:** Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) is exempt.

Other services by Post Office are taxable.

**Examples**

a) Services by Post Office in the nature of speed post, agency services, life insurance, express parcel or where weight of envelope > 10 grams etc. is taxable.

b) The Karnataka Cricket Association, Bangalore requests the Police to provide security in and around the Cricket Stadium for the purpose of conducting the cricket match for an agreed consideration.

In this case, services of providing security by the police personnel to KCA are not exempt.

KCA is liable to pay tax on the consideration paid under reverse charge mechanism.

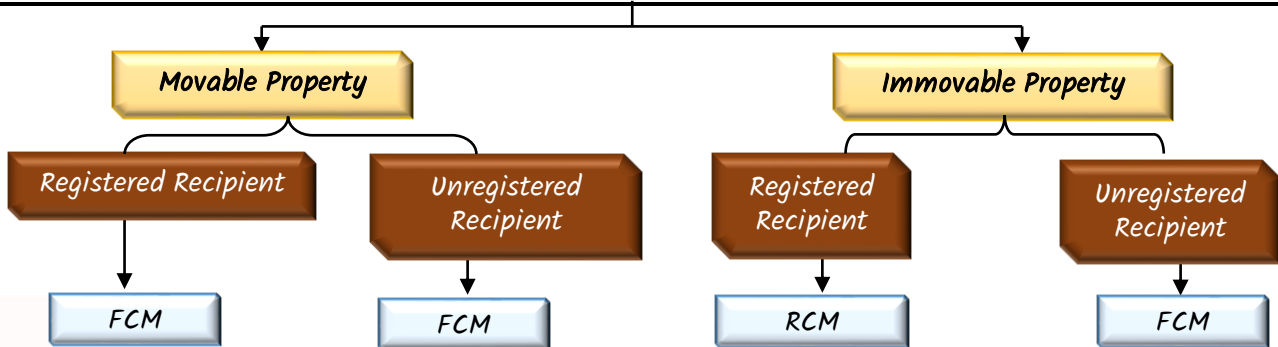
c) Service supplied by State Government to their undertakings or PSUs by way of guaranteeing loans taken by them is specifically exempt

d) Accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are exempt as it qualifies to be considered as services supplied by Government.

**Taxability of PARTS – Nature**

<b>P</b>	Always taxable under forward charge mechanism	<b>S</b>	Always taxable under RCM
<b>A</b>		<b>R</b>	Taxable under FCM or RCM depending upon conditions
<b>T</b>			

**3.1. RENTING BY GOVERNMENT TO BUSINESS ENTITY**



For taxability of Renting under RCM = Registered Recipient (+) Immovable property. Other cases → FCM

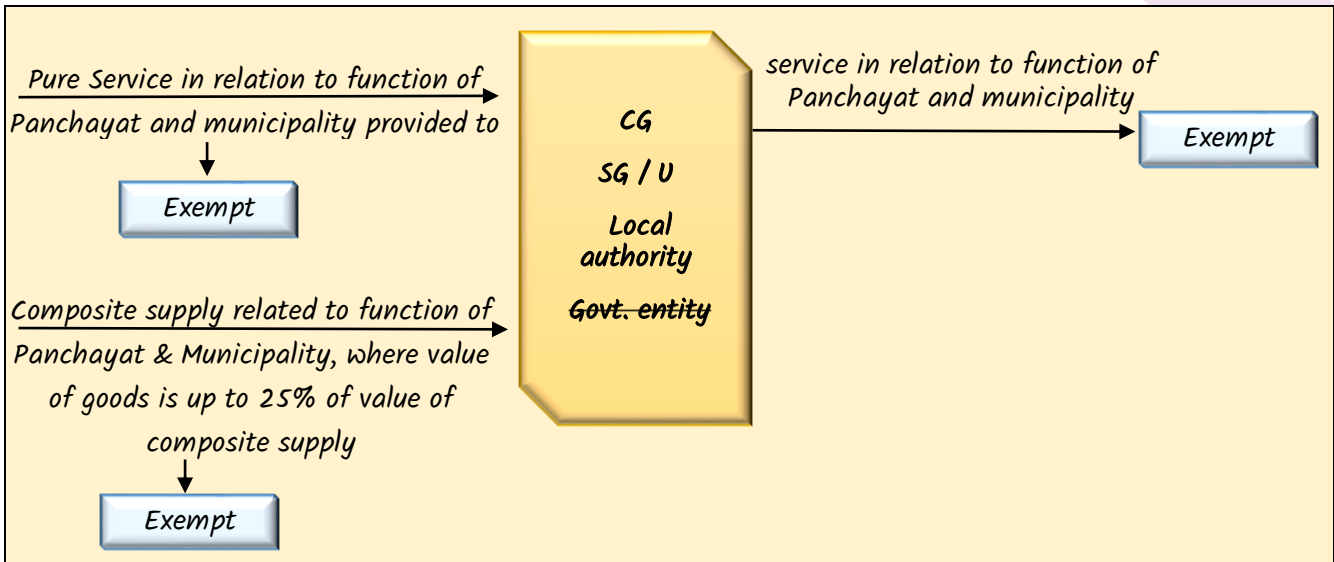
**Tolerating Non-performance of contract** → Service as per Schedule II & Taxable.

However, in case of Supplies made to Government, services [provided by Government] by way of tolerating the non-performance of contract by the supplier of service is exempt.

**Example:** Public Works Department of Karnataka entered into an agreement with M/s ABC, a construction company, for construction of its office complex by 10<sup>th</sup> July.

M/s. ABC did not complete the construction and did not handover the project by the agreed date. As per the contract, the Department asked for damages/penalty from M/s. ABC and M/s. ABC paid an amount of 10,00,000/- to the Department for non-performance of contract. Amount paid by M/s. ABC to Department is exempt from payment of tax.

### 3.2. SERVICES IN RELATION TO FUNCTIONS ENTRUSTED TO PANCHAYAT AND MUNICIPALITY BY CONSTITUTION



#### Examples:

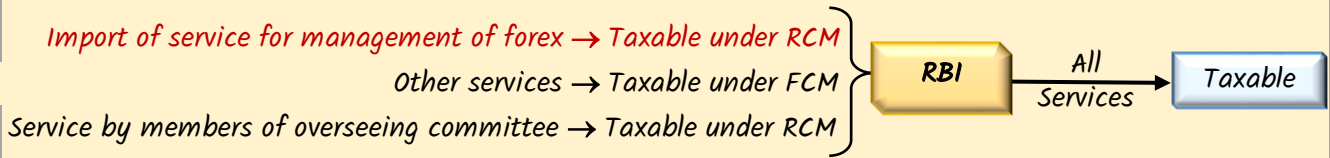
- Supply of manpower for cleanliness of roads, public places, architect services, consulting engineer services, advisory services, and like services provided by business entities not involving any supply of goods would be treated as supply of pure services.
- A governmental authority awards the work of maintenance of street-lights in a Municipal area to an agency which involves apart from maintenance, replacement of defunct lights and other spares. In this case, the scope of the service involves maintenance work and supply of goods, i.e. composite supply of goods and services. If value of goods in this is upto 25% of total value, it is exempt.

### 4. SERVICES TO GOVERNMENT [CG/SG/UT]

- Fair price shop by way of sale of Ration under Public Distribution System
  - ~~GSTN by way of implementation of GST~~
  - Sr w.r.t. training where 75% or more consideration is paid by Govt.
- Exempt

**Example:** Free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where 75% of total expenditure is borne by the Government to coaching institutions by way of grant in aid.

### 5. SERVICES RELATED TO RBI



**Note:** Essentially, all services provided to RBI or provided by RBI is now taxable.

## 6. FOOD INDUSTRY

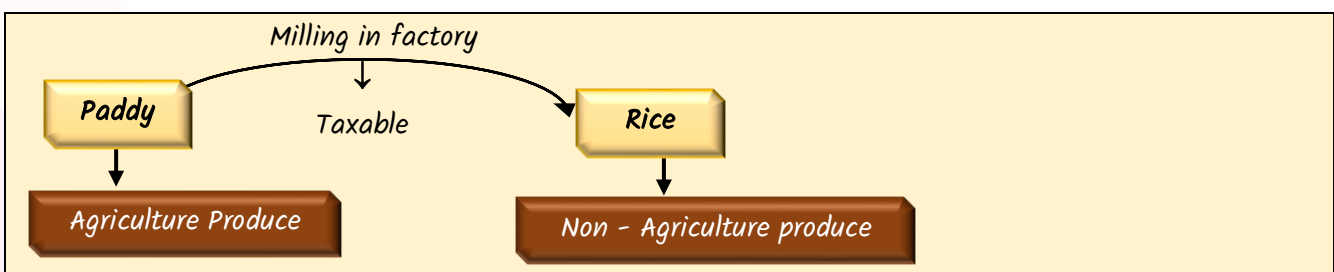
**[Agricultural services or services related to Agricultural Produce → Exempt [scope - very wide]**

- Cultivation, Ploughing, Harvesting etc done at agricultural farm.
- Renting of Agricultural equipment, Agricultural land for agricultural purposes.
- Supply of farm labor.
- Training & education/ advisory services, Kisan call centres, Kisan Melas, (Agricultural extension services)
- Services by Agricultural Produce Marketing Committee (APMC)
- Testing of seed & soil
- Loading, unloading, grading, packing of Agricultural Produce & Rice in agricultural field.
- Warehousing/storage of Agricultural Produce, Rice, cereals, pulses, vegetables and fruits ~~minor forest produce, jaggery, cotton, jute, tobacco, betel leaves, tendu leaves, coffee & tea.~~
- ~~Services by way of fumigation in a warehouse of agricultural produce.~~
- Rearing of any life form, except horses like Bee keeping, poultry farming, pisciculture etc.
- Services by way of artificial insemination of livestock (other than horses).

**Note:** Packing/ loading of pulses etc. is Taxable.

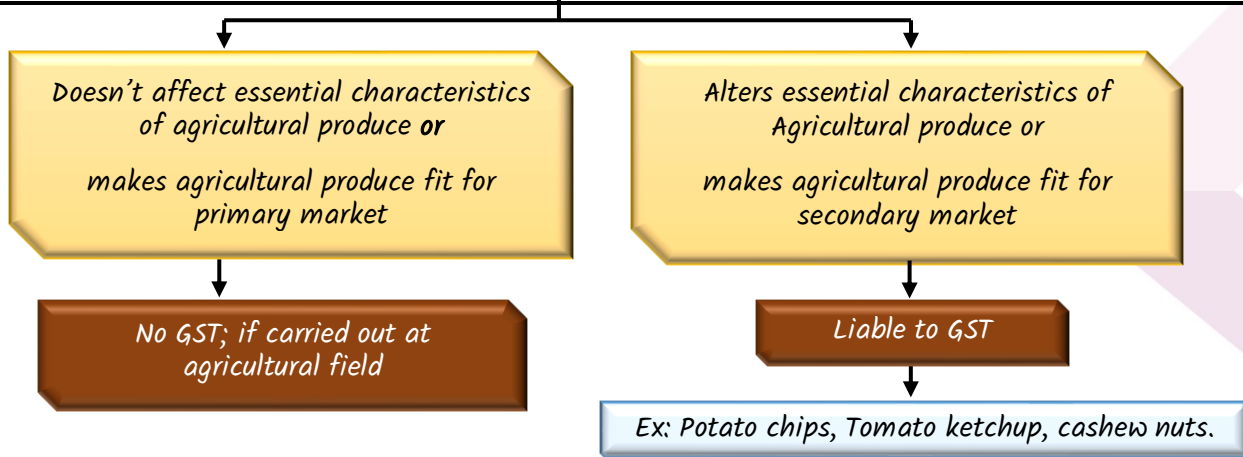
### 6.1. SPECIAL CASES

Slaughtering of Animal →	Exempt Taxable
Nursery →	DT - 100% Exempt
	GST - 100% Taxable





**6.2. PROCESS WHICH:**



**7. REGD. MEDICAL PRACTITIONER/ CLINICAL ESTABLISHMENT/ RECOGNISED SYSTEM OF MEDICINE**

Exempt Services

Ambulance service	Diagnosis, Treatment, Care	Para medic services	Cord Blood bank	Pregnancy	Plastic surgery other than cosmetic services	Animal & Bird Healthcare service - veterinary service
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**Recognized system of medicine** → Allopathy, Homeopathy, Ayurveda, Unani, Siddha, Yoga, Naturopathy.

**Note:** Pranic & Reiki are not recognized system of medicine and hence are Taxable.

**Note:** Infertility treatment using Assisted Reproductive Technology (ART) procedures such as In vitro fertilization (IVF) is also covered under the definition of health care services and is exempt.

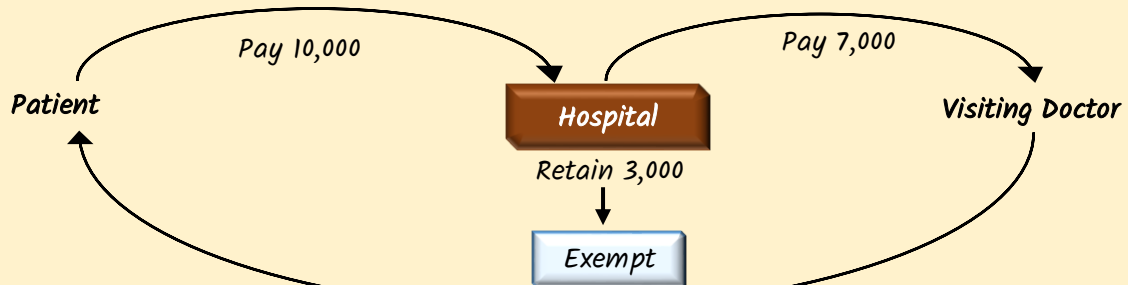
**7.1. SPECIAL CASES**

**A. Renting room of Hospital**

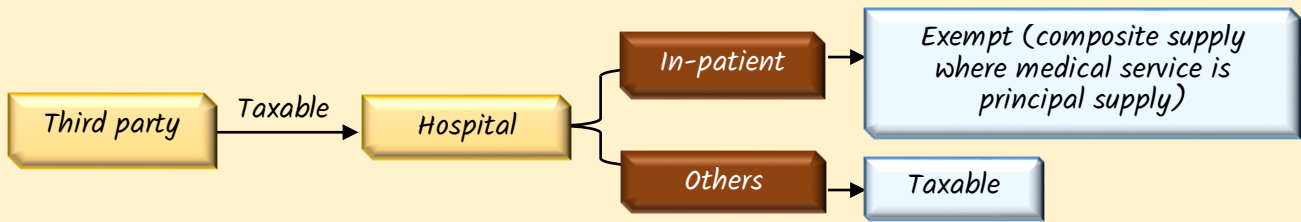
It is part of composite supply, where health care service is principal supply. Exemption is as follows:

- a) Intensive Care Unit (ICU)/ Critical Care Unit (CCU)/ Intensive Cardiac Care Unit (ICCU)/ Neo - Natal Intensive Care Unit (NICU) → **Full exemption** available irrespective of the amount of rent charges.
- b) Other Cases → Exemption available only where the rent charges don't exceed Rs. 5,000 per day.

**B. Services provided by senior doctors/ consultants/ technicians**



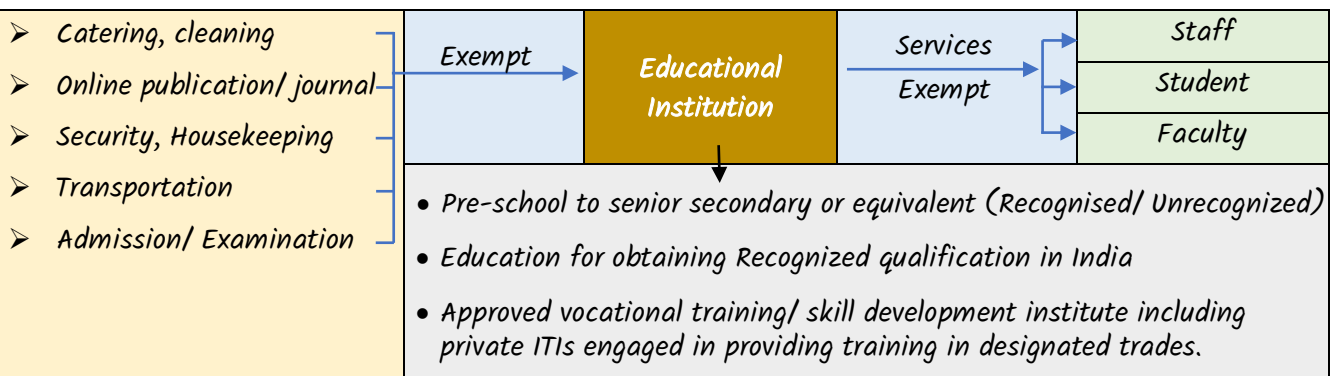
**C. Supply of food etc.**



**Note:** All services to Hospitals are taxable.

Services of disposal of bio-medical waste provided by operators of bio-medical waste treatment facility to a clinical establishment is **exempt** also taxable.

**8. EDUCATION SECTOR**



**Note:** Services provided by Educational institution by way of conduct of entrance examination against consideration in the form of entrance fee are also exempt from GST.

**Are CBSE/ State Boards/ Bodies set up by CG or SG including National Testing Agency Education Institute?**

General law → No i.e. service by them, like providing accreditation to an institution, is Taxable.

However, for limited purpose of conducting exams/ entrance exams, they are considered as Educational Institute and No GST on exam fee is charged by them.

**Indian Institute of Management:**

- Long Duration course (1 year or more) → Exempt (degree or diploma)
- Short Duration course (less than 1 year) → Taxable (certification course like Executive Development)

**8.1 College Mess**

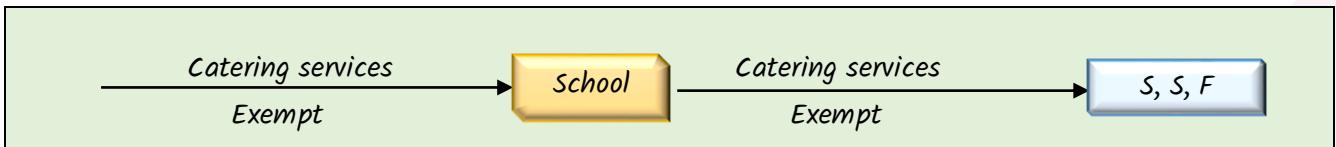
Run by Educational Institution & service provided to staff, student & faculty.

Exempt

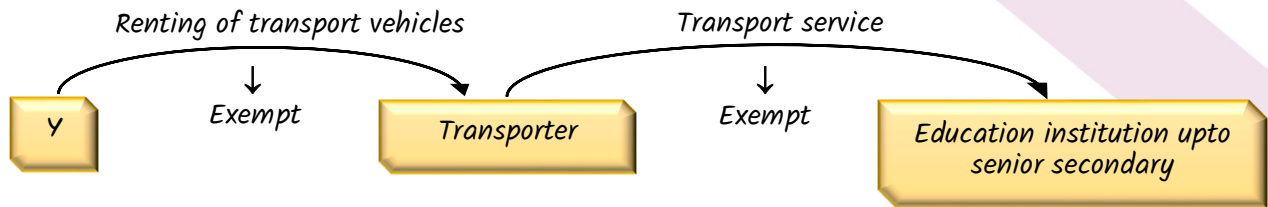
Run by anyone other than Educational Institution

Taxable

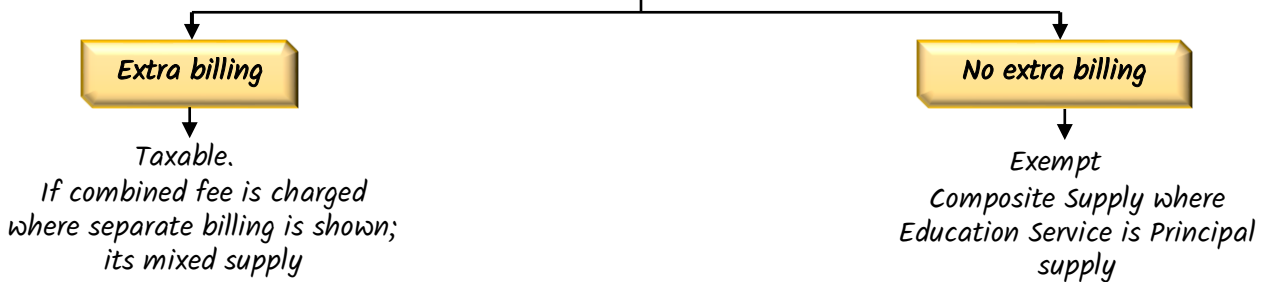




**8.2. Transportation Service**

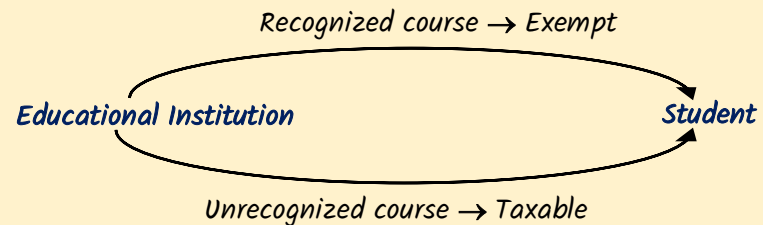


**8.3. Incidental course by way of Extra-curricular / Hobby classes**



**8.4. Miscellaneous Services related to Education Sector**

**Dual Qualification**



Recognized course → Exempt

Unrecognized course → Taxable

a) If provided separately

- Recognized course → Exempt
- Unrecognized course → Taxable

b) If provided together for single price → Mixed supply → Highest rate [Sec 8(b)]

**Boarding School** - Composite supply, where education service is principal service - Exempt.

**Note:** Service of lending of Book by public library is Exempt.

**Note:** Services by way of training or coaching in recreational activities related to arts and culture by Individual is Exempt.

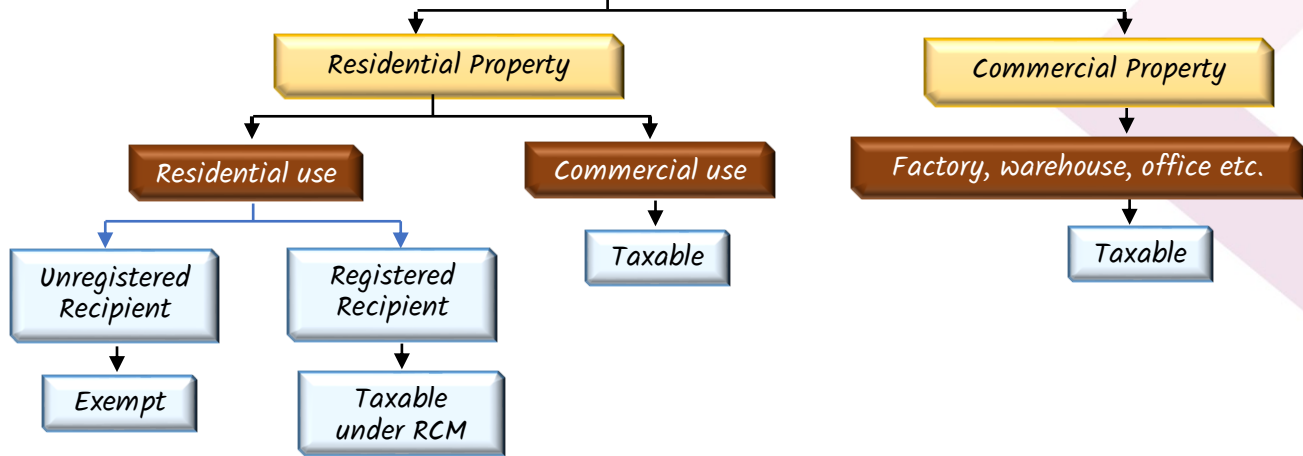
**Note:** Services by way of training or coaching in Sports by charitable Trust is Exempt.

**9. HOTEL/ INN/ GUEST HOUSE ETC. FOR BOARDING AND LODGING PURPOSE**

Value of supply upto 1,000 per night → Exempt

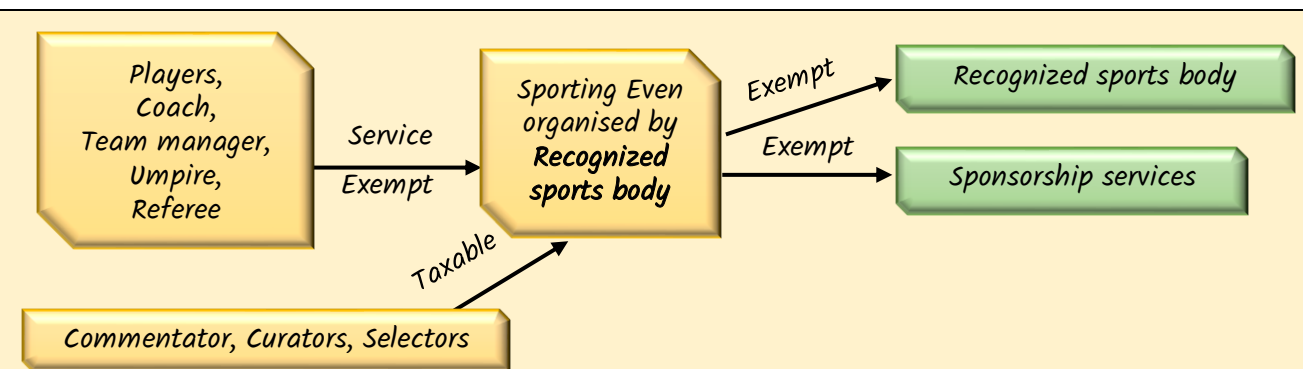
Taxable irrespective of value of supply. Thus, any renting in a commercial property is now taxable

10. RENTING



Renting of residential property for residential use is exempt. However, it is taxable under RCM if such renting is made to registered person.

11. SPORTS

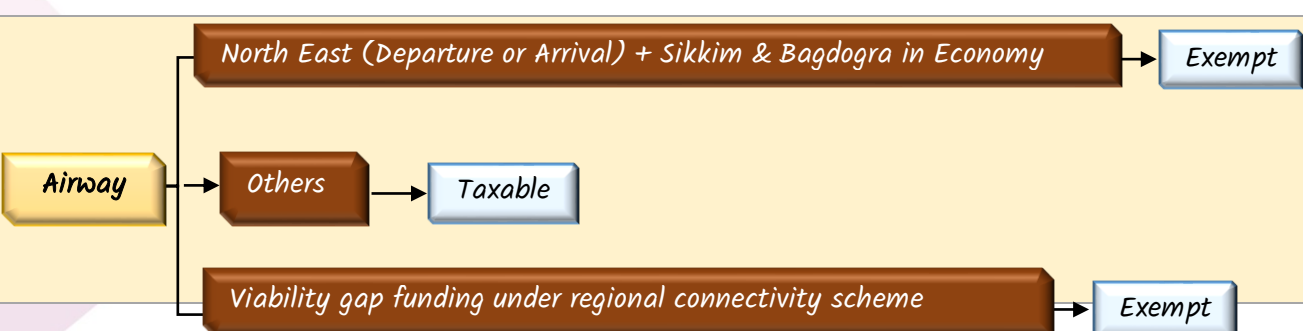


**Note:** Recognized sports body includes BCCI, IPL, Indian Hockey Federation, Boxing Federation of India Indian Olympic Association, Sports Authority of India etc.

**Note:** Franchises of IPL & other leagues are not recognized sports Body & hence service by players to them is taxable.

**Note:** Sponsorship of sports events by approved Federation/ Board/ Association like Indian Olympic Association, Association of Indian Universities or under any approved scheme is exempt.

12. TRANSPORTATION OF PASSENGER

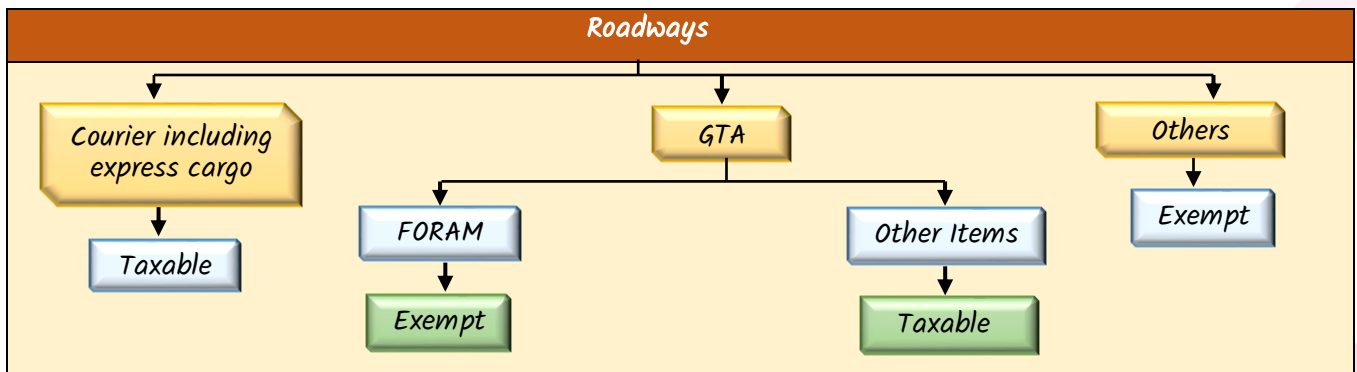




<b>Railway</b>	Air conditioned [1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> tier] or First class → Taxable
	Others → Exempt
	Metro, Tramway, Monorail → Exempt
<b>Waterway</b>	Inland waterway → Exempt
	<p>Indian ocean</p> <ul style="list-style-type: none"> <li>➤ Public transport other than mainly for tourism → Exempt</li> </ul> <p>Note: 'Public Transport' only means that the transport should be open to public. Ferry/ ship may be Government owned or private owned.</p> <ul style="list-style-type: none"> <li>➤ Predominantly for Tourism which may combine transportation, sightseeing, food &amp; beverages, music, accommodation such as in shikara, cruise etc. → Taxable</li> </ul>
<b>Roadway</b>	<p>Stage carriage / Contract Carriage</p> <ul style="list-style-type: none"> <li>➤ Non-A/c and Not for tourism → Exempt</li> <li>➤ A/c → Taxable</li> <li>➤ Tourism → Taxable</li> </ul>
	Metered Cab, Auto rickshaw, e-rickshaw → Exempt
	<p>However, in case where service of transport of Passengers by</p> <ol style="list-style-type: none"> <li>a) non-air conditioned contract carriage or by</li> <li>b) non-air conditioned stage carriage or by</li> <li>c) metered cabs or auto rickshaws (including e-rickshaws)</li> </ol> <p>are supplied through ECO, such services are not exempt from GST. In such a case, the tax on supplies of such services shall be paid by the ECO.</p>
	Radio Taxi (Ola, Uber, Meru cabs) → Taxable
	Elephant/ Camel Joy Ride → Taxable

### 13. TRANSPORTATION OF GOODS

<b>Airway</b>	Taxable
<b>Railway</b>	<ul style="list-style-type: none"> <li>▪ FORAM → Exempt</li> <li>▪ Others → Taxable</li> </ul>
<b>Waterway</b>	<ul style="list-style-type: none"> <li>▪ Inland → Exempt</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Others</li> </ul>
	<ul style="list-style-type: none"> <li>➤ FORAM → Exempt</li> <li>➤ Others → Taxable</li> </ul>



**Points to Note:**

- GTA refers to a person who provides service in relation to transport of goods by road and issues consignment note.  
If no consignment note, No GTA and such transportation services will be exempt.  
**Example:** Hari Prasad owns a truck and operates it himself. He carries the goods booked for his truck without issuance of consignment note. Services provided by Hari Prasad by way of transportation of goods by road are exempt under Entry 18 of the Notification.
- Any service by GTA to unregistered individual or unregistered CTP or Govt. is exempt. Refer Ch 3.
- Services of granting National Permit to a goods carriage to operate through-out India is exempt.
- GTA services includes not only actual transportation of goods, but also various ancillary services, such as loading/ unloading, packing/ unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods. (composite supply)

F	Food grains including rice, pulses, flours, milk & salt.
O	Organic manure
R	Relief material, <del>Railway Equipment</del>
A	Agricultural produce
M	Military/ defense, Magazine/ Newspapers

**14. SERVICES BY WAY OF GIVING ON HIRE**

- to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers; or
- to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers; Routes, Timings etc. may or may not be decided by State Transport Undertaking/Local Authority.
- to a goods transport agency, a means of transportation of goods.

**Example:** Nishant owns a truck which he has rented to a GTA. Services by way of giving on hire a means of transportation of goods [truck in the given case] to a GTA, are exempt from tax.

However, if Nishant had rented a vehicle designed to carry passengers, it will be taxable.

**15. CHARITABLE TRUST**

Registered u/s 12AA of Income Tax Act (+) Engaged in charitable activities of

P	Public Health [care or counselling of terminally ill person or with person severe disability or drugs/alcohol addiction, HIV affected + Public awareness + Family planning]
H	
R	Advancement of Religion/ spirituality/ yoga
E	Advancement of Education/ skill development for abandoned, orphaned or homeless children, physically or mentally abused persons, prisoners or citizen above 65 years in rural areas
E	Preservation of Environment including wildlife

**Note:** Grant of advertising rights to a person on the premises of the charitable/religious trust or similar money earning activities not related to charitable work mentioned above would attract GST.

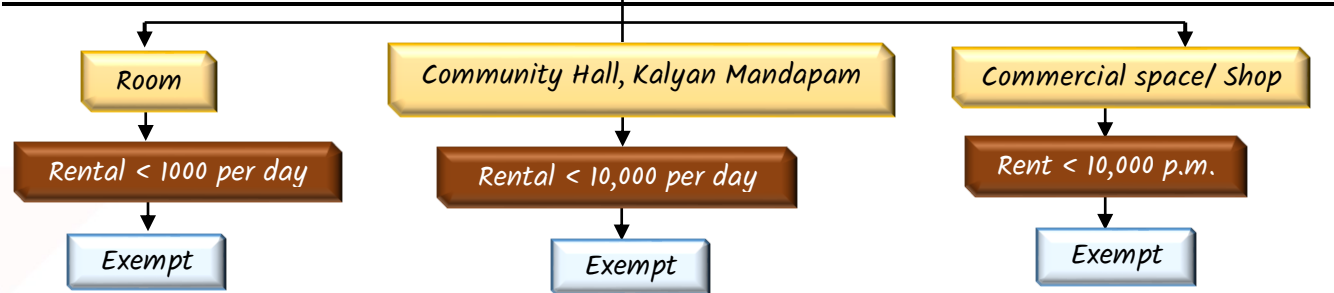
**Example:** Shiksha Academy, an educational institute run by a Trust, has organized a Skill Development Programme for old age people over age of 65 years residing in Bangalore city (urban area) → Taxable

Charitable Trust	→ Arranging yoga/ Meditation - <b>Exempt</b>
	→ Residential programmer for yoga/ meditation - <b>Exempt</b>
	→ Training in sports - <b>Exempt</b>
	→ Religious yatra or Pilgrimage - <b>Taxable</b>
	→ Religious Pilgrimage facilitated by Govt. under bilateral arrangement [Haj committee & KMVN (Kumaon Mandal Vikas Nigam)] - <b>Exempt</b>
	→ Hostel accommodation - <b>Taxable</b>
	→ Fitness camp or classes in aerobics - <b>Taxable</b>
	→ Religious ceremony including religious pooja - <b>Exempt</b>

**Note:** Services by way of training or coaching in recreational activities related to arts and culture by charitable Trust is Taxable.  
If such services are provided by Individuals, it is Exempt.

**Note:** Services provided to charitable/ religious trusts are taxable. However, import of services are exempt.

**15.1. RENTING OF RELIGIOUS PREMISES BY REGISTERED CHARITABLE OR RELIGIOUS TRUST**



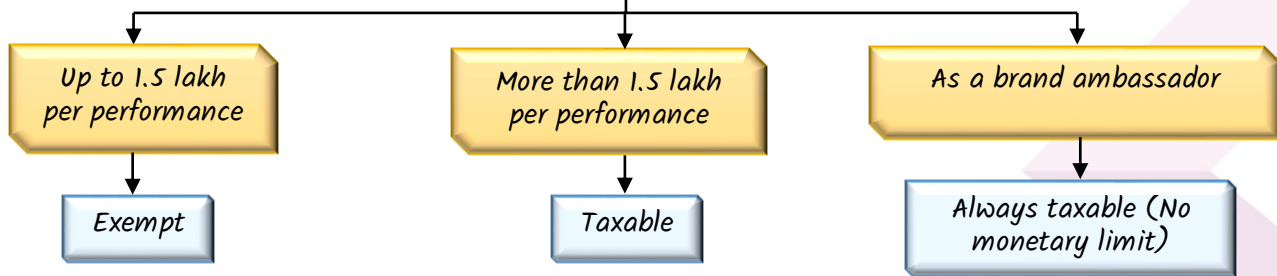
**15.2. SERVICES OF BOARDING / LODGING AND MAINTENANCE OF RESIDENT SENIOR CITIZEN**

By CG, SG or Charitable Trust + Upto 25,000 per month per member → Exempt

**Illustrations**

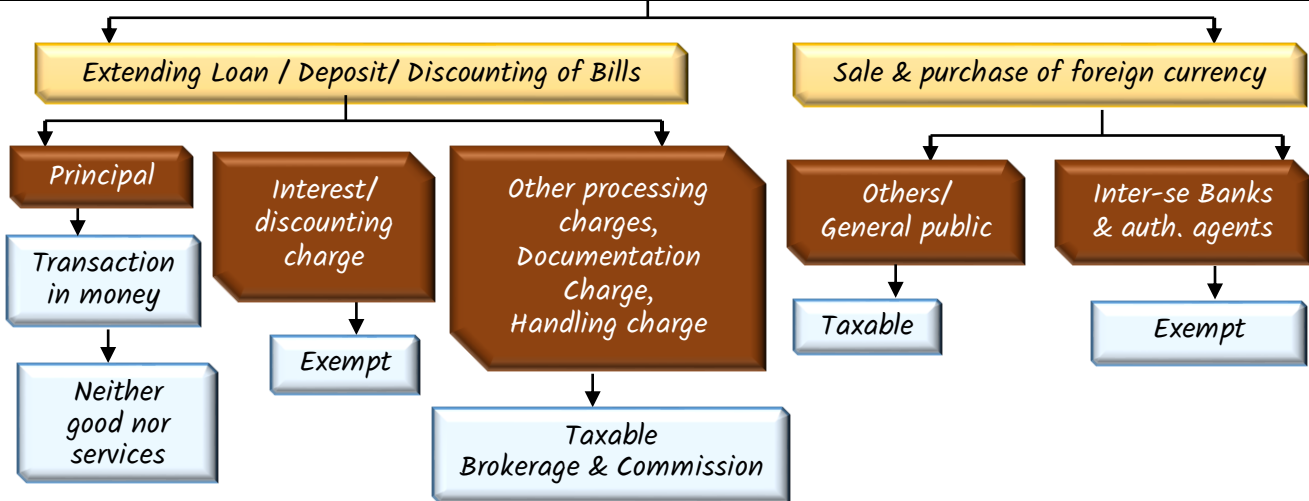
KK Ltd. provides above services @ 20,000 per month per member → Taxable

**16. ARTIST PERFORMANCE IN FOLK OR CLASSICAL ART FORM (MUSIC, DANCE) → CONSIDERATION**



Performance on Bollywood songs, Salsa, Jazz etc. → Taxable

**17. FINANCIAL TRANSACTIONS**



**Note:**

- a) Every type of Interest is Exempt viz. fixed deposit, overdraft, cash credit, corporate deposit. However, Interest on credit card is Taxable.
- b) Bouncing of cheque or Penal charge for non-maintenance of minimum balance → Taxable.

**Note:** Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY) is exempt.

**Note:** Services by an acquiring bank, to any person in relation to

- settlement of an amount upto 2,000 in a single transaction
- transacted through credit card, debit card, charge card or other payment card service.

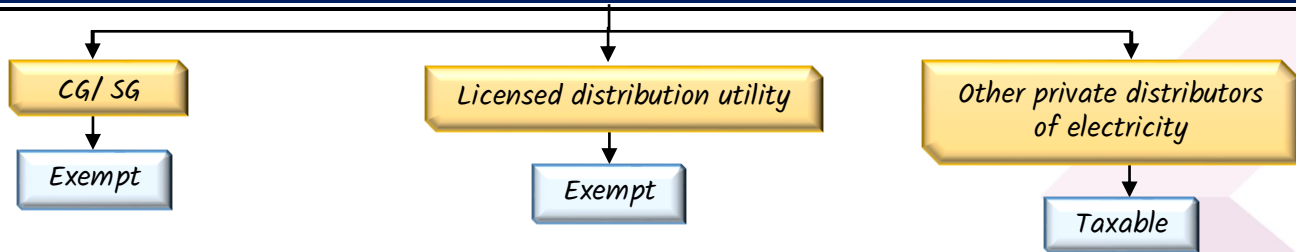
**Additional/ penal interest on the overdue loan:**

**Case 1:** Where loan/credit facility is provided by supplier of goods/services to recipient → Delayed charges/penal interest are covered u/s 15 and forms part of VoS and is taxable.

**Case 2:** Where loan/credit facility is provided by third party (Banks/NBFC) to recipient → Delayed charges are covered by exemption notification.



## 18. ELECTRICITY



### Taxability of Fixed charges for power

The price charged for electricity has two components, namely, a minimum fixed charge (or capacity charge) and variable per unit charge.

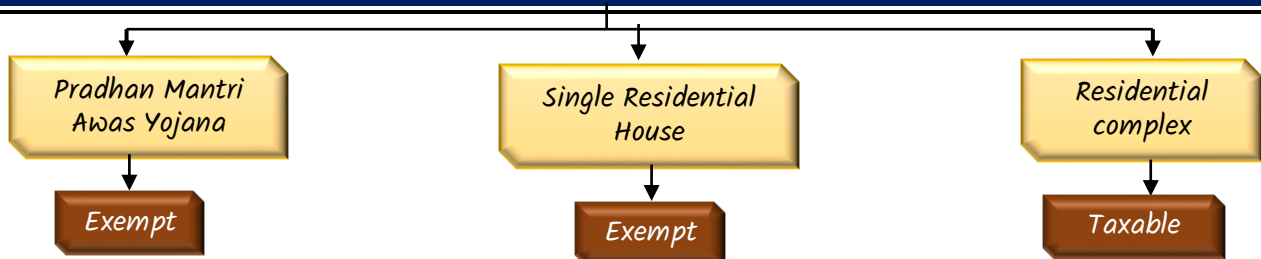
Both the components of the price, the minimum fixed charges/ capacity charges and the variable/ energy charges are charged for sale of electricity and are thus not taxable as electricity is exempt from GST.

Add on services are taxable and includes:

- i) Application fee for releasing connection of electricity;
- ii) Rental Charges against metering equipment;
- iii) Testing fee for meters/transformers, capacitors etc.;
- iv) Labour charges from customers for shifting of meters or shifting of service lines;
- v) charges for duplicate bill

**Note:** Services supplied by Electricity Distribution Utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use → Exempt

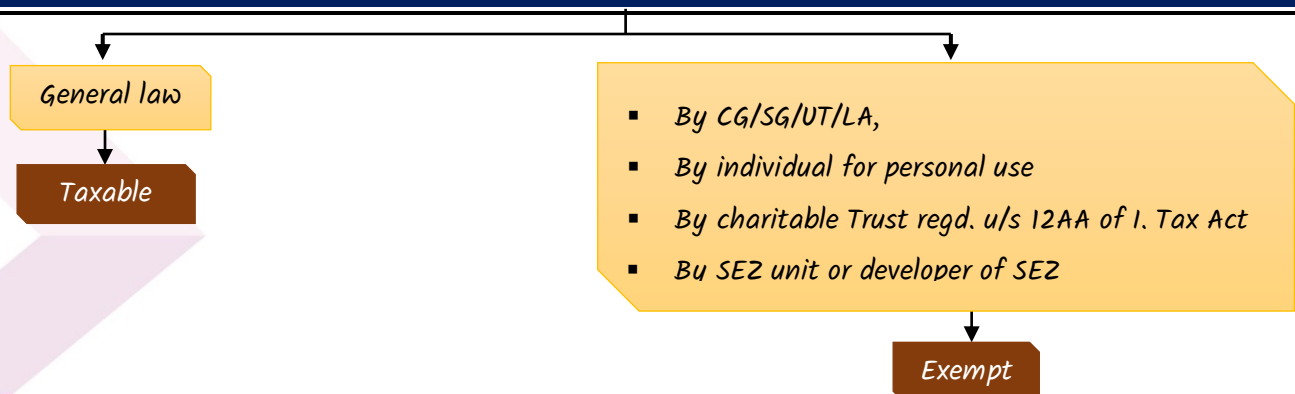
## 19. PURE LABOUR CONTRACT SERVICES W.R.T. CONSTRUCTION



**Note:** Works contract services [Material + Labor] is taxable in all cases.

**Note:** Pure labour services availed for renovation/ reconstruction → Taxable

## 20. IMPORT OF SERVICES



## 21. RIGHT TO ADMISSION TO VARIOUS EVENTS TO

- a) Museum, Protected Monument, National Park, Wildlife Sanctuary, Tiger Reserve or Zoo;
- b) Planetarium, Circus, Dance or theatrical performance including drama or ballet;
- c) Award function, Concert, Pageant, Musical performance or any sporting event;  
provided consideration for admission is upto INR 500 per person as referred to in (b) and (c) above.

**Note:** Services by way of admission to entertainment events or access to amusement facilities including casinos, race-course is liable to GST.

## 22. SERVICES BY AN UNINCORPORATED BODY OR A NON-PROFIT ENTITY

to its own members by way of reimbursement of charges or share of contribution –

- i) as a trade union;
- ii) up to an amount of INR 7,500 per member per month for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.

### Points to Note:

- a) Statutory dues such as property tax, electricity charges etc. forming part of the monthly maintenance bill raised by RWA on its members would be excluded from monthly limit of INR 7,500.
- b) RWA is required to charge GST only if its aggregate turnover exceeds threshold limit for registration.
- c) If the monthly bill exceeds 7,500, GST would be applicable on entire amount.

**Example:** DLF RWA charges 9,000 from its members p.m. as maintenance charges. This includes 400 as municipal tax.

Taxable amount is  $9000 - 400 = 8,600$ .

**Example:** The turnover of a RWA in Delhi in a FY is INR 15 lakh. It has collected the maintenance charges of 8,000 per month per member. In this case, RWA is not required to take registration under GST since its aggregate turnover is less than the applicable threshold limit of 20 lakhs. (limit is 10 lakhs in MMNT). No GST in such case.

**Crux:** For taxability → RWA Turnover should exceed threshold limit + Member contribution (net of statutory dues) should exceed 7,500 per month per member

engaged in,

- a) activities relating to the welfare of industrial or agricultural labour or farmers; or
- b) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,

to its own members against consideration in the form of membership fee upto an amount of INR 1000/- per member per year.

## 23. SERVICE BY TOUR OPERATOR

Indian Tourist (+) Indian/ Foreign Tour → Taxable

Foreign Tourist (+) Indian Tour → Taxable

Foreign Tourist (+) Foreign Tour → Exempt

**What about Tour operator service, which is performed partly in India and partly outside India?**

In such case, value of the tour operator service which is performed **outside India** is exempt.

The value of the tour operator service performed outside India shall be lower of the following two figures:

- a) Total consideration charged for the entire tour x Number of days for which the tour is performed outside India/ Total Numbers of days comprising the tour; and
- b) 50% of the total consideration charged for the entire tour.

While making the above calculations, any duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day.

**Illustrations**

S. No.	Particulars	Exemption
1.	Tour of 5 days (3 days in India, 2 days in Cyprus); consideration charged for the entire tour is Rs 2 L	<p>Lower of the following two figures is exempt:</p> <ul style="list-style-type: none"> <li>• 50% of Rs 2 L = Rs 1,00,000</li> <li>• <math>2\text{ L} \times 2/5 = \text{Rs } 80,000</math></li> </ul> <p>Exempted amount = 80,000 Taxable amount = 1,20,000</p>
2.	Tour of 5 days (2 days in India, 3 nights in Cyprus); Consideration charged for the entire tour in Rs 2 L	<p>Lower of the following two Figures:</p> <ul style="list-style-type: none"> <li>• 50% of Rs 2 L = Rs 1,00,000</li> <li>• <math>2\text{ L} \times 3/5 = \text{Rs } 1,20,000</math></li> </ul> <p>Exempted amount = 1,00,000 Taxable amount = 1,00,000</p>
3.	Tour of 5.5 days (2.5 days in India, 3 nights in Cyprus); Consideration charged for the entire tour is Rs 2 L	<p>Lower of the following two figures:</p> <ul style="list-style-type: none"> <li>• 50% of Rs 2 L = Rs 1,00,000</li> <li>• <math>2\text{ L} \times 3/5.5 = \text{Rs } 1,09,090</math></li> </ul> <p>Exempted amount = Rs 1,00,000 Taxable amount = Rs. 1,00,000</p>

**24. MISCELLANEOUS**

i) Services by an organiser to any person in respect of a business exhibition held outside India.

ii) Services by

- business facilitator or a business correspondent to Bank w.r.t. accounts in its rural area branch;
- any person as an intermediary to a business facilitator or a business correspondent w.r.t. services mentioned in entry (a); or
- business facilitator or a business correspondent to an insurance company in a rural area.

iii) Service by way of access to a road or a bridge on payment of toll charges ~~or annuity~~.

Similarly, annuity (deferred payments) paid for construction of roads is also taxable.

iv) Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States.

v) Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or

<i>New Space India Limited.</i>
<i>vi) Services by way of transfer of a going concern, as a whole or an independent part thereof.</i>
<i>vii) Services by way of providing information under the RTI Act (Right to Information Act, 2005).</i>
<i>viii) Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.</i>
<i>ix) Services by a foreign diplomatic mission located in India.</i>
<i>x) Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).</i>
<i>xi) Services by specified bodies like</i> <ul style="list-style-type: none"> <li>➤ <i>Employees' State Insurance Corporation,</i></li> <li>➤ <i>Employees Provident Fund Organisation,</i></li> <li>➤ <i>National Pension System (NPS) Trust,</i></li> <li>➤ <del><i>IRDAI (Insurance Regulatory and Development Authority of India),</i></del></li> <li>➤ <del><i>SEBI (Securities and Exchange Board of India),</i></del></li> <li>➤ <i>National Centre for Cold Chain Development.</i></li> </ul>
<i>xii) Life insurance / General Insurance / Pension service under any scheme.</i>
<i>xiii) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.</i>
<i>xiv) Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).</i>
<del><i>xv) Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.</i></del>
<i>xvi) Any services by Central Government, State Government, Union territory under any scheme or yojana is exempt.</i>
<i>xvii) Any other services supplied by Central Government, State Government, Union territory is exempt unless taxable above.</i>
<i>xviii) Services provided by an incubatee up to a total turnover of 50 lakh in a financial year subject to the following conditions, namely:-</i> <ul style="list-style-type: none"> <li><i>a) the total turnover had not exceeded 50 lakhs during the preceding financial year; and</i></li> <li><i>b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee.</i></li> </ul>

## **25. CERTAIN CLARIFICATIONS**

<b>Services</b>	<b>Clarifications</b>
<i>Supply of food in Anganwadis and schools</i>	<p><i>Any catering service provided to an educational institution is exempt from GST and it includes mid- day meal service also.</i></p> <p><i>An Anganwadis provides pre-school non-formal education. Hence, Anganwadis is an educational institution (as pre- school).</i></p> <p><i>Further, services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations.</i></p>



	<p>Hence, serving of food to Anganwadis shall also be covered by said exemption, whether sponsored by government or through donation from corporates.</p>
<p>Hiring of vehicles by firms for transportation of their employees to and from work</p>	<p>Passenger transportation services by non air-conditioned contract carriages where transportation takes place over pre-determined route on a pre-determined schedule shall be exempt.</p> <p>However, exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at disposal of service recipient and the recipient is free to decide the manner of usage (route and schedule).</p>
<p>GST on overloading charges at toll plaza</p>	<p>Overloaded vehicles to ply on the national highways after payment of higher toll charges. It has been clarified that overloading charges at toll plazas would get the same treatment as given to toll charges.</p>
<p>GST on additional fee collected for not having Fastag</p>	<p>Additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.</p>
<p>Services provided by the guest anchors in lieu of honorarium</p>	<p>No employer-employee contract, hence its taxable.</p> <p>However, guest anchors whose aggregate turnover in a financial year does not exceed 20 lakh (10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.</p>
<p>Transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver</p>	<p>Entry 18 which exempts transport of goods by road except by a GTA.</p> <p>However, usually in such cases the vehicles such as tippers, dumpers, loader, trucks etc., are given on hire to the mining lease operator.</p> <p>Such services are nothing but “rental services of transport vehicles with operator”. The person who takes the vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations.</p> <p>The person who gives the vehicles on rent with operator cannot be said to be supplying the service by way of transport of goods.</p> <p>Accordingly, it is clarified that such renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator and not service of transportation of goods by road. Consequently, it is not eligible for exemption</p>

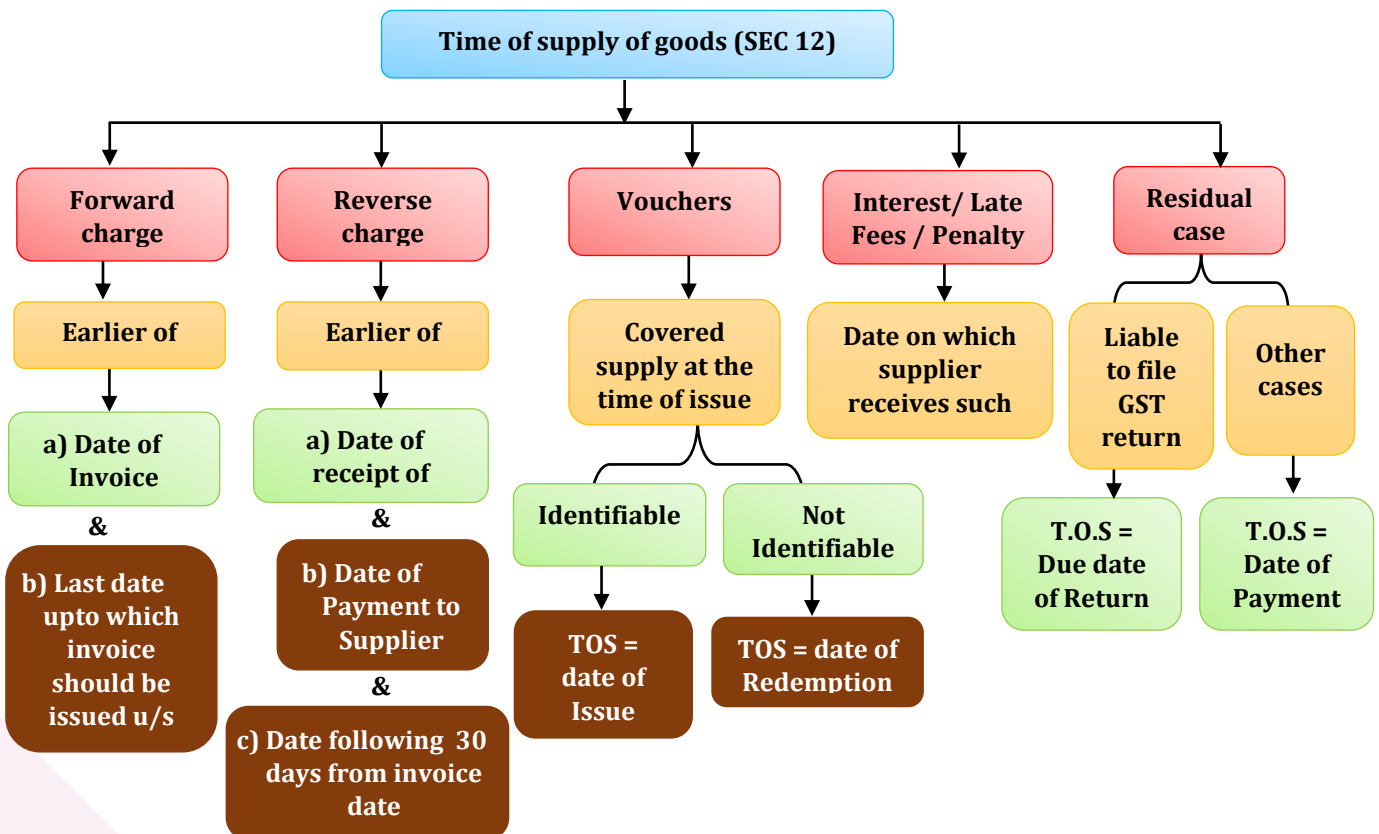
# CHAPTER 6

## TIME OF SUPPLY

### 1. INTRODUCTION

- Time of supply (ToS) determines the point in time when liability to pay GST arises.
- GST shall be paid on 20<sup>th</sup> of month following the tax period in which ToS falls. [Refer Ch. 10 & 11]
- CGST Act provides separate provisions for ToS for goods and services under sections 12 & 13 respectively.

### 2. TIME OF SUPPLY OF GOODS [SEC 12]



- As per Notification No. 66/2017, ToS of Goods under FCM is determined as per section 12(2)(a). Hence, no GST is payable on advance received by supplier. Entire GST is payable only when the invoice for the supply of such goods is issued or ought to have been issued u/s 31.
- The relief of not paying GST at the time of receipt of advance is available only in case of supply of goods under forward charge.

In other cases, like supply of goods under RCM or supply of service under FCM or RCM, GST is payable on advance received.

- In case of supply of goods under Reverse charge, where it is not possible to determine the ToS as mentioned above, the ToS shall be the date of entry in the books of account of the recipient of supply.

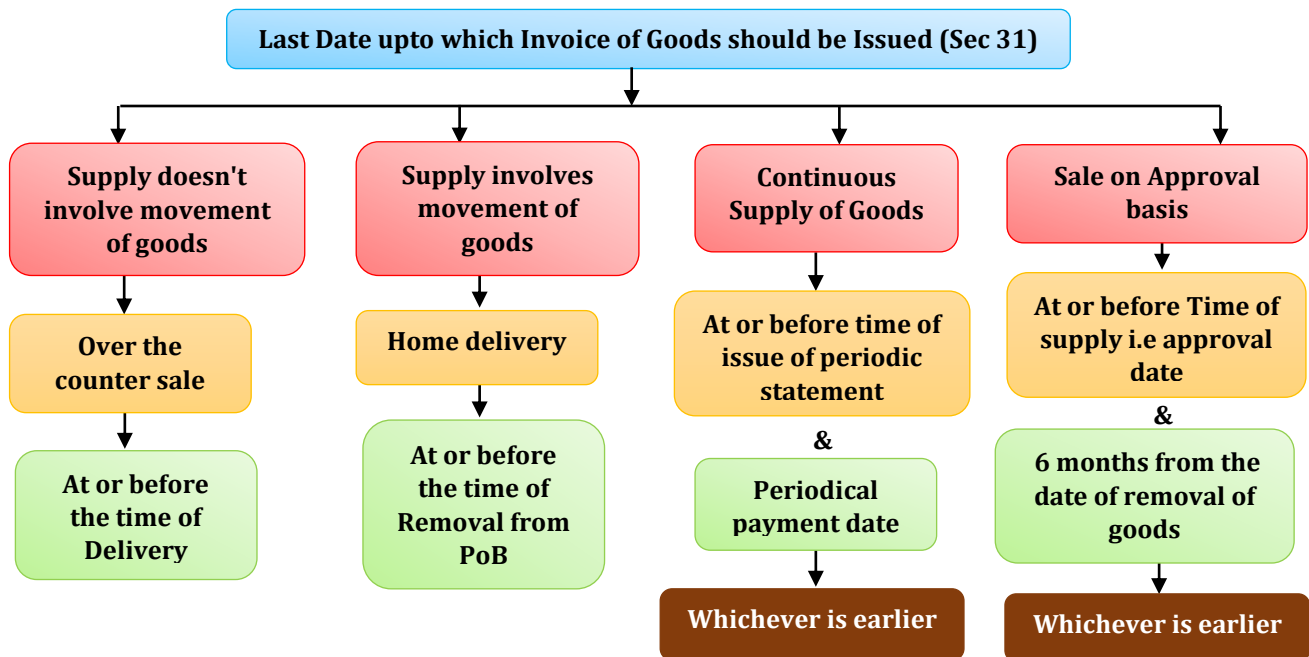
**Example**

A Ltd. enters into an agreement with B Ltd. to supply 100 kg of raw material. However, A Ltd. supplies only 80 kg of raw material and issues the invoice for the same. Here, the supply would be deemed to have been made in respect of 80 kg of raw material, i.e. **to the extent covered by the invoice**. Therefore, the provisions relating to ToS will be applicable to supply of 80 kg of raw material & not for entire 100 kg of raw material.

**Notes: Interest/ Late Fee/ penalty**

- If interest is waived off → No GST
- ToS of goods/ services shall be different than ToS of interest/ late fee etc.
- Interest shall be considered inclusive GST, unless otherwise specified in question.

**2.1. LAST DATE UP TO WHICH INVOICE OF GOODS SHOULD BE ISSUED [SEC 31]**



**Example**

Sphinx Pvt. Ltd. enters into a contract for supply of 100 office chairs @ INR 15,000 with Joy Sales on 21<sup>st</sup> August. Chairs are removed from the warehouse of Sphinx Pvt. Ltd. on 5<sup>th</sup> September along with the invoice of even date. Joy Sales has paid 30% of the total contract value on 21<sup>st</sup> August; balance 70% is paid after delivery of chairs on 10<sup>th</sup> September.

Since the invoice is issued on the date of removal of goods, it is issued within the prescribed time limit and hence, ToS for payment of tax on entire contract value of INR 15,00,000 is the date of issue of invoice, i.e. 5<sup>th</sup> September. No GST will be payable on advance of INR 4,50,000 received on 21<sup>st</sup> August.

**Continuous supply of goods:** means [Section 2(32):

- A supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis
- under a contract for which the supplier invoices the recipient on a regular or periodic basis; and
- includes supply of such goods as the Govt. may, by notification, specify.

**Example:**

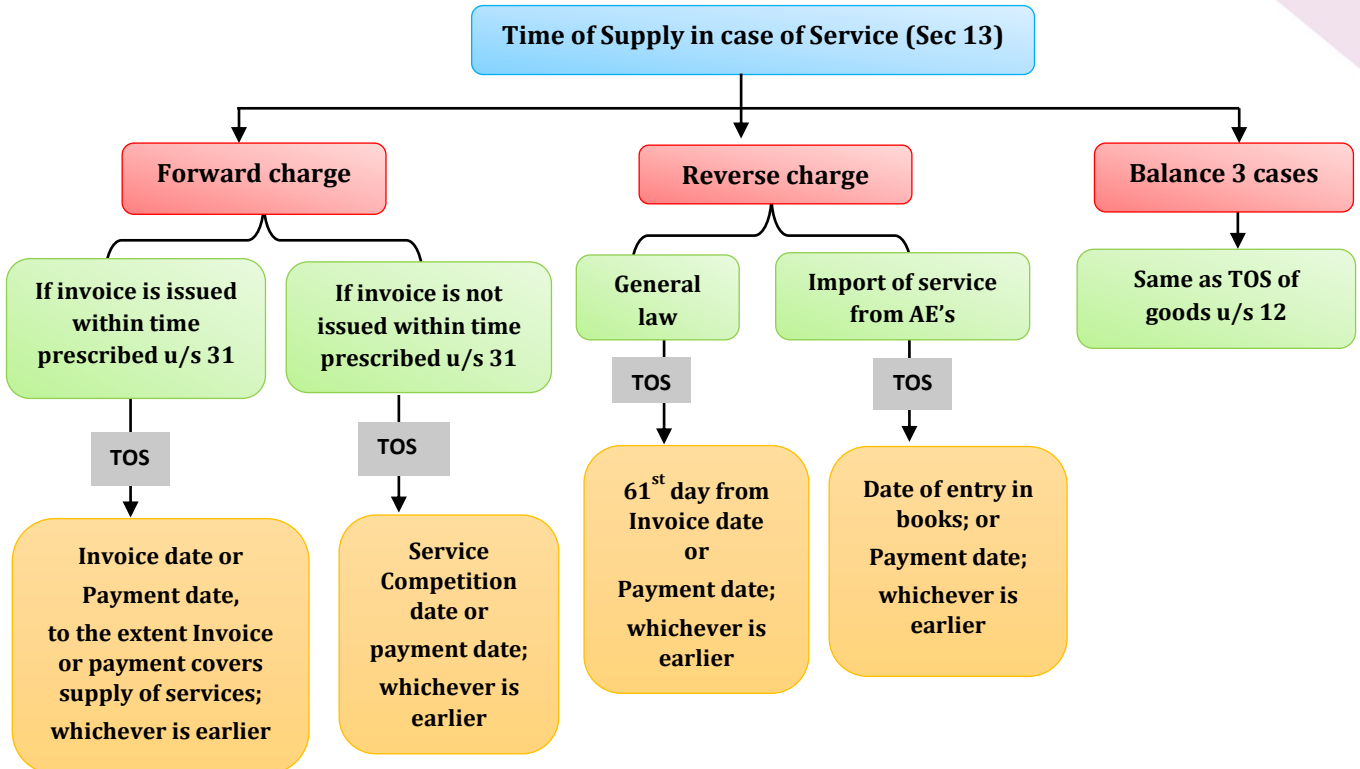
ABC enters into a contract to buy 10,000 cement bags from Shyam Cement Limited over the period of next one year starting from May 2022.

On 01/06/2022; Shyam Cement Limited issued periodical statement of delivery of 1500 bags.

On 10/06/2022; Shyam received payment w.r.t. 1500 bags.

In this case, as per section 31, invoice for 1500 bags of cement should be issued on 01/06/2022. ToS u/s 12 shall also be 01/06/2022.

**3. TIME OF SUPPLY OF SERVICE [SEC 13]**



**Points to Note:**

- a) Under FCM, “Date of receipt of payment” refers to the date on which payment is recorded in books of supplier, or the date on which payment is credited to supplier’s bank account, whichever is earlier.
- b) Under RCM, “Date of payment” refers to the date on which payment is recorded in books of recipient, or the date on which payment is debited from recipient’s bank account, whichever is earlier.
- c) **Significance of “to the extent the invoice or payment covers the supply of services”**  
If a part of the consideration is paid in advance or invoice is issued for part payment, ToS will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part payment and time of supply shall be determined accordingly.
- d) **What if payment is in cash? →**
- e) In case of supply of service under FCM or RCM, where it is not possible to determine the ToS as mentioned above, ToS shall be the **date of entry in the books of account of the recipient of supply.**

**Illustrations**

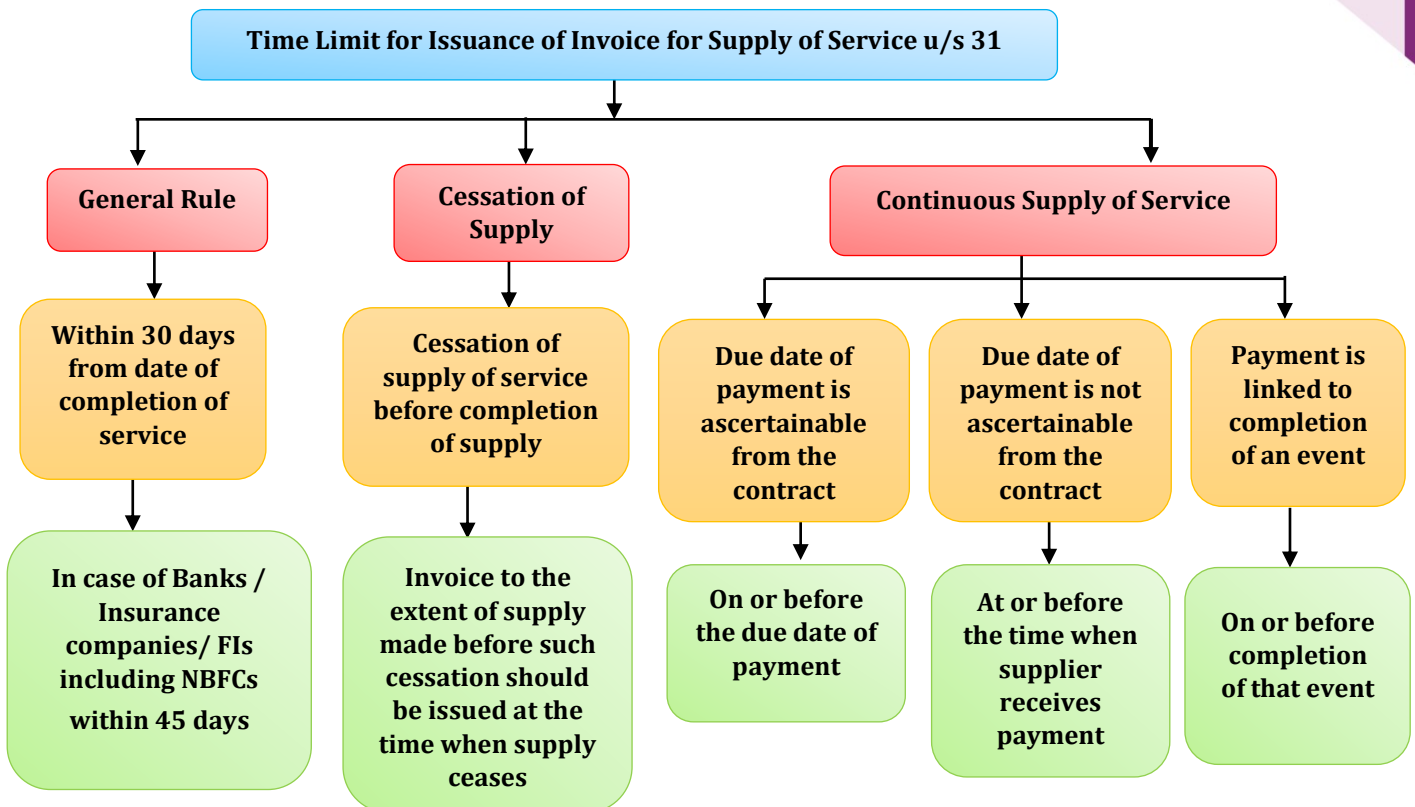
S No.	Date of completion of service	Date of invoice	Date on which payment is received	Time of Supply
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**Illustrations**

S No.	Date of completion of service	Date of invoice	Date on which payment is received	Time of Supply
1	Sep 5	Sep 28	Oct 10	
2	Sep 5	Oct 03	Sep 20	
3	Sep 5	Oct 08	Sep 25	
4	Sep 5	Oct 08	Amount received partly on Sep 3 & remaining on Sep 20	

**3.1. LAST DATE UPTO WHICH INVOICE OF SERVICE SHOULD BE ISSUED [SEC 31]**

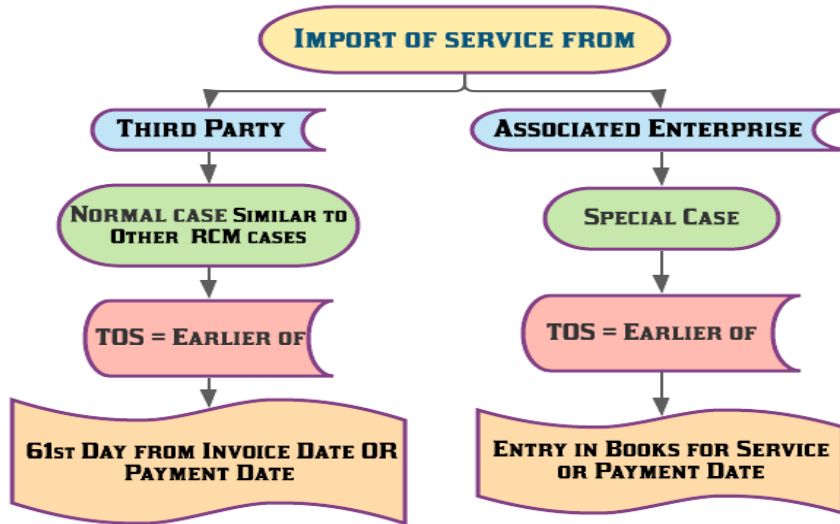


**Note:** In case of insurance companies/ banking companies/ financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies between distinct persons u/s 25, invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made.

**Continuous supply of services means [Section 2(33)]**

- supply of services which is provided, or agreed to be provided, continuously or on recurrent basis
- under a contract for a period exceeding 3 months with periodic payment obligations and
- includes supply of such services as the Govt. may, by notification, specify.

**3.2. SPECIAL CASE: TOS IN CASE OF IMPORT OF SERVICE**



**Illustration:**

Determine ToS. Infosys India imported services from Google US.

Date of provision of service → 5/8

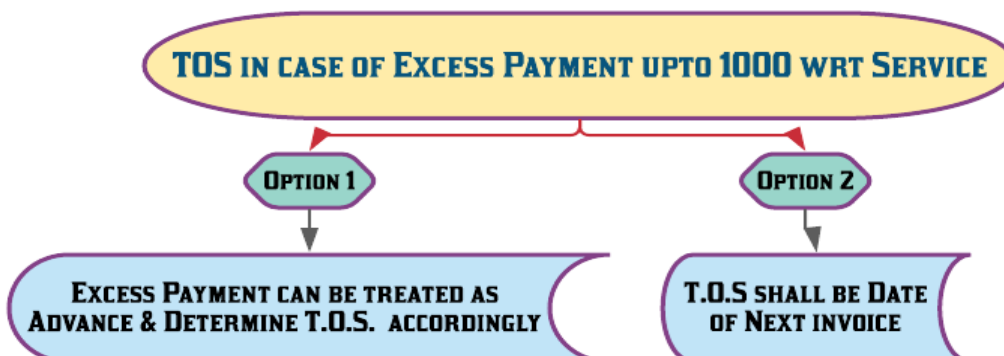
Date of Invoice → 10/8

Date of Payment → 5/9

Date of entry in books by Infosys India → 6/8

Suppose the above service is imported by Infosys India from Infosys US.

**4. EXCESS PAYMENT UPTO INR 1,000: OPTION OF TAKING INVOICE DATE AS TOS**



**Example**

A telephone company receives INR 5,000 against an invoice of 4800. What will be ToS.

ToS of service worth 4,800 will be determined as per section 13.

ToS of extra 200 received can be either of following, as opted by the service provider:

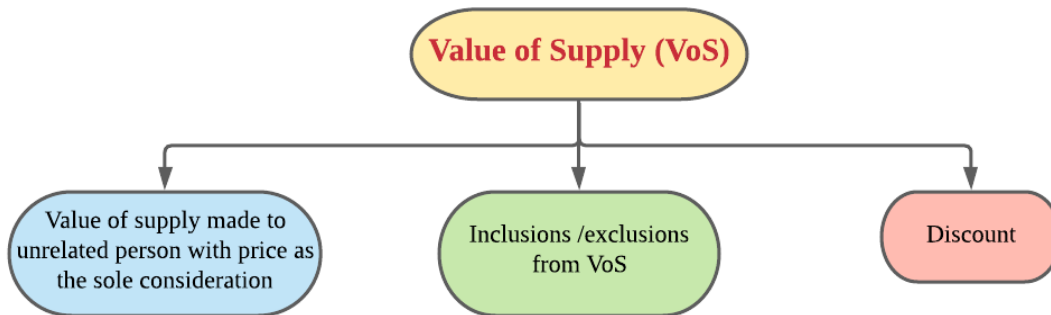
- a) Excess payment of 200 can be treated as advance payment. Thus service provider needs to pay GST on this advance payment of 200 by treating 200 as inclusive of GST.
- b) ToS can be Date of Next Invoice

**Important:** Provisions of ToS is not affected by any dispute, strike or other unforeseen circumstances.

# CHAPTER 7

## VALUE OF SUPPLY

### 1. TRANSACTION VALUE [SECTION 15]



- GST is an ad valorem levy, i.e. it is levied as a percentage of value of supply of goods and/or services.
- Section 15 provides common provisions for determining the value of both goods as well as services.
- As per section 15, value of supply (VoS) of goods or services or both shall be the transaction value, which is the price actually paid or payable where
  - a) Supplier and recipient are unrelated persons; and
  - b) price is the sole consideration for the supply,
- Section 15 of the CGST Act elaborates various inclusions and exclusions from the ambit of transaction value to arrive at VoS.
- Thus, **Transaction Value + certain elements = VoS** on which GST shall be computed.

#### Example

Wholesale price for 1 MT of cement sold by X in ordinary course of business: INR 7,000. Price of 1 MT of cement sold by X Ltd. to unrelated customer Y: INR 6,700

VoS made by X Ltd. to Y is INR 6,700 which is the price actually paid or payable and not wholesale price.

### 2. INCLUSIONS/ EXCLUSIONS AS PER SECTION 15

Taxes other than GST & GST Cess	Payments made to third parties by Recipient on behalf of Supplier	Incidental Expenses	Interest, late fee or penalty for delayed payment	Subsidies linked with price	Discounts
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Particulars	Remarks
<p>i) <b>Taxes other than GST &amp; GST Compensation Cess</b> [Sec 15(2)(a)]</p>	<p>GST &amp; GST cess are not part of VoS, but all other taxes/ duties/ cesses/ fees etc. levied under any law form part of VoS, if separately charged by supplier.</p> <p>Example, if a supplier of goods pays municipal tax in relation to goods being supplied &amp; bills it separately, such tax will form part of value of taxable supply.</p> <p>In the same situation, if the supplier pays the municipal tax but does not charge the same separately, even then such tax will form part of VoS as the supplier would have factored such tax while computing the cost of the goods.</p> <p><b>Note:</b> No GST is levied on Tax collected at source as it is an interim levy not having the character of tax.</p>
<p>ii) <b>Payments made to third parties by the recipient on behalf of the supplier in relation to the supply</b> [Sec 15(2)(b)]</p>	<p>If a customer makes direct payment of supplier's liabilities in relation to a supply to third parties, &amp; supplier does not include this amount in his bill, it would still form part of VoS.</p> <p><b>Note:</b> Amount paid by the recipient to third parties will be added to the VoS only when the supplier is <b>under contractual liability</b> to make payment to such third parties and the said payment is in relation to such supply.</p> <p><b>Example</b></p> <p>Grand Biz contracts with ABC Co. to conduct a dealers' meet. In furtherance of this, Grand Biz contracts with vendors to deliver goods/ services, like water, soft drinks, audio system, catering etc. at the venue on the stipulated dates at the stipulated prices. Grand Biz is liable to make these payments as contracted.</p> <p>The soft drinks supplier wants payment upon delivery; ABC Co. agrees to pay the bill raised by soft drinks vendor on Grand Biz on receiving the crates of soft drinks. This amount is not billed by Grand Biz to ABC Co. However, it would be added to VoS provided by Grand Biz to ABC Co. for payment of GST.</p>
<p>iii) <b>Incidental Expenses</b> [Sec 15(2)(c)]</p>	<p>Incidental expenses, such as,</p> <ul style="list-style-type: none"> <li>➤ commission and packing <b>charged by the supplier</b> or</li> <li>➤ anything else done by the supplier in relation to the supply</li> <li>➤ <b>at the time of or before the delivery</b> of goods or supply of services</li> </ul> <p>must be added to value.</p> <p><u>Few examples of incidental expenses are as given below:</u></p> <ol style="list-style-type: none"> <li>a) Commission: This may be paid to an agent and recovered from the buyer of the goods / services.</li> <li>b) Packing and special packing charges</li> <li>c) Inspection or certification charges</li> <li>d) Installation and testing charges at the recipient's site</li> <li>e) Weighment charges, loading charges, designing charges etc.</li> </ol> <p><u>Outward freight, transit insurance</u></p> <ol style="list-style-type: none"> <li>i) <b>Supplier agrees to deliver the goods at buyer's premises &amp; arranges for transport and insurance</b> → It is a composite supply where supply of goods is the principal supply. Therefore, outward freight and transit insurance become part of value of the composite supply and GST is payable thereon at the same rate as applicable for the relevant goods.</li> <li>ii) <b>Contract for supply is on ex-factory basis</b> → If buyer pays the outward freight &amp; insurance, the same will not be included in VoS.</li> </ol>

Particulars	Remarks
iv) <b>Interest, late fee or penalty for delayed payment</b> [Sec 15(2)(d)]	<p>VoS includes not only the base price but also the charges for delay in payment, if actually received. If waived off, it is not included in VoS.</p> <p><b>Notes:</b></p> <p>a) ToS for such interest is the date when it is received by the supplier.</p> <p>b) Such charges are an addition in VoS, hence same rate of tax as applicable on the main supply of goods/ service are applicable on such charges as well.</p> <p>c) Unless otherwise mentioned, assume interest to be inclusive of GST.</p> <p><b>Example</b></p> <p>A supply priced at INR 2,000 is made, with a credit period of 1 month for payment. Thereafter interest of 12% p.a. is charged. The payment is received after the lapse of two months from the date of supply. The amount of 12% p.a. (i.e. 1% per month) on INR 2,000 for one month INR 20. Such interest will be added to the value and thus, VoS will work out to be INR 2,020.</p>
v) <b>Subsidies linked with price</b> [Sec 15(2)(e)]	<p>If the subsidy is given by the <b>Central or State Government to supplier</b> in relation to Goods/services; the lower price, after adjusting the subsidy, is VoS.</p> <p>If subsidy is given by a person other than State or Central Government, it does not lower the taxable value. The subsidy is added to VoS of the supplier who receives the subsidy.</p> <p><b>Example</b></p> <p>Selling price of a notebook is INR 50. For notebooks sold to students in Govt. schools, a company uses its CSR funds to pay the seller INR 30, so that students pay only INR 20 per notebook. The VoS of the notebook will be INR 50, as this is a non-government subsidy.</p> <p>If the same subsidy is paid by CG or SG, VoS of the notebook would be INR 20.</p>
vi) <b>Discounts</b> [Sec 15(3)]	<p>Discount is excluded from the VoS only in the following two cases:</p> <p>a) Discount is duly recorded in the invoice either before or at the time of supply. <b>E.g.</b> Upfront discount, Staggered discount.</p> <p>b) Post Supply discounts i.e. Discount provided after supply of goods/ services:</p> <ul style="list-style-type: none"> <li>➤ as per terms of an agreement that existed at time of supply and</li> <li>➤ can be linked to the supply and</li> <li>➤ proportionate input tax credit is reversed by the recipient.</li> </ul> <p><b>E.g.</b> Periodic / year end discounts/ Volume discounts based on targets.</p> <p>If any of the above three conditions are not satisfied, post supply discount is not deducted from VoS.</p> <p><b>E.g.</b> Secondary discounts, stock clearance discounts without prior agreement.</p>

**Examples of discount deductible from VoS**

- 1) Britannia Ltd. gives a discount of 30% on the list price to its distributors. Thus, for a carton of Milk Bikis, in the invoice the list price is mentioned as INR 200, on which a discount of 30% is given to arrive at the final price of INR 140. The taxable value is INR 140, as the discount is allowed at the time of supply and shown in the invoice.
- 2) The agreement of Raju Electrical Appliances with its dealers is that sale of rice cookers over 100 pieces in the Diwali month will entitle them to discount of 5% per cooker sold in the next month. The next month's stock has already been dispatched when the sales figures for Diwali month are worked out.

However, as the agreement was in existence at the time of supply, and the discount can be worked out for each invoice, the taxable value will be billed price minus 5%. The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.

- 3) Pink and Blue Pvt. Ltd. (PBPL) sold goods to Orange Pvt. Ltd. (OPL) on 15<sup>th</sup> Jan at INR 50,000 (exclusive of taxes & discounts) and charged INR 9,000 as IGST @ 18%. Terms of supply stipulated that discount @ 2% will be given to OPL if it makes payment within one month of supply.

OPL avails the ITC of INR 9,000 in month of January & makes the payment for goods on 10<sup>th</sup> February.

PBPL issues credit note for INR 1180 [INR 1,000 for value of discount and INR 180 for proportionate IGST leviable thereon] to OPL on 11<sup>th</sup> February.

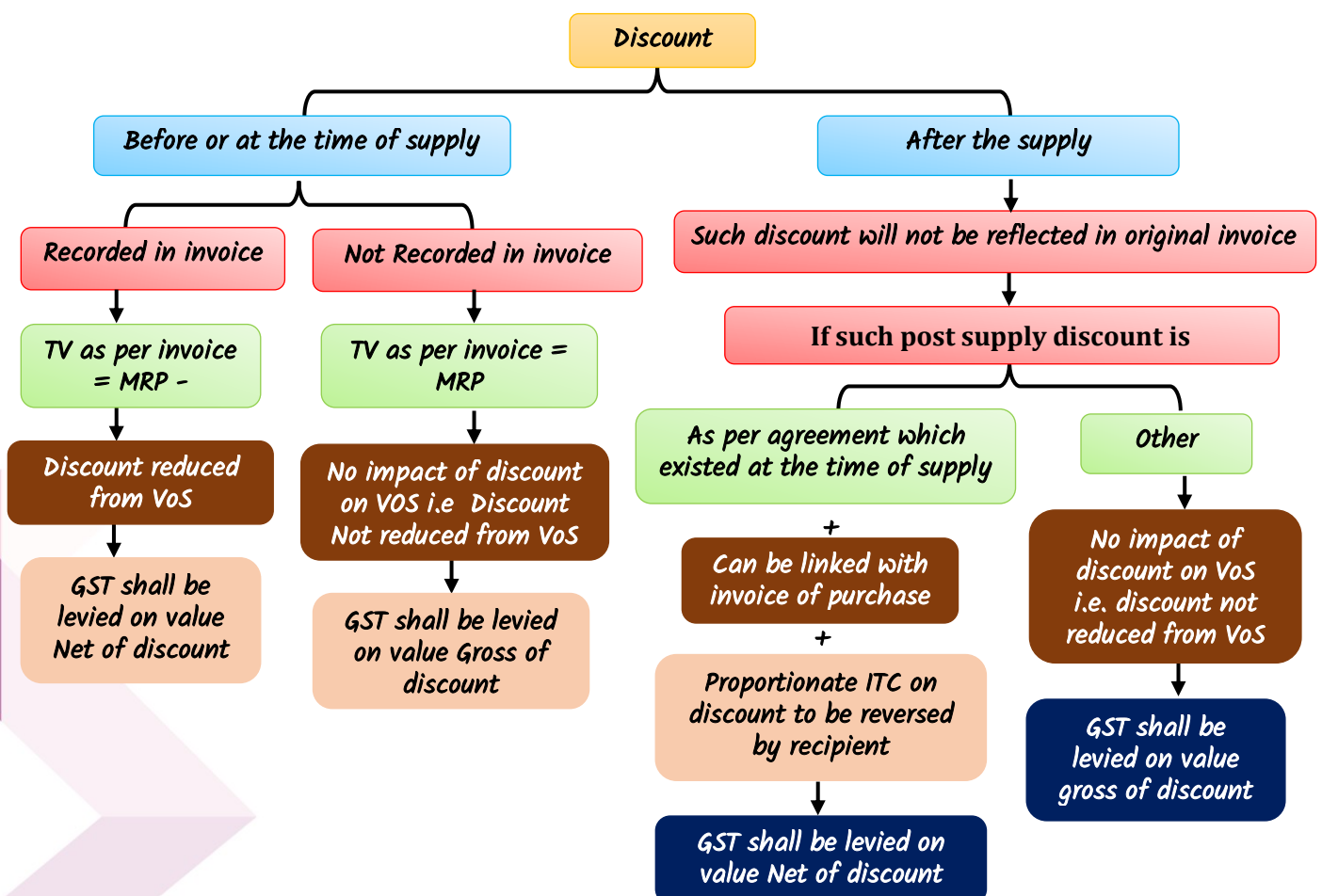
After receiving credit note, OPL reverses the ITC of INR 180 attributable to the discount given by the PBPL. PBPL can reduce its GST liability of the month of February by INR 180. OPL would have paid INR 57,820 (INR 50,000 + 9,000 - 1,000 - 180) to PBPL on 10<sup>th</sup> February.

**Examples of non-deductible discount**

- 4) In the above example, if the terms of supply did not provide for discount @ 2% for payment within one month but PBPL offers such discount to OPL at the time of payment after negotiation, the discount will not be allowed as a deduction from the value.

PBPL will issue a commercial credit note for only the value of discount, i.e. for INR 1,000. OPL will not reverse any ITC and PBPL will also not be able to reduce its GST liability for the month of February. In this case, OPL would pay INR 58,000 (INR 50,000 + 9,000 - 1,000) to PBPL on 10<sup>th</sup> February.

- 5) A company announces turnover discounts after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from taxable value of those goods.





### 3. CERTAIN CLARIFICATIONS

<p>1. <b>Staggered discounts ('Buy more, Save more')</b></p>	<p>In case of staggered discounts, rate of discount increases with increase in purchase volume.</p> <p><b>Example</b> - Get 10 % discount for purchases above INR 5,000/-, 20% discount for purchases above INR 10,000/- and 30% discount for purchases above INR 20,000/-.</p> <p>Such discounts are shown on invoice &amp; hence are excluded to determine VoS.</p>
<p>2. <b>Secondary Discounts</b></p>	<p>These are the discounts which are not known at the time of supply or are offered after the supply is already over.</p> <p><b>Example</b> - M/s A supplies 10,000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.</p> <p>Such secondary discounts shall not be excluded while determining VoS.</p>
<p>3. <b>Periodic / year ending discounts/ Volume discounts:</b></p>	<p>These discounts are offered by the suppliers to their stockists, etc.</p> <p>For example- Get additional discount of 1% if you purchase 10,000 pieces in a year, get additional discount of 2% if you purchase 15,000 pieces in a year.</p> <p>Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end.</p> <p>In commercial parlance, such discounts are referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.</p> <p>Such discounts are excluded to determine VoS provided they satisfy the parameters laid down in section 15(3).</p>
<p>4. <b>Whether No Claim Bonus provided by insurance company to insured is permissible as deduction u/s 15(3) for the purpose of calculation of value of supply of the insurance services</b></p>	<p>As per section 15(3)(a), VoS shall not include any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply.</p> <p>Insurance companies make the disclosure about discount in form of NCB, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the NCB in the invoices.</p> <p>The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of NCB in the invoice complies with the conditions laid down for deduction of discount from the VoS u/s 15(3)(a).</p> <p>Hence, NCB is a permissible deduction u/s 15(3) for calculation of VoS of the insurance services provided by the insurance company to the insured.</p> <p>Accordingly, GST shall be levied on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of NCB mentioned on invoice.</p>

### 4. SUPPLIES WHERE VALUE CANNOT BE DETERMINED U/S 15(1) [SEC 15(4)]

In case of transaction with a related party or/and where price is not the sole consideration for the supply of goods/ services, the value will be determined using Determination of Value of Supply of CGST Rules.



## CHAPTER 8

# INPUT TAX CREDIT

### 1. INTRODUCTION

- GST is based on VAT concept where tax is levied at each stage of supply chain and at each stage
  - tax paid on inward supply of goods or services or both,
  - which is used or intended to be used in the course or furtherance of business,
  - is allowed to be adjusted from tax liability on outward supply.

**Note:** Provisions of ITC is applicable to person registered u/s 9 as No ITC is allowed to composition dealer in relation to composition tax paid.

**What is Input Tax?** It refers to tax on inwards supply:

- |                                  |                                 |                                  |
|----------------------------------|---------------------------------|----------------------------------|
| a) payable to supplier under FCM | b) paid to government under RCM | c) IGST paid on import of goods. |
|----------------------------------|---------------------------------|----------------------------------|

- Recipient's ITC = Supplier's outward tax liability.  
In order to ensure ITC is availed only on genuine transactions, various condition needs to be fulfilled.
- GST law does not require 'one to one' co-relation between inputs/ input services and final products/ services. Any eligible ITC can be used for payment of tax on any taxable output supply. Thus, even if an eligible input is in stock, corresponding ITC on such input can be availed.

**Exempt Supply [2(47)]** - Refers to any supply where supplier does not charge outward tax. ITC w.r.t. inward supply used in making exempt supply is not allowed. It includes

Supply attracting 'NIL' rate.	Supply fully exempt from outward tax Includes outward supply by supplier taxable under RCM E.g: A company provides sponsorship services only to another company. Such supply shall be treated as Exempt supply from perspective of supplier company.	Non-taxable supply as per 'Schedule III'.
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### Zero rated supply [16(1) of IGST Act]

Exports	Supply to units in SEZ/ Developer of SEZ
In zero rated supply, even though outward tax is not charged, still ITC is allowed.	

### 2. ELIGIBILITY AND CONDITIONS FOR AVAILING ITC [SEC 16]

Registered person shall be allowed to take credit of Tax paid on Inward supply of goods/ Services/ both

- used or intended to be used in the course or furtherance of business
- if all the following **6 conditions** are satisfied [Sec 16(2)]:

Receipt of the goods and / or services	Possession of tax paying document	Detail of Invoice/ Debit Note uploaded by Supplier & it should be reflected in GSTR 2B	Tax on outward Supply actually paid to Govt. by Supplier	Filing of return
<p>Recipient must have received goods/ services/ both.</p> <p>Receipt includes bill to ship to model for both goods as well as services.</p> <p>Under this model, goods are delivered to a third party on the direction of the customer.</p> <p>'A' bills to 'B', but ships the goods to 'C' on direction of 'B'.</p> <p>Here, for ITC purpose, the 'Bill to' is given preference and goods is deemed to be received by 'B' from A and entitled to avail ITC.</p> <p>This concept is applicable on supply of services as well.</p>	<p>Recipient must possess any of following document:</p> <ul style="list-style-type: none"> <li>➤ Tax invoice</li> <li>➤ Revised invoice</li> <li>➤ Debit note</li> <li>➤ Bill of entry in case of Import of Goods</li> <li>➤ Challan in case of RCM.</li> </ul> <p>Such document must contain following information:</p> <ol style="list-style-type: none"> <li>a) Amount of tax charged</li> <li>b) Description of goods/ services</li> <li>c) Value of supply</li> <li>d) GSTIN of supplier &amp; recipient</li> <li>e) Place of supply in case of Inter-state supply</li> </ol>	<p>Recipient can avail ITC on eligible invoices/ debit notes which are furnished by its suppliers in their GSTR-1s or using the invoice furnishing facility (IFF).</p> <p>These details furnished by Recipient's supplier in their GSTR 1/ IFF is communicated to Recipient in GSTR 2B.</p> <p>If details of invoices are not furnished by Supplier in their GSTR 1/IFF, no ITC allowed to Recipient.</p> <p>ITC on such invoices/debit notes, may be claimed by taxpayer in any of the future month when the details are furnished by suppliers in their GSTR 1/IFF.</p>	<p>Supplier must pay the tax on its on the goods and/or services, for which ITC is being taken, either in cash or by utilizing ITC, subject to the provisions of section 41.</p>	<p>Recipient has filed Return u/s 39. [GSTR 3B]</p>

#### Illustration 1

S.No.	Particulars	Amount
1	ITC as per books	4,000
2	ITC as per GSTR 2B	3,000
3	ITC w.r.t. Invoices not uploaded by vendor	
4	Eligible ITC	

Hence, even though we have a tax invoice for total tax of INR 4,000/-, we cannot claim it completely, since the vendors have not furnished the complete details in their GSTR 1s.

ITC will be allowed only to the extent of 100% of the total eligible ITC as reflected in GSTR 2B. Balance ITC of the same can be taken later when it gets reflected in GSTR 2B.

**ITC allowed to Recipient if it is not restricted in the GSTR 2B [Sec 38 r/w Sec 16(2)(ba)]**

Recipient's ITC is dependent on his GSTR 2B which is created based on his supplier's GSTR 1/ IFF.

GSTR 2B of recipient contains following details & is made available every month:

- a. Details of outward suppliers furnished by his suppliers in GSTR 1/ IFF u/s 37; and
- b. Auto generated statement containing details of ITC.

This auto generated statement of ITC shall consist of Details of Inward supplies

- a. on which ITC is available to the recipient i.e. ITC is not restricted; as well as
- b. on which ITC cannot be availed, whether wholly or partly, by the recipient due to any of the following reasons i.e. ITC is restricted:
  - i) Supplier is a new registrant. (Specified period from taking registration will be prescribed)
  - ii) Supplier has defaulted in payment to tax for prescribed period.
  - iii) Supplier's output tax payable as per GSTR-1/IFF exceeds the output tax paid in GSTR-3B for a particular tax period by prescribed limit.
  - iv) Supplier has availed ITC of an amount that exceeds the credit that can be availed by him as per GSTR-2B during prescribed period and by prescribed limit.
  - v) Supplier has violated Rule 86B.

**Note:** Invoices on which ITC is not available under any of the provisions e.g., under section 17(5), are not to be considered for claiming ITC even though furnished by the suppliers.

**Availment of self-assessed ITC [Section 41]**

A registered person can avail the credit of eligible ITC as self-assessed in his return. Such amount shall be credited to his electronic credit ledger.

**Reversal of ITC in the case of non-payment of tax by the Supplier & re-availment thereof [Sec 41]**

**i) Reversal of ITC:**

If the tax payable corresponding to such ITC availed is not paid by the supplier to the Government, ITC so availed shall be reversed by the said person along with applicable interest.

A registered person (recipient) can avail ITC in GSTR-3B for a tax period in respect of such invoice/ debit note, the details of which have been furnished by its supplier in the statement of outward supplies (in GSTR-1/using IFF).

However, if supplier does not furnish return in Form GSTR-3B for the tax period corresponding to the said statement of outward supplies till 30<sup>th</sup> September following the end of FY in which the ITC in respect of such invoice/ debit note has been availed; the said amount of ITC shall be reversed by the said recipient, while furnishing a return in GSTR-3B on or before 30<sup>th</sup> November following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest thereon under section 50.

**ii) Re-availment of reversed ITC:**

Where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him.

Thus, where the said supplier subsequently furnishes the return in GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in GSTR-3B for a tax period thereafter.

**Example:**

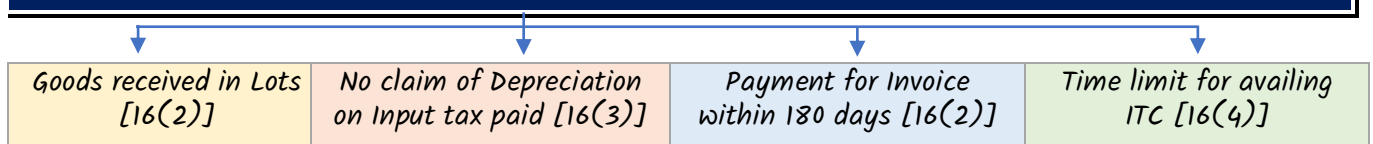
Jhamku, a registered supplier, supplies goods to Chamku valuing 10,000 on which he charged CGST & SGST of 900 each in the invoice raised in March, 2023. Jhamku uploaded the details of the said invoice in his

GSTR-1 for the said month filed before the due date based on which Chamku availed the said ITC of 900 each towards CGST & SGST while filing his GSTR-3B for March, 2023 as the said ITC was also reflected in his GSTR-2B. However, Jhamku failed to furnish the corresponding GSTR-3B (for the month of March, 2023) upto September, 2023.

Accordingly, while filing GSTR-3B for the month of Oct, 2023 on 20<sup>th</sup> Nov, 2023, Chamku reversed an amount of ITC earlier availed by him. Subsequently, suppose if Jhamku files GSTR-3B on 20<sup>th</sup> Dec, 2023 and pays the said amount of 900 each towards CGST and SGST, Jhamku can now re-avail the said ITC of 900 towards CGST and SGST which he has reversed earlier.

Mistake of Supplier	Punishment to Recipient
a) Did not file details of outward supply in GSTR 1 /IFF	No ITC to Recipient
b) Filed details of outward supply in GSTR1/ IFF but Supplier is defaulting/ not reliable ( 5 cases)	No ITC to Recipient
c) Filed details of outward supply in GSTR 1/ IFF but failed to pay tax upto due date	Recipient can avail ITC on temporary basis & then need to reverse it after due date [Sec 41]

## 2.1. ADDITIONAL CONDITIONS



### 2.1.1. GOODS RECEIVED IN LOTS [SEC 16(2)]

In case where goods are received in instalments/ lots, no proportionate ITC w.r.t quantity received in lots is allowed.

100% ITC is available only on receipt of last lot/ instalment.

#### Example

XYZ enters into a contract with ABC for supply of 10 MT of a chemical for INR 1,18,000 (inclusive of GST of 18,000) in the month of August. The chemical is to be delivered in lots over a period of three months. ABC raises the invoice for the entire amount in August and XYZ also makes the payment in the same month but the supply is completed in November.

Though XYZ paid the full tax as early as August, it can take the ITC of the same in month of November.

### 2.1.2. NO CLAIM OF DEPRECIATION ON INPUT TAX PAID [SEC 16(3)]

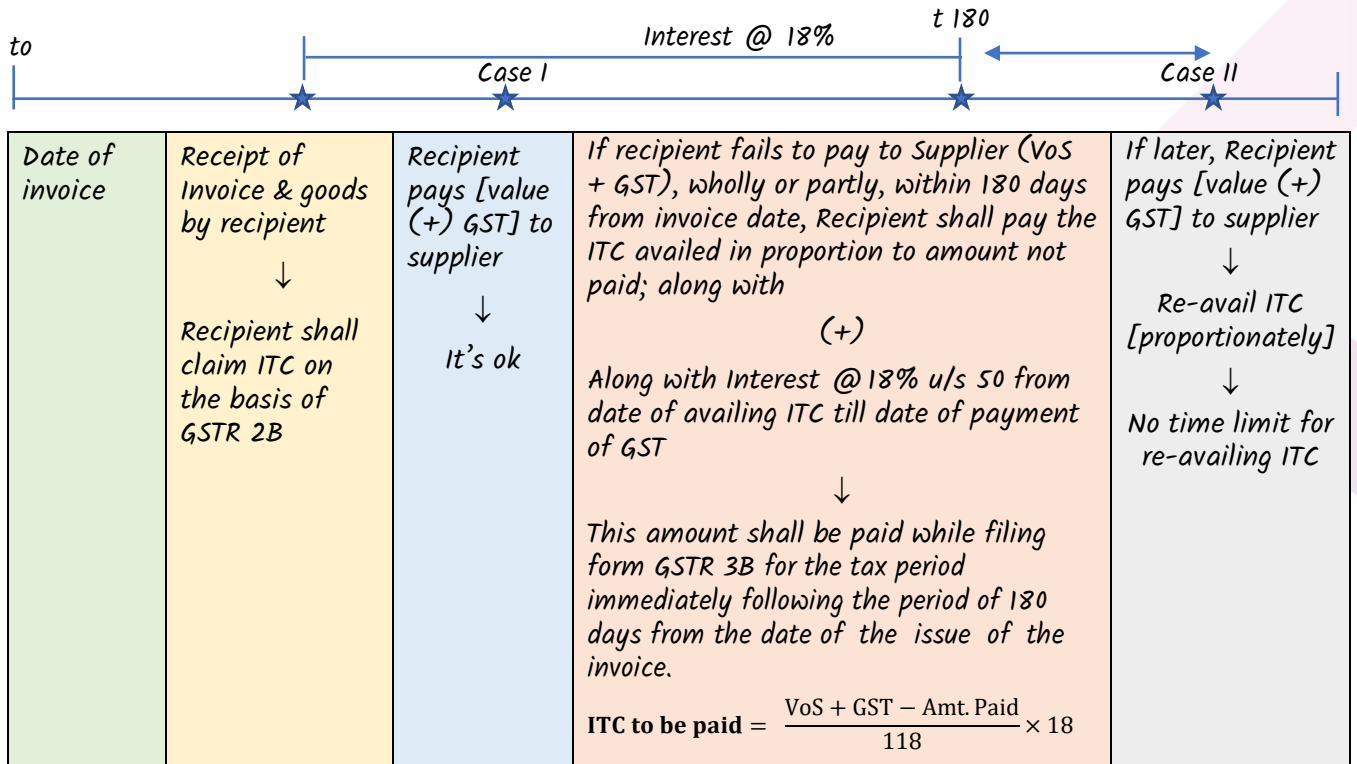
Depreciation on Input Tax paid and credit of said Input tax are mutually exclusive.

Thus, if taxpayer chooses to

- treat eligible ITC as cost for the purpose of depreciation or
- if ITC on a capital asset is not allowed due to any reason, depreciation shall be allowed on such Input tax and ITC shall not be allowed.

### 2.1.3. PAYMENT FOR INVOICE TO BE MADE WITHIN 180 DAYS FROM DATE OF INVOICE [SEC 16(2)]





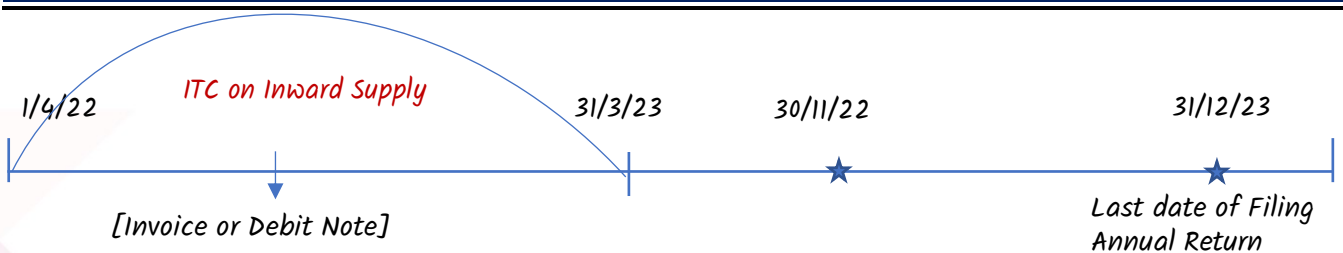
**Exceptions i.e. no requirement to pay to supplier within 180 days for retaining ITC:**

- Reverse charge mechanism
- Deemed supply without consideration u/s 7 read with schedule 1
- Increase in value of supply due to payment by recipient on behalf of supplier.

**Example**

Due to a quality dispute, PZP Ltd withheld payment on a machine supplied by a vendor till it could be rectified. Over 180 days went by in this dispute. The credit taken by PZP on the invoice needs to be paid along with interest in GSTR-3B furnished for the month after completion of 180 days. Only after the vendor rectified the machine and PZP released the payment, could PZP take the credit again.

**2.1.4. TIME LIMIT FOR AVAILING ITC [SEC 16(4)]**



ITC w.r.t. an invoice or debit note can be availed at any time before earlier of

- 30<sup>th</sup> November following the end of relevant financial year; and
- Date of filing Annual Return for relevant FY.

**Conclusion:** Earlier of fixed & Flexible dates.

**Exception** i.e. this time limit does not apply for re-availing of credit that had been reversed earlier.

**Illustrations [Relevant FY 2022-23]**

	Date of filing Annual Return	Fixed Date	Last date for availing ITC

Case I	30.10.2023	30.11.2023	
Case II	15.12.2023	30.11.2023	

**Example**

Hercules Machinery delivered a machine to XYZ in the month of January under Invoice no. 49 dated 28<sup>th</sup> January 2023 for INR 4,15,000 plus GST and undertook trial runs. Amount chargeable for post-delivery activities was covered in a debit note raised in the month of April 2023 for INR 50,000 plus GST. XYZ did not file its annual return till 30<sup>th</sup> Nov 2023.

The time-limit to avail ITC in respect of tax paid on supply for Invoice No. 49 would be 30<sup>th</sup> Nov, 2023.

Since debit note is received in next FY, time limit for taking ITC available on INR 50,000 would be earlier of 30<sup>th</sup> Nov, 2024 and date of filing Annual Return for FY 2023-24.

**3. APPORTIONMENT OF ITC [SEC 17]**
Inward supply of Goods or Services or both

Exclusively used for taxable supply/ zero rated supply/ business purpose [used or intended to be used] ↓ <b>100% ITC allowed</b>	Exclusively used for exempt supply/ non-business purpose ↓ <b>No ITC allowed</b>	Used partly for taxable supply/ zero rated supply/ business purpose & partly for exempt/ non-business purpose [Common ITC] ↓ ITC is allowed only w.r.t Inward supply used for business or taxable purpose or zero-rated supply ↓ Hence, ITC w.r.t total inward supply is allowed initially & subsequently, proportionate ITC related to exempt supply shall be reversed.
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**Example:**

ABC Ltd. is a manufacturer of two types of jackets, one is low-cost jacket, which is exempt & other is high-cost jacket, which is taxable. Company purchases leather & other materials to be used in both types of jackets & paid 10,00,000 (+) CGST @ 10% & SGST @ 10%. Calculate ITC to be reversed.

**Solution:**

In this case, company shall first avail ITC of CGST 1 lakh & SGST 1 lakh.

Suppose, Turnover during the tax period is ₹ 12,00,000, out of which taxable supply is ₹ 8,00,000.

Hence, ITC to be reversed shall be:

$$CGST = \frac{₹ 1,00,000}{₹ 12,00,000} \times ₹ 4,00,000 = ₹ 33,333.33$$

$$SGST = \frac{₹ 1,00,000}{₹ 12,00,000} \times ₹ 4,00,000 = ₹ 33,333.33$$

**3.1. SPECIAL PROVISIONS FOR BANKING COMPANIES, NBFC, FINANCIAL INSTITUTIONS [SEC 17(4)]**

<b>Option I</b> Avail 100% of eligible ITC & then reverse it in the ratio of exempt turnover & taxable Turnover. <b>Eligible ITC =</b> Total Input Tax – Input Tax paid w.r.t. inputs used in non-	<b>Option II</b> Avail 50% of eligible ITC & remaining 50% shall be reversed in Form GSTR 3B. ↓ Restriction of 50% shall not apply to tax paid on inward supplies to another registration within same entity [Distinct Person]
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business purpose - Input Tax u/s 17(5)	↓ Option once exercised cannot be withdrawn during remaining part of the year.
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#### 4. BLOCKED CREDIT [SECTION 17(5)]

**General law:-** ITC for inward supplies used for Business purpose is allowed. But, ITC for Inward supply u/s 17(5) is blocked.

However, in certain specified cases, even 'blocked credit' is eligible for ITC. [Exception to Sec 17(5)]

#### 4.1. MOTOR VEHICLE

Passenger Vehicle		Other Vehicles
Seating capacity [Including driver] upto 13 [ineligible motor vehicles] ↓ ITC blocked ↓ <b>Exceptions, i.e., in the following cases, ITC on motor vehicle having seating capacity upto 13 is allowed if it is used for</b>	Seating capacity > 13 ↓ ITC always allowed irrespective of use	ITC always allowed irrespective of use <b>Examples:</b> ➤ Railways ➤ Trucks ➤ Special purpose vehicles like dumpers, tipper etc. ➤ Two/ three wheelers with engine capacity of upto 25cc ➤ Bicycle etc.
a) Further taxable supply of such vehicle; or b) making taxable supply of transportation of passengers; or c) making taxable supply of imparting training on driving such vehicle.		

#### 4.2. VESSEL / AIRCRAFT

For above 3 specified purposes & transportation of goods	Other cases
ITC Allowed	ITC blocked

#### 4.3. SERVICE OF GENERAL INSURANCE, SERVICING, REPAIR & MAINTENANCE W.R.T. M.V., A & V

w.r.t. motor vehicle, aircraft or vessel on which ITC is allowed ↓ ITC allowed on services as well	w.r.t. motor vehicle, aircraft or vessel on which ITC is blocked (ineligible) ↓ ITC of these services also blocked ↓ <b>Exception:</b> ITC of these services is also allowed if such service is used by a) Manufacturer of ineligible motor vehicle, aircraft or vessel; or b) Taxable person engaged in further supply of these services.
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**Illustrations: Whether ITC allowed or blocked in following cases:**

S No.	Case	ITC
1	Kishan purchased a bike of 150 cc	
2	Cars purchased by a manufacturing company for official use of its employees	
3	Car purchased by a company engaged in renting out cars for transportation of passengers	
4	Buses (seating capacity for 24 persons) purchased by a company for transportation of its employees from their residence to office and back	
5	Trucks purchased by a company for transportation of its finished goods	
6	Aircraft purchased by an Aviation School providing training on non-flying aircrafts	
7	Aircraft purchased by a manufacturing company for official use of its CEO	
8	General insurance taken on a car used by employees of a manufacturing company for official purposes	
9	Maintenance & repair services availed by a company for a truck used for transporting its finished goods	
10	General insurance services taken on cars manufactured by a car manufacturing company	

**4.4. FOOD & BEVERAGES, OUTDOOR CATERING, BEAUTY TREATMENT, HEALTH SERVICES, COSMETICS & PLASTIC SURGERY, LIFE INSURANCE & HEALTH INSURANCE**

<p>Used for providing outward taxable supply of</p> <p>a) Same category (रसगुल्ला खरीद कर रसगुल्ला बेचना)</p> <p>b) as part of composite supply (रसगुल्ला खरीद कर Catering Service देना)</p> <p>c) as part of Mixed supply (रसगुल्ला with gift)</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">ITC Allowed</p>	<p>Government has made it obligatory for employer to provide these services</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">ITC Allowed</p>	<p>Other cases</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">ITC blocked</p>
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**4.5. LEASING/ RENTING OR HIRING OF MOTOR VEHICLE/ AIRCRAFT/ VESSEL**

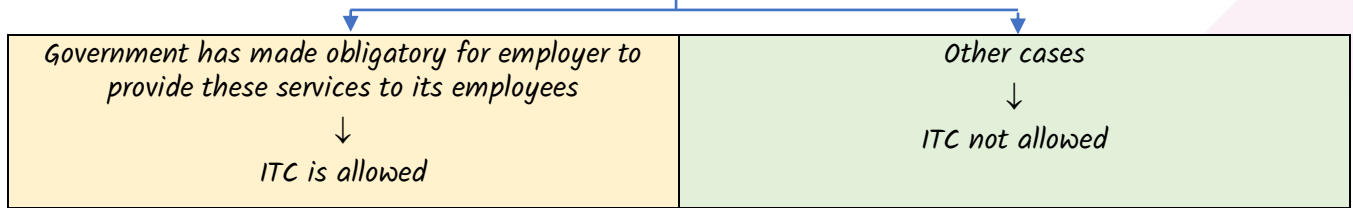
<p>If ITC on motor- vehicle/ Aircraft/ vessel is allowed</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">ITC allowed on Renting as well</p>	<p>If ITC on Motor- vehicle /Aircraft/ vessel is not allowed</p> <p style="text-align: center;">↓</p> <p style="text-align: center;">ITC blocked</p> <p style="text-align: center;">If condition of 4.4. is satisfied; ITC on renting of ineligible Motor- vehicle /Aircraft/ vessel also allowed</p>
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**Example:**

S No.	Case	ITC
1.	KKC Ltd. hires a bus for taking employees on Tour	
2.	KKC Ltd. Hires an Innova for taking employee on tour	
3.	KKC Ltd. Hires an Innova for giving it on rent to other company	



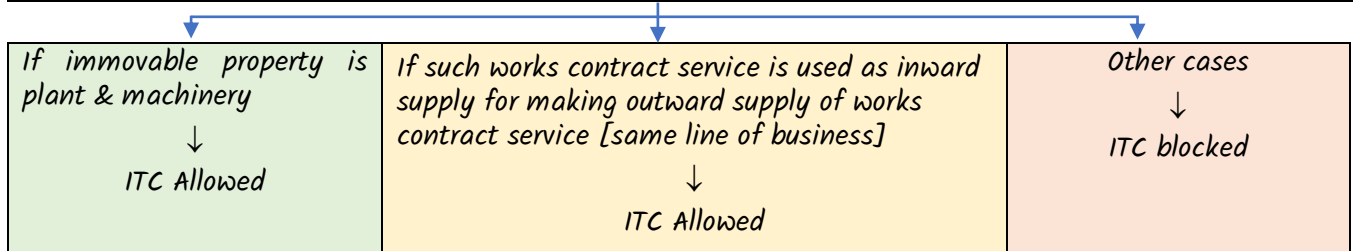
**4.6. MEMBERSHIP OF CLUB, HEALTH & FITNESS CENTERS, TRAVEL BENEFITS TO EMPLOYEES**



**Illustrations: Whether ITC allowed or blocked in following cases:**

S No.	Case	ITC
1	ITC on outdoor catering services availed by a garment exporter for a marketing event organised for its prospective customers.	
2	Company purchases food items for being served to its customers, free of cost	
3	Managing Director of a company has taken membership of a club, the fees for which is paid by the company	
4	A company avails services of a travel agency for organizing a free vacation for its top performing employees	

**4.7. WORKS CONTRACT FOR CONSTRUCTION OF IMMOVABLE PROPERTY LIKE HOUSE, FACTORY ETC.**



**Points to Note:**

- a) If value of works contract is not capitalized as per Accounting Standards and GAAP, ITC is allowed.
- b) ITC is available for routine construction related services like repairs, maintenance, renovation etc. of office and factory building.
- c) ITC is not allowed on telecommunication towers, and pipelines laid outside the factory premises.

**Illustrations: Whether ITC allowed or blocked in following cases:**

S No.	Case	ITC
1	ITC on works contracts services availed by a company for construction of its office	
2	ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery is to be mounted permanently	
3	ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory	
4	A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account	
5	Telecommunication company has availed services of a works contractor for repair of its office building and such expenditure has been capitalized.	

**4.8. CONSTRUCTION OF IMMOVABLE PROPERTY BY PROCURING GOODS AND SERVICES WITHOUT AVAILING WORKS CONTRACT SERVICES – ITC ON SUCH GOODS/ SERVICE:**

If immovable property is plant & machinery ↓ ITC Allowed	For construction of own account ↓ ITC Blocked even if building is used in the course or furtherance of his business.	For construction not on own a/c i.e. for client ↓ ITC Allowed
<b>Note:-</b> If value of goods / services not capitalized, ITC Allowed		

**Illustrations: Whether ITC allowed or blocked in following cases:**

S No.	Case	ITC
1	A company buys cement, tiles etc. and avails the services of an architect for construction of its office building	
2	A company buys cement, tiles etc. & avails services of an architect for renovation of its office building. Company has booked such expenditure in its profit & loss account	

**4.9. Other ITC blocked u/s 17(5):**

- i) Inward supplies used to make outward supply which is charged to tax under RCM
- ii) Composition tax.
- iii) Inward supplies used for personal consumption.
- iv) Free samples, gifts, goods lost/ stolen/ destroyed/ written off etc.
- v) Inward supplies used or intended to be used for activities relating to his obligations under corporate social responsibility referred to u/s 135 of the Companies Act, 2013;
- vi) Tax paid in fraud cases, detection, confiscation, investigation etc.
- vii) Inward supplies received by a non-resident taxable person

Tax paid on Import of goods ↓ ITC Allowed	Tax paid on Import of services ↓ ITC Blocked	Tax paid on other inward supply ↓ ITC Blocked
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**5. ITC ON CAPITAL GOODS**

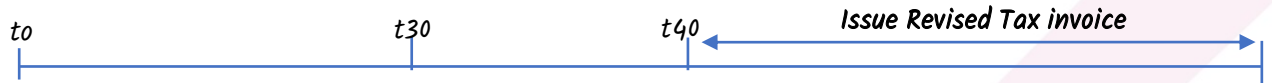
Under GST; entire ITC on eligible capital goods is allowed to Registered person in the year of purchase. Suppose, ABC Ltd. purchased a machinery of 10 lakhs and paid IGST of 1.8 lakh on 31/3/23. In this case, entire ITC of 1.8 lakh shall be allowed in FY 2022-23.

Useful life of Asset under GST → 5 years.

Registered person needs to hold the capital goods for 5 years and use it for taxable business purpose.

**6. DETERMINATION OF EFFECTIVE DATE OF REGISTRATION [SEC 25]**

**Case I – Registration applied within 30 days of becoming liable for registration**



Liable for Registration u/s 22/24.	Registration is applied within 30 days of becoming liable for registration	Grant of Registration certificate	within 1 month from the date of grant of registration certificate.
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**Effective date of registration** - Date on which taxpayer becomes liable for registration.  
Such person is eligible for availing ITC on stocks held on date preceding the effective date of registration.

**Case II – Registration applied after 30 days of becoming liable for registration**



Liable for Registration u/s 22/24.	Should have applied for registration within 30 days of becoming liable for Registration	Applied for registration	Grant of registration certificate
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**Effective date of registration** - Date on which registration certificate is granted.  
Such person is not entitled to claim ITC on stocks held on date preceding the effective date of registration.

**Case III – Voluntary Registration**



Applied for voluntary Registration	Grant of registration certificate
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**Effective date of registration** - Date of grant of registration certificate  
Such person is entitled to avail ITC on stocks held on the date preceding the effective date of registration.

**7. SPECIAL CIRCUMSTANCES ENABLING AVAILMENT OF CREDIT [SECTION 18(1)]**

Person applying for registration within 30 days of becoming liable for registration	Voluntary Registration	Registered person switching from Compo. levy to Regular scheme of paying tax	Registered person's Exempt supply becomes Taxable supply
<p><b>Entitled to avail ITC on:</b></p> <p>a) Inputs held in stock as such; and b) Inputs contained in semi-finished &amp; finished goods held in stock</p> <p>on the date, immediately preceding the effective date of Registration.</p> <p><b>Note:</b> No ITC allowed on capital goods acquired prior to effective date of registration in case of new registrations.</p>		<p><b>Entitled to avail ITC on:</b></p> <p>a) Inputs held in stock as such; and b) Inputs contained in semi-finished &amp; finished goods held in stock; and c) Capital goods reduced by 5% per quarter or part of quarter from the date of invoice</p> <p>on the date, immediately preceding the date on which tax payer is liable to charge outward Tax.</p>	

**Common points:**

1. ITC to be availed within 1 year from the date of issue of invoice by the supplier. [Sec 18(2)]
2. Need to furnish details of Inputs/ capital goods held within 30 days of becoming eligible of availing ITC.
3. Above details needs to be certified by CA/ Cost Accountant, if aggregate claim of ITC pertaining to IGST/ CGST/ SGST exceeds 2,00,000.

**Examples:**

1. Mr. Z becomes liable to pay tax on 1<sup>st</sup> August and has obtained registration on 15<sup>th</sup> August. Mr. Z is eligible for ITC on inputs held in stock as on 31<sup>st</sup> July. Mr. Z cannot take ITC on capital goods.
2. Mr. A applies for voluntary registration on 5<sup>th</sup> June and obtains registration on 22<sup>nd</sup> June. Mr. A is eligible for ITC on inputs held in stock as on 21<sup>st</sup> June. Mr. A cannot take ITC on capital goods.
3. Mr. B, a registered taxable person, was paying tax at composition rate upto 30<sup>th</sup> July. However, w.e.f. 31<sup>st</sup> July, Mr. B becomes liable to pay tax under regular scheme. Mr. B will be eligible for ITC on inputs held in stock and on capital goods as on 30<sup>th</sup> July. ITC on capital goods will be reduced by 5% per quarter or part of quarter from the date of the invoice.
4. ABC Limited purchased one plant and machinery for INR 20,00,000 and paid input tax of INR 3,00,000. The asset was being used for exempted goods but after one year and 2 months and 10 days, it is used for taxable goods. In this case, the credit allowed shall be \_\_\_\_\_.



**8. SPECIAL CIRCUMSTANCES LEADING TO REVERSAL OF ITC [SECTION 18(4)]**

Registered person switching to composition levy	Registered person's Taxable supply becomes wholly Exempt supply	Cancellation of Registration	Supply of Capital Goods on which ITC has been claimed
<p>ITC to be reversed shall be equal to ITC on:</p> <p>a) stock of inputs and inputs contained in semi-finished/ finished goods' stock; and</p> <p>b) Capital goods</p> $\frac{\text{GST paid / ITC availed}}{60} \times \text{Remaining Period}$ <p style="text-align: center;">↓</p> <p>as on date preceding the date of switch over/ date of exemption i.e. when registered person ceases to charge outward tax.</p>		<p>ITC to be reversed shall be equal to ITC on:</p> <p>a) stock of inputs and inputs contained in semi-finished/ finished goods' stock; and</p> <p>b) Capital goods</p> $\frac{\text{GST paid / ITC availed}}{60} \times \text{Remaining Period}$ <p>or</p> <p>the output tax payable on such goods.</p>	<p>ITC on capital goods to be paid/ reversed shall be higher of</p> <p>a) Total GST paid (-) 5% per quarter or part of quarter from invoice date; and</p> <p>b) Tax on transaction value</p> <p><b>Note:</b> If refractory, bricks, moulds, dies &amp; fixtures are supplied as scrap, taxable person need to pay tax on TV.</p>

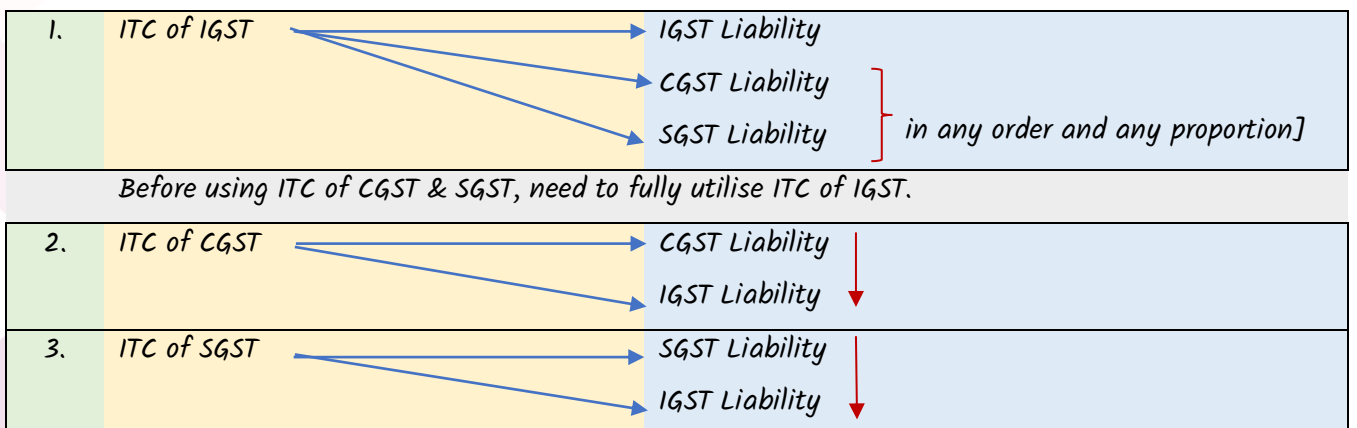
**Points to Note:**

- a) ITC on inputs should be reversed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs.  
If invoices are not available, ITC can be reversed on the basis of the prevailing market price of such goods on the date of switch over/ exemption. Such details need to be certified by a practicing CA/ CMA.
- b) ITC to be availed or reversed on inputs & capital goods is calculated separately for CGST, SGST & IGST.
- c) The reversal amount is added to the output tax liability of the registered person.

**Example:** ABC Limited purchased one plant and machinery for INR 20,00,000 and paid input tax of 3 lakh. The asset was being used for taxable goods but after one year and 2 months and 10 days, it is used for exempted goods. In this case, the credit to be reversed shall be \_\_\_\_\_.

**9. HOW ITC IS USED? [RULE 88A OF CGST RULES READ WITH SECTION 49A]**

ITC is credited to a registered person's electronic credit ledger [Form GST PMT 02].  
ITC can be utilised to pay outward tax liability as per the procedure given below:



4.	ITC of CGST	<del>→</del>	SGST Liability
5.	ITC of SGST	<del>→</del>	CGST Liability

	CGST	SGST	IGST
Outward Tax Liability	XX	XX	XX
Less: ITC of IGST	← In any order & any proportion [2] →		(xx) [1]
<b>Balance outward Tax Liability</b>	<b>XX</b>	<b>XX</b>	<b>XX</b>
Less: ITC of CGST	(xx) [1]	—	(xx) [2]
Less: ITC of SGST	-	(xx) [1]	(xx) [2]
<b>Outward GST payable in e-cash ledger</b>	<b>XX</b>	<b>XX</b>	<b>XX</b>
+ GST liability payable under RCM	xx	xx	Xx
<b>Total GST payable in e-cash ledger</b>	<b>XX</b>	<b>XX</b>	<b>XX</b>

Illustrations:					
	Output Tax Liability	ITC			
		Case I	Case II	Case III	Case IV
IGST	1,000	1300	800	800	800
CGST	300	200	200	450	500
SGST	300	200	200	400	600

**Solution :**

	IGST	CGST	SGST
Outward Tax liability	1000	300	300
Less: ITC of IGST			
Less: ITC of CGST			
Less: ITC of SGST			
<b>GST payable in e-cash ledger</b>			

**9.1. PROCEDURE FOR UTILIZATION OF ITC**

Where ITC of IGST > Liability of IGST	Where ITC of IGST < Liability of IGST
1. First use ITC of IGST against liability of IGST. Balance ITC of IGST can be used against liability of CGST & SGST in any order & any proportion. <b>Remaining liabilities → SGST, CGST</b>	1. First use ITC of IGST against liability of IGST. <b>Remaining liabilities → IGST, SGST, CGST</b>
2. ITC of CGST → Liability of CGST	2. ITC of CGST → Liability of CGST → Liability of IGST

3. ITC of SGST → Liability of SGST	3. ITC of SGST → Liability of SGST → Liability of IGST
<b>Rule:</b> First exhaust ITC of IGST only then ITC of CGST & SGST can be used.	<b>Note:</b> ITC of SGST shall be used against Liability of IGST only when ITC of CGST is fully exhausted.

**Pro Tip:** Cash outflow should be minimum.

### 10. RESTRICTIONS ON UTILISATION OF ITC [RULE 86A]

In case Commissioner/ an officer (not below the rank of AC) authorised by him has

- reasons to believe that ITC has been fraudulently availed or is ineligible,
- he is empowered to impose restrictions on utilization of ITC.

**The reasons for such belief must be based on one or more following grounds:**

- 1) ITC has been availed on the basis of tax invoices/ valid documents
  - a) issued by a non-existent supplier or supplier is found not to be conducting any business from registered PoB.; or
  - b) without receipt of goods/ services; or
  - c) without possession of tax invoice/valid document; or
  - d) tax in relation to which has not been paid to the Government.
- 2) Registered person availing ITC has been found non-existent or not to be conducting any business from the registered PoB.

In above cases, Restrictions can be imposed by not allowing such ITC to be used for discharging any liability u/s 49 or not allowing refund of any unutilised amount of such ITC.

Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions.

However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.

### 11. RESTRICTIONS ON THE USE OF AMOUNT AVAILABLE IN ELECTRONIC CREDIT LEDGER [RULE 86B]

A registered person can use the amount available in electronic credit ledger to discharge his output tax liability to the extent 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 INR 50 lakh.

Thus, if value of taxable supply other than exempt supply and zero-rated supply in a month exceeds 50 lakhs, minimum 1% of the output liability shall be discharged using electronic cash.

**Note:** Applicability of Rule 86B is to be checked each month.

**Note:** This Rule overrides all other Rules.

#### Example

Total value of inter-State supply of Raman & Sons for m/o February 20XX is INR 100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Raman & Sons is INR 18 lakhs. Amount available in electronic credit ledger is INR 20 lakh (IGST).

In terms of restriction imposed by Rule 86B, Raman & Sons can discharge 99% of its output tax liability,

i.e. INR 17,82,000 (99% of INR 18,00,000) from the amount available in electronic credit ledger.

However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹ 18,000 (1% of INR 18,00,000) through electronic cash ledger only.

**Exceptions i.e. in following case, Rule 86B is not applicable even if Monthly Domestic Turnover > 50 lakhs**

<p>a) <b>Payment of Income Tax of more than INR 1 lakh in each of the last 2 FYs</b></p>	<p>Where the said person/ proprietor/ karta/ managing director/ any of its two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees, as the case may be,</p> <ul style="list-style-type: none"> <li>➤ have paid more than INR 1 lakh as income tax in each of the last 2 FYs.</li> </ul>				
<p>b) <b>Receipt of refund of ITC of more than INR 1 lakh in preceding FY</b></p>	<p>Refund in preceding FY may be on account of unutilized input tax credit due to:</p> <ol style="list-style-type: none"> <li>a) zero-rated supplies made without payment of tax; or</li> <li>b) Inverted duty structure.</li> </ol>				
<p>c) <b>Payment of total output tax liability through electronic cash ledger upto the said month in excess of 1% of total output tax liability</b></p>	<p>Where the registered person has discharged his</p> <ul style="list-style-type: none"> <li>➤ liability towards output tax [not RCM] through the</li> <li>➤ electronic cash ledger for an amount which is in</li> <li>➤ excess of 1% of the total output tax liability, applied cumulatively,</li> <li>➤ upto the said month in the current financial year.</li> </ul> <p><b>Example:</b> In FY 20XX-YY, upto August 20XX, total output tax liability payable is INR 30 lakhs &amp; such registered person has deposited INR 1 lakh through electronic cash ledger and balance through electronic credit ledger.</p> <p>Rule 86B would not be applicable in September 20XX [even if the turnover during September exceeds INR 50 lakhs], since payment made in cash is more than 1% of total output tax liability. (1% of INR 30 lakhs is INR 30,000).</p>				
<p>d) <b>Specified registered persons</b></p>	<table border="0"> <tr> <td data-bbox="438 1227 957 1276">i) Government Department;</td> <td data-bbox="957 1227 1487 1276">ii) Public sector undertaking;</td> </tr> <tr> <td data-bbox="438 1276 957 1330">iii) Local authority;</td> <td data-bbox="957 1276 1487 1330">iv) Statutory body.</td> </tr> </table>	i) Government Department;	ii) Public sector undertaking;	iii) Local authority;	iv) Statutory body.
i) Government Department;	ii) Public sector undertaking;				
iii) Local authority;	iv) Statutory body.				

**12. TRANSFER OF ITC ON ACCOUNT OF CHANGE IN CONSTITUTION OF REGISTERED PERSON [SEC 18(3)]**

In case of sale, merger, demerger, amalgamation, transfer or change in ownership of business due to death of proprietor

- the ITC that remains unutilized in the electronic credit ledger of the registered person
- can be transferred to the new entity, provided
- there is a specific provision for transfer of liabilities in such change of constitution.

In the case of demerger, ITC will be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Here, “value of assets” means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

**Note:** Taxpayers need to submit details to GST Authority on common portal.

**13. TRANSFER OF ITC ON OBTAINING SEPARATE REGISTRATIONS FOR MULTIPLE PLACES OF BUSINESS WITHIN A STATE/ UNION TERRITORY [RULE 41A]**

A registered person (transferor), having separate registrations for multiple PoBs within a State/UT,



- can transfer the unutilised ITC (wholly or partly) lying in his electronic credit ledger
- to any or all of the newly registered PoBs in the
- ratio of the value of assets held by them at the time of registration.

Here, the 'value of assets' means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations.

**Certain Clarifications: Refer Page 8.48 of ICAI Study Material**

## CHAPTER 9

# REGISTRATION UNDER GST

### 1. INTRODUCTION

- Registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy.

#### Advantages of Registration:

- Enables Taxpayer to charge GST on outward supply; and
- Enables Taxpayer to avail ITC on eligible inward supply.
- Registered person is legally recognized as supplier of Goods/ Services/ both.

- Registration under GST is 'origin based', where registration is required to be taken in
  - each state/ UT, where a person has **fixed PoB** supplying **taxable goods/ services** [wholly or partly] &
  - the taxpayer is liable for registration u/s 22/24 or opted for voluntary registration.

Thus, there is no centralized registration under GST. [1 exception → UIN]

- Further, if a person has only liaison office or marketing office in a State & if there is no taxable supply from that State, he is not required to obtain registration in that State, even if he is registered in other State/s. Thus, in that State where liaison/marketing office is located, he will be treated as 'unregistered'.

**Example:** Mr. X having registered office in Delhi, imports goods which are landed in Mumbai sea port. Mr. X enters into a sales agreement with Mr. Y located in Mumbai to directly sale the goods from Mumbai port. In this case, Mr. X is not required to obtain registration in Mumbai as he has no fixed establishment in Mumbai.

- On registration, a 15-digit PAN based GSTIN is issued. (Discussed in detail in Ch 2)
- Case I:** PoBs in multiple States/ UTs = Need to take separate registration in each State/ UT from where taxable supply is made; wholly or partly. [Sec 25]
- Case II:** 1 State = Multiple PoBs = Need to take 1 state wise Registration = 1 GSTIN.  
In such case, 1 PoB is selected as 'Principal place of Business [PPoB] while others are considered as Additional place of Business [APoB].  
However, such person has option to take separate registration for each of multiple PoBs in 1 state /UT if
  - Such registered person has not opted for composition levy; and
  - Inter- unit supply of goods/ services shall be treated as regular supply i.e. Registered person shall be required to issue tax invoice & pay applicable tax on same. (Distinct Persons)

#### Points to Note:

1. Registration for each PoB is sought by filing separate GST REG 1 for each PoB.
2. There is combined single registration for CGST, SGST, IGST & cess. Thus, grant of registration under any SGST Act is deemed as registration granted under CGST Act, as well.  
Similarly, rejection of application under any SGST Act is deemed as rejection of application for registration under CGST Act as well.

### Examples

1. Ram has 1 branch in Delhi, from where he makes taxable supply to UP, Bihar, Haryana & exempt supply to Punjab.  
In this case, Ram is required to take registration only in Delhi.
2. Meethalal & Sons - a supplier in Maharashtra, has three branches in Mumbai, Pune & Nashik. Mumbai and Pune branches are engaged in supply of garments & Nashik branch engaged in supply of shoes.  
Either it can obtain single registration for Maharashtra declaring one of the branches as PPOB (let's say Mumbai) and other two branches (Pune and Nashik) as APOB or it can obtain separate GST registration for each of the three branches in as separate places of business.  
In case Meethalal & Sons opts to have separate registrations for its all three branches and Mumbai branch sends some garments [subject to GST] for sale to Pune branch, Mumbai branch must raise a tax invoice and pay tax on such transfer of garments to Pune branch.
3. Ram has one branch in Haryana which is engaged in exclusively supply of exempt goods/ service.  
In this case, no need to take registration.
4. Ram has 4 branches in UP, supplying exempt as well as taxable goods & one branch in Punjab supplying only exempt goods & services.  
In this case,
  - No need to take registration in Punjab.
  - Need to take 1 registration in UP. Option to take 4 registrations as well, subject to conditions.

## 2. PERSON LIABLE FOR REGISTRATION [SECTION 22]

Those whose Aggregate Turnover in a FY exceeds the Threshold limit	In case of transfer of business on account of succession etc. on-going concern basis	Amalgamation/ Merger/ Demerger etc. by order of NCLT
PAN based turnover including all branches & agents. <b>Note:</b> Covered in detail in Ch 3.	Transferee liable for registration from the date of transfer	New entity liable for registration from the date on which Registrar of Companies issues certificate of incorporation giving effect to such order.

**2.1. THRESHOLD LIMIT FOR REGISTRATION UNDER GST U/S 22**

What do you Supply?

Exclusively Service or both Goods & Services		Exclusively Goods		
<b>MMNT</b> 10 Lakhs	<b>Other states</b> 20 Lakhs	<b>MMNT</b> 10 Lakhs	<b>UTPAMS</b> 20 Lakhs	<b>Other states</b> 40 Lakhs*
M → Manipur	M → Mizoram	U → Uttarakhand	T → Telangana	
N → Nagaland	T → Tripura	P → Puducherry	A → Arunachal Pradesh	
		M → Meghalaya	S → Sikkim	

**Points to Note:**

- \*Higher limit of 40 lakhs shall not be applicable in the following cases (N/n 10/2019):
  - Taxpayer is liable for registration u/s 24.
  - Taxpayer is supplier of edible ice/ ice cream, pan masala/ tobacco products/ fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/ roofing tiles, etc.
  - A taxpayer who is registered voluntarily or such registered person who wishes to continue with registration.
  - Supplier making intra-state supplies in states of MMNT & UTPAMS.
- If a person supplies exempt service w.r.t. lending where consideration is represented by Interest/ discounting charge along with Goods → he shall be deemed to be exclusive supplier of goods.
- If a person has PoBs in multiple states/UT, applicable threshold limit shall be the lowest threshold limit of the state/UT from where taxable supply is made.

**How to determine whether a person is liable for registration?**

Step 1: Determine threshold limit u/s 22

Step 2: Calculate aggregate turnover.

If step 2 > step 1; the person is liable for registration u/s 22.

**Question:** Ram is a supplier of service. He has 1 establishment in Delhi with a turnover of 6 Lakh; 1 establishment in J & K with a turnover of 3 Lakhs & 1 establishment in Manipur with a turnover of 2 Lakhs. Whether Ram is liable for registration u/s 22?

**Answer –**

**Question:** A person has PoB in following states & is engaged in exclusive supply of goods. Determine threshold limit in following cases:

- Jammu & Kashmir & Delhi →
- Jammu & Kashmir, Delhi & Uttarakhand →
- Jammu & Kashmir, Delhi, Uttarakhand & Nagaland →

**Examples**

Prithviraj of Assam is exclusively engaged in intra-State supply of shoes. His aggregate turnover in the current FY is INR 22 lakh. Applicable threshold limit for registration for Prithviraj in the given case is INR



40 lakhs. Thus, he is not liable to get registered under GST.

If in above case, all other things remaining the same, Prithviraj is exclusively engaged in supply of pan masala instead of shoes, he will not be eligible for higher threshold limit of INR 40 lakh & applicable threshold limit for registration in that given case will be INR 20 lakh. Thus, Prithviraj will be liable to get registered under GST.

If instead of pan masala, Prithviraj is exclusively engaged in supply of taxable services, applicable threshold limit for registration will still be 20 lakh & Prithviraj will be liable to get registered under GST.

Further, if Prithviraj is engaged in supply of both taxable goods and services, the applicable threshold limit for registration will be 20 lakhs. Thus, Prithviraj will be liable to get registered under GST.

Uday Ent. is engaged in supply of taxable goods in M.P. It also supplies alcoholic liquor for human consumption from Nagaland. Turnover in current FY is INR 34 lakh in M.P. & INR 8 lakh in Nagaland.

Since Uday Ent. is exclusively engaged in making taxable supplies of goods from M.P., applicable threshold limit for obtaining registration is INR 40 lakh.

However, threshold limit will not be reduced to INR 10 lakh in this case, as supply of alcoholic liquor for human consumption from Nagaland is non-taxable supplies.

In the given case, since the aggregate turnover of Uday Enterprises exceeds the applicable threshold limit of INR 40 lakh, it is liable to obtain registration. It will obtain registration in M.P., but is not required to obtain registration in Nagaland as he is not making any taxable supplies from said State.

### 3. MANDATORY REGISTRATION UNDER GST [SECTION 24]

In following cases, a person is compulsorily required to get registered under GST irrespective of Turnover:

'C' →	Casual taxable person [CTP] making taxable supply (Refer exception)
'R' →	Person required to pay GST on Inward supply under RCM
'E' →	Electronic commerce operator or person who supplies goods/service through ECO (Refer exception)
'A' →	Agent of a taxable person making taxable supply A commission agent, who is making supplies on behalf of non-taxable person [viz. agriculturist], is not liable for compulsory registration under this provision
'T' →	TDS/ TCS [CA Finals]
'I' →	Inter-state supplier of goods/ services (Refer exception), Input service distributor [CA Finals]
'O' →	Non-resident Online Information and Database Access or Retrieval (OIDAR) service provider
'N' →	Non-Resident Taxable person [NRTP]

### 4. PERSONS NOT LIABLE FOR REGISTRATION [SEC 23]

1. Supplier exclusively supplying Non-taxable or Exempt Goods/ Services/ both.

#### Examples

- Madhur Oils, Punjab, is exclusively engaged in supplying petrol. Supply of petrol is not leviable to GST. Thus, Madhur Oils is not liable for registration.
- Bhavyajyoti Foundation, a charitable trust registered u/s 12AA of the Income-tax Act is exclusively engaged in supply of services by way of charitable activities which are exempt from GST.  
Thus, Bhavyajyoti Foundation is not liable for registration.

2. An agriculturist (only individual or HUF) to the extent of supply of produce out of cultivation of land:

➤ by own labour or by the labour of family or by hired labour.

If an agriculturist is also engaged in making any supply other than supply of produce out of cultivation of land, he shall be liable to registration based on applicable threshold limit.

**Example**

A farmer cultivates wheat (9 lakhs) & also starts trading of rice (32 lakhs) → Not covered u/s 23.

Further, since engaged in exclusive supply of goods, applicable threshold limit is 40 lakhs. Aggregate turnover is 41 lakhs and hence required to get registered.

<b>3. Other notified Supply</b>	
↓	↓
Person exclusively making outward supply under RCM	Exceptions to section 24

**Example**

In case of a GTA engaged exclusively in supplying GTA services liable to tax under RCM, it is exempt from registration as it is engaged exclusively in making supplies, tax on which is liable to be paid under RCM.

In such case, recipient of GTA service whose aggregate turnover does not exceed the applicable threshold limit, has to pay tax on GTA services @ 5% under RCM & he is required to obtain registration u/s 24.

**4.1. EXCEPTIONS TO SEC 24 I.E, COMPULSORY REGISTRATION NOT REQUIRED [STILL LIABLE U/S 22]**

Goods	Services
<p>CTP / Inter-state supplier of notified Handicraft goods</p> <p><b>Not liable for registration u/s 24 if</b></p> <p>Aggregate Turnover is upto 20 lakhs [10 lakhs in case of MMNT] &amp; Has obtained PAN (+) Generated e-way Bill</p>	<p>a. Inter-state supplier of services</p> <p>b. Job work services to registered person [other than job work w.r.t. jewellery &amp; related articles]</p> <p>c. Person supplying services through ECO</p> <p><b>Not liable for registration u/s 24 if</b></p> <p>➤ Aggregate Turnover is upto INR 20 lakhs [10 lakhs in case of MMNT]</p>

**Examples:**

- Ariza Pvt. Ltd., located in M.P., is a supplier of taxable & notified handicraft goods. It supplies these goods in the states of UP & Orissa. Its aggregate turnover in the month of April is INR 15 lakh. Although Ariza Pvt. Ltd. is engaged in making inter-State supplies of taxable goods, it is not liable to obtain registration till its aggregate turnover does not exceed INR 20 lakhs.
- Dhola & Co., located in Delhi, is engaged in supply of taxable goods in Punjab & Haryana. Its aggregate turnover in current FY is INR 10 lakh. Since it is engaged in making inter-state taxable supply of goods, it is required to register mandatorily under GST irrespective of its aggregate turnover. However, if in above case, Dhola & Co. is engaged in inter-state supply of taxable services, it will be eligible for exemption from registration till its aggregate turnover does not exceed INR 20 lakh.

**Note:** Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.

**5. PROVISIONS RELATING TO CASUAL TAXABLE PERSON & NON-RESIDENT TAXABLE PERSON [SEC 27]**

**CTP** is a person who

- occasionally undertakes supply of goods/ services (as principal or agent)
- in the course or furtherance of business
- in a state/ UT, where he has no fixed PoB. [Sec 2(20)]

**Example**

Kalyan Jewellers [Kerala based Jewellers] conducts an exhibition-cum-sale event in Delhi, where he has no fixed place of business. In this case, Kalyan Jewellers is 'CTP' in Delhi.

**NRTP** is a person who

- occasionally undertakes supply of goods/ services (as principal or agent) but
- he has no fixed PoB or place of residence in India. [Sec 2(77)]

**Special/ Common Provisions w.r.t. CTP/ NRTP**

**1. Advance Registration [sec 25]**

- a. No threshold limit to get registered i.e., needs to get compulsory registered u/s 24.
- b. Must get registered at least 5 days before making any taxable supply of goods/ services/ both i.e., before commencement of business.

**2. Advance payment of Tax [sec 27]**

Required to deposit estimated tax liability for the period for which registration is sought, in advance using the Temporary Reference Number allotted while applying for registration.

**3. Cannot opt for composition scheme**

**4. Need not file Annual return**

**5. Duration: Earlier of**

- a. 90 days from effective date of registration; or
- b. Period specified In Registration certificate.

Duration can be further extended by maximum 90 days, by making application before end of validity of registration.

**Note:** In case of extension of validity, need to deposit additional estimated tax for extended period.

**Dissimilarity between CTP & NRTP**

1. NRTP is not registered anywhere in India while CTP might be registered with regard to his fixed PoB in some other State/UT.
2. A CTP has to undertake transactions in the course or furtherance of business whereas the business test is absent in the definition of NRTP.
3. Separate registration procedure
  - CTP → PAN based registration where applicant needs to file form GST REG-01
  - NRTP → Registration needs to be applied in different Form & based on Other prescribed documents
    - a. Self-attested copy of valid passport; and
    - b. Application by authorized signatory, who is resident in India holding PAN.
    - c. In case of business entity incorporated outside India, Application for registration shall contain tax identification No. of that country.

4. Different returns: CTP needs to file GSTR 1 & GSTR 3B while NRTP needs to file GSTR 5

**6. BASICS OF REGISTRATION [SEC 25]**

**When and Where to apply for Registration**

Cases	When to Apply	Where to Apply
a) Person who is liable to be registered u/s 22 or 24	within 30 days from date on which he becomes liable to registration	In every State/ UT from where taxable supply is made [wholly or partly]
b) CTP or NRTP	at least 5 days prior to commencement of business	In every State/ UT in which he is so liable

**Effective Date of registration – Already done in Ch 7 (ITC)**

Application submitted	Effective Date
Within 30 days of the applicant becoming liable to registration	Date when he becomes liable to registration
After 30 days of the applicant becoming liable to registration	Date of grant of registration
Voluntary Registration	Date of grant of registration

**7. APPLICATION FOR REGISTRATION BY SPECIAL ECONOMIC ZONE (SEZ)**

Kishan Industry

Unit in SEZ/ Developer of SEZ [Noida, UP]	Unit in DTA [Domestic Tariff Area] [Agra, UP]
<ul style="list-style-type: none"> <li>➤ Mandatory separate Registration for unit in SEZ and DTA even if they are in same State/UT.</li> <li>➤ Both shall be treated as Distinct person &amp; supply between them is always treated as inter-state supply.</li> </ul>	

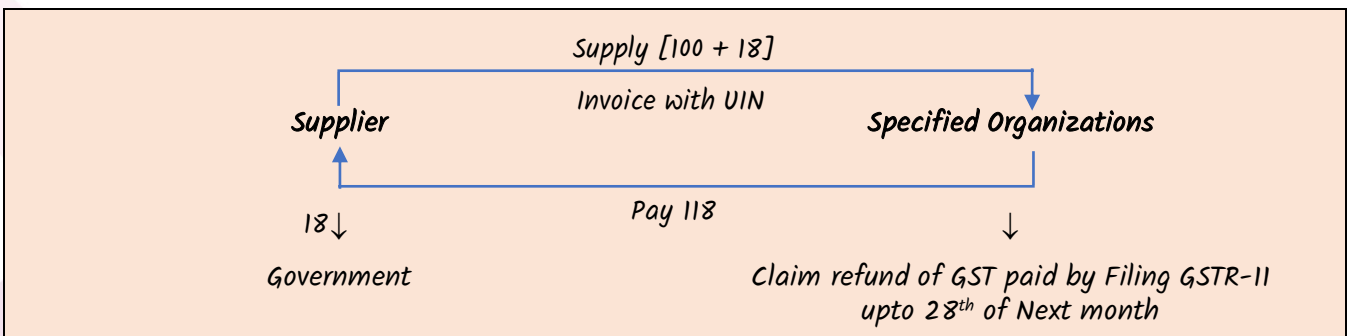
**Note** - Every person who makes supply from territorial waters of India shall obtain Registration in coastal states or UT where nearest point of appropriate base line is located.

**8. UNIQUE IDENTITY NUMBER (UIN) [SEC 25(9)]**

Certain organizations like UN bodies, Multilateral Financial Institutions like World Bank & IMF, embassies etc. are not liable to pay tax in India.

Any GST paid by such organizations on their inward supply are refunded on priority basis.

Hence, instead of GSTIN, they are issued UIN, which is used for claiming refund of tax paid by them on Inward supply.





**Notes:**

1. UIN may be issued within **3 working days** from the date of submission of application for Registration
  - a. made by specified organization; or
  - b. on recommendation of Ministry of External Affairs.
2. UIN shall be applicable all over India i.e, centralized UIN.
3. A person having UIN is not a registered person and thus, is not a taxable person.
4. A person to whom UIN has been granted cannot apply for cancellation of registration.

**9. PROCEDURE FOR GST REGISTRATION**

A new person [Section 9, 10 , CTP, Voluntary Registration] applies for registration by filing form GST REG 1 on common portal. It has two parts:

Part I – Application by Applicant		Part II
Part A of GST REG 1	Part B of GST REG 1	
<p>Applicant declares his PAN, PAN linked Mobile Number and E-mail address, State / UT, Legal Name</p> <p style="text-align: center;">↓</p> <p>PAN shall be validated by Common Portal from CBDT database &amp; is also verified through separate OTPs sent to the PAN linked mobile number and e-mail address.</p> <p style="text-align: center;">↓</p> <p>Mobile number &amp; E-mail address is validated through separate OTPs.</p> <p style="text-align: center;">↓</p> <p>Temporary Reference Number is generated on submission of Part A &amp; communicated to Applicant. It is valid for 15 days for submission of Part B</p>	<p>Need to furnish additional details like</p> <ul style="list-style-type: none"> <li>➤ Constitution of business,</li> <li>➤ Jurisdiction,</li> <li>➤ Option for composition scheme,</li> <li>➤ Option for CTP,</li> <li>➤ Address of PPOB and APoB,</li> <li>➤ Bank account details</li> <li>➤ details of Partner, directors, details of goods / services</li> <li>➤ details of authorized signatory</li> <li>➤ Aadhaar authentication etc.</li> </ul> <p style="text-align: center;">↓</p> <p>Along with submitting form GST REG 01, Applicant needs to undergo AA</p>	<p>Work of GST Department starts after effective date of Application for registration</p> <p>(PO shall Review the application in Form GST REG 1 &amp; shall either Approve or Reject it – Refer chart made in Class)</p>

**9.1. AADHAR AUTHENTICATION**

All Existing Registered Person	New Applicant [Individual or Others]	
	Where Applicant opts for AA & successfully done within 15 days	Where Applicant fails to undergo AA or does not opt AA
<p>Need to undergo AA or furnish Proof of Aadhar Number in prescribed Form &amp; within prescribed time for existing GST registration.</p> <p>↓</p> <p>If registered person is not assigned Aadhar, he shall be offered alternate &amp; viable means of authentication.*</p> <p>↓</p> <p>If registered person fails to comply with above procedure,</p> <ul style="list-style-type: none"> <li>➤ Registration granted shall be deemed to be invalid &amp;</li> <li>➤ provisions of GST law shall be applicable to as if he is unregistered person.</li> </ul>	<p>Date of submission of the application in such cases shall be earlier of:</p> <ol style="list-style-type: none"> <li>the date of AA, or</li> <li>15<sup>th</sup> day from submission of appl. in Part B of Form GST REG-01.</li> </ol> <p>Once AA has been successfully validated,</p> <ul style="list-style-type: none"> <li>➤ his application will be deemed to be approved within 7 working days &amp;</li> <li>➤ registration application submitted by him will not be marked for mandatory site visit,</li> <li>➤ unless PO raises SCN within 7 days.</li> </ul> <p><b>Note:</b> If applicant is not assigned Aadhar, he shall be offered alternate &amp; viable means of authentication in prescribed manner.*</p>	<p>Registration shall be granted</p> <ul style="list-style-type: none"> <li>➤ within 30 days of submission of application</li> <li>➤ only after physical verification of PPoB and</li> <li>➤ verification of such docs as PO may deem fit.</li> </ul> <p>In such cases, notice seeking clarifications/ information/ documents from the Applicant may be issued by PO within</p> <ul style="list-style-type: none"> <li>➤ 30 days from submission of the application for registration.</li> </ul> <p>The above process is also followed w.r.t. a person, who has undergone AA, but is identified on the common portal, based on data analysis and risk parameters (presently in case pilot project in Gujarat), for carrying out physical verification of places of business.</p>

If PO deems it fit to carry out physical verification in any other case, like where Applicant has undergone AA, he may do it with the approval of an officer authorized by Commissioner not below rank of AC. In such case, time limit of 30 days, as mentioned above, is applicable.

Determination of Effective Date of Application in various cases:	Effective date of Application
a) where Applicant has opted for AA & AA is successfully done within 15 days of submitting GST REG I	on the date AA is done
b) where Applicant has opted for AA & AA is not done within 15 days of submitting GST REG I	15 <sup>th</sup> day of submitting GST REG I
c) where Applicant has not opted for AA	Date of submitting GST REG I

Illustration: Applicant submitted GST REG I on 15/02/XX	Effective date of Application
Case I: opted for AA & AA is successfully done on 25/02/XX	
Case II: opted for AA & AA not done within 15 days	
Applicant did not opt for AA	

**How AA is done?**

If Applicant opts for AA, GST system sends "authentication link" on the mobile numbers and email ids (mentioned in the registration application) of promotor /partner, and primary authorized signatory.

On clicking the verification link, a window for AA will open where they have to enter the Aadhaar Number and OTP received by them on the mobile number and email id linked with Aadhaar.

**Note:** In case applicant is individual, he shall undergo AA of his own Aadhaar.

In case applicant is other than individual, AA will be of Aadhaar number of the Karta, Managing Director, whole time director, managing and authorized partners, authorized signatory of all types.

### 9.2. Risk-based biometric-based Aadhaar authentication of Applicants – Pilot project in Gujarat

In order to improve the registration process, biometric based AA of high-risk applicants who opt for AA number has been introduced.

An applicant who has opted for AA and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based AA and taking photograph:

- a) of the applicant where the applicant is an individual or
- b) of such individuals 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 at one of the notified Facilitation Centres.

The application shall be deemed to be complete only after completion of the process laid down hereunder.

An acknowledgement shall be issued to Applicant only after completion of biometric-based authentication.

### 9.3. \*What is the alternate & viable means of authentication if existing registered person is not assigned Aadhar Number?

Such person shall furnish the following identification documents, namely: [as per Rule 10B]

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

However, once Aadhaar number is allotted to such person, he shall undergo AA within 30 days of the allotment of the Aadhaar number.

**Note:** The afore-said rule 10B shall not be applicable to persons notified under section 25(6D).

### 9.4. Option to give bank details after obtaining Registration [Rule 10A]

A taxpayer has an option to give his bank account details after obtaining registration, but within earlier of

- 45 days from the date of grant of registration; or
- due date of furnishing return u/s 39,

**Illustration:** Ram applied for registration without bank details. What is the last date for giving bank details?

Case 1	Registration granted on 03/03	
Case 2	Registration granted on 25/03	

### 9.5. Non-Applicability of AA [Sec 25(6D)]

- |                                       |                     |                    |
|---------------------------------------|---------------------|--------------------|
| a) Person who is not citizen of India | b) CG/SG Department | c) Local Authority |
|---------------------------------------|---------------------|--------------------|

d) PSUs	e) Statutory Body	f) Person applying for UIN
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### 9.6. PHYSICAL VERIFICATION OF BUSINESS PREMISES IN CERTAIN CASES [RULE 25]

If PO is satisfied that physical verification of PoB of a person is required due to

- failure of AA or due to not opting for AA before the grant of registration, or
- any other reason,

➤ he may get such verification of the PoB in presence of such person, with approval of an Officer authorised by Commissioner not below the rank of assistant commissioner.

Verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of **15 working days** following the date of such verification.

#### Points to Note:

- Once Registration is granted, GSTIN shall be communicated to taxpayer within 3 days.
- Registration is valid for lifetime unless cancelled.
- Registration certificate shall be displayed in a prominent location at taxpayer's PPoB & at every APoB.
- GSTIN shall be displayed on the name board at the entry of his PPoB and at every APoB.

### 10. REGISTRATION IN CASE OF PERSONS REQUIRED TO DEDUCT TAX AT SOURCE U/S 51 OR TO COLLECT TAX AT SOURCE U/S 52 [RULE 12]

Application for registration has to be submitted by such persons in a different prescribed form at GST Common Portal. They would be granted registration

➤ within 3 working days from the date of submission of application after due verification.

In case of a request made in writing by a person to whom a registration has been granted u/r 12(2) or upon an enquiry or pursuant to any other proceeding under the CGST Act,

- the proper officer is satisfied that a person to whom a certificate of registration has been issued
- is no longer liable to deduct tax at source u/s 51 or collect tax at source u/s 52,
- he may cancel the registration & such cancellation shall be communicated to the person electronically.

### 11. AMENDMENT OF REGISTRATION CERTIFICATE [SEC 28]

Core fields	Non - core fields
<ol style="list-style-type: none"> <li>Legal Name</li> <li>Addition/ deletion of directors, partners etc.</li> <li>Change in address of PPoB/ APoB within same state/ UT.</li> </ol> <p>Registration person needs to inform PO &amp; seek approval within 15 working days of event requiring amendment.</p>	<p>All other fields like name of day-to-day functionaries, e-mail ids, mobile numbers, etc.</p> <p>↓</p> <p>RC shall stand amended on submission of Application for amendment on common portal</p> <p>No approval of PO is required.</p> <p>↓</p> <p>Amendment of e-mail id and mobile number can be done by Registered person on own after online validation using OTP.</p>



	15 W. Days	15 W. Days	7 W. Days	7 W. Days
Event requiring Amendment	Apply for amendment in prescribed form GST REG 15 within 15 working days	If satisfied, PO shall amend registration certificate or serve SCN why application for amendment should not be rejected?	Registered person shall submit required details in prescribed form	If PO is satisfied, he shall amend R.C. Else, he shall reject application for amendment after recording reason for same in writing.

If the proper officer fails to take any action,-

a) within a period of 15 working days from the date of submission of application, or

b) within a period of 7 working days from the date of the receipt of reply to SCN,

the certificate of registration shall stand amended & amended certificate shall be made available to the registered person on the common portal.

**In following cases, a person needs to seek fresh registration (i.e. amendment not possible)**

a. Change in constitution of business resulting in change in PAN.

Firm → Company

b. Change in place of business (PPoB or APoB) from 1 state to another state.

**Example**

Varun Enterprises, a sole proprietorship firm, is engaged in supply of electrical goods in Delhi. He wishes to expand his business and his friend – Arun approaches him to provide additional capital for his business if he is made a partner in Varun's business.

Varun agrees and changes the constitution of his business & forms a partnership firm – Varun Arun & Co.

Since the change in constitution of business from sole proprietorship firm to partnership firm results in change in PAN, the partnership firm has to apply for fresh registration.

## 12. CANCELLATION OF REGISTRATION [SEC 29]

### 12.1. Voluntary Cancellation by Registered Person

### 12.2. Suo Motu Cancellation by PO

#### 12.1. Voluntary Cancellation by Registered Person

**Circumstances when the registration can be cancelled on an application of Registered person:**

1. Business discontinued.
2. Business transferred fully for any reason including death of the proprietor.
3. Business Amalgamated with other legal entity or Demerged.
4. Change in the constitution of the business.
5. Taxable person who is no longer liable to be registered u/s 22 or 24 or who intends to optout of the voluntary registration.

#### Procedure for Voluntary Cancellation

	30 Days	30 Days
Event requiring cancellation	Taxpayer shall electronically apply for cancellation in prescribed form within 30 days from event requiring cancellation. Required to furnish details of inputs & capital goods held in stock	Proper officer shall cancel registration

on the date from which cancellation of registration is sought, liability thereon, details of payment against such liability.

### 12.2. Suo Motu Cancellation by Proper Officer

**Circumstances when the registration can be cancelled suo motu by proper officer:**

- 1) Voluntarily registered person has not commenced business within 6 months from date of registration.
- 2) Registration was obtained by means of fraud, wilful misstatement or suppression of facts.
- 3) Registered person has contravened the following provisions
  - a) does not conduct any business from the declared PoB;
  - b) issues invoice/ bill without supply of goods/services in violation of the provisions of this Act/ Rules;
  - c) violates the provisions of section 171 relating to anti-profiteering measure;
  - d) violates the provision of rule 10A;
  - e) avails ITC in violation of provisions of section 16 of CGST Act; or
  - f) furnishes details of outward supplies in Form GSTR 1 u/s 37 which is in excess of the outward supplies declared by him in his valid return u/s 39 for the said tax periods; or
  - g) Registered person violates the provision of rule 86B.
- 4) The registered person has not filed returns for
  - a) Continuous period for two tax periods in case of quarterly filing of return under QRMP Scheme.
  - b) Continuous period for six months in case of monthly filing of returns.
- 5) A person paying tax u/s 10 has not furnished return for a FY beyond 3 months from the due date.
- 6) All cases where Registered person can apply for voluntary cancellation.

### Procedure for Suo Motu Cancellation by Proper Officer

7 Days	30 Days
PO shall give SCN i.e., opportunity of being heard before cancellation as to why registration should not be cancelled	Registered person shall file reply to SCN within 7 days
	<p>If PO is satisfied with reply, he shall drop the proceedings.*</p> <p>If PO is not satisfied, he will issue order for cancellation of registration within 30 days from the date of reply to SCN.</p> <p style="text-align: center;">↓</p> <p><b>Effective date of cancellation:</b> as decided by PO &amp; mentioned in the cancellation order.</p>

\*However, where the person instead of replying to the SCN served for failure to furnish returns for a continuous period of 6 months or 2 tax periods, as the case may be (return for a F.Y. beyond 3 months from due date of furnishing the said return in case of composition scheme supplier)

- 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 and pass an order.

### 12.3. Effects of Cancellation of Registration

- a) Amount payable by the taxpayer on cancellation of registration → Already done in Ch 8 – ITC.
- b) Cancellation of registration does not affect liability of the registered person to pay tax & other dues for the period prior to the date of cancellation.

Example: PO cancelled the registration of Naman Associates on 11<sup>th</sup> October. The tax dues for July-September quarter (determined by the proper officer on 16<sup>th</sup> December) are 50,000. The cancellation of

registration of Naman Associates shall have no effect on his liability of tax dues of 50,000 even though the tax dues are determined after the cancellation of registration.

- c) Once registration is cancelled by the tax authority, the taxpayer will be intimated about the same via SMS and email. Order for cancellation of registration will be issued and intimated to the primary authorized signatory by email and SMS.

### 13. SUSPENSION OF REGISTRATION

Registered person applied for cancellation	Cancellation initiated by Department Suo Motu
<p>Registration may be suspended from</p> <p>a. Date of submission of Application for cancellation</p> <p>&amp;</p> <p>b. Date from which cancellation is sought</p> <p>↓</p> <p>whichever is later, pending completion of proceedings for cancellation of registration.</p>	<p>Registration may be suspended w.e.f. a date determined by PO, pending completion of proceedings for cancellation of registrn.</p> <p>Further, if on comparison of the returns furnished u/s 39 with:</p> <p>a) details of outward supplies furnished in Form GSTR-1; or</p> <p>b) details of inward supplies derived based on details of outward supplies furnished by his suppliers in their GSTR-1,</p> <p>c) or such other analysis, as may be carried out on the recommendations of the Council,</p> <p>shows that there are significant differences due to contravention of provisions of CGST Act or Rules, leading to cancellation of registration,</p> <p>↓</p> <p>Said person shall be intimated in prescribed form.</p> <p>In this intimation for suspension &amp; notice for cancellation of registration, the said differences and anomalies are highlighted and said person is asked to explain, within a period of 30 days, as to why his registration shall not be cancelled.</p>
<p>During the period of suspension of registration, taxpayer shall</p> <p>a. not make any taxable supply i.e. shall not issue tax invoice and, accordingly, not charge outward tax &amp;</p> <p>b. shall not be required to file return u/s 39.</p>	

#### 13.1. REVOCATION OF SUSPENSION

Suspension of registration may be revoked by PO,

- anytime during the pendency of the proceedings for cancellation, if he deems fit.

Further, upon completion of the cancellation proceedings, PO shall be deemed to revoke the suspension.

Such revocation shall be effective from the date on which the suspension had come into effect.

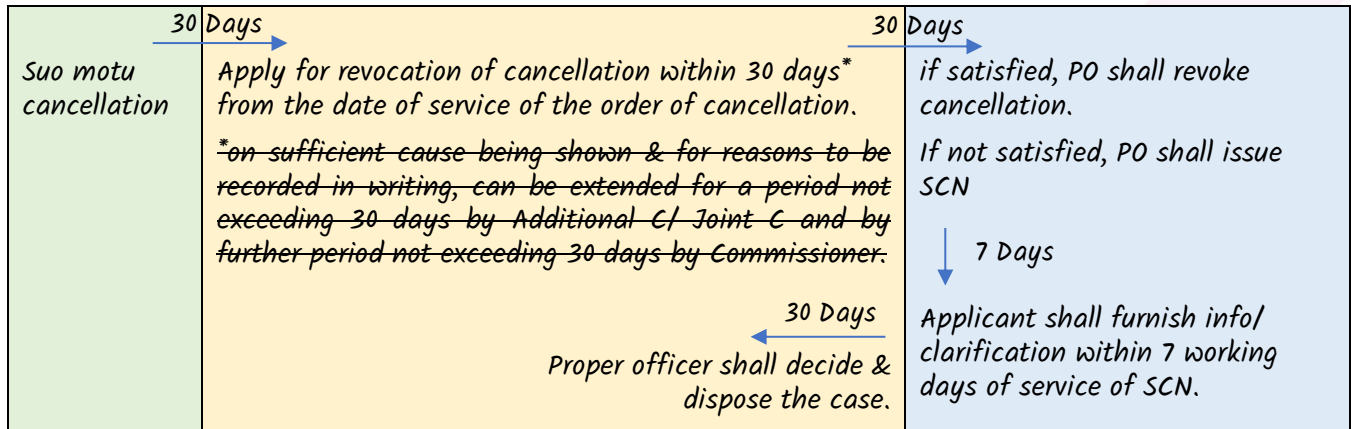
Further, where the registration has been suspended for not filing of return for the prescribed time u/s 29 and the registration has not already been cancelled by the PO, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.

In such cases, provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension shall apply.

★		
Registration Suspended	Order revoking suspension of registration	within 1 month from date of revocation order, need to issue revised tax invoice w.r.t. supplies made during period of suspension &

file first return u/s 40.

#### 14. REVOCATION OF SUO MOTU CANCELLATION [SEC 30]



**Note :**

1. Before applying for revocation of cancellation, person has to make good the defaults (by filing all pending returns, making payment of all dues etc.) for which the registration was cancelled by PO.
2. In case of voluntary cancellation of registration, one can't apply for revocation of cancelled registration.
3. All the correspondence between GST authority/ PO & taxpayer shall be done electronically on the GST common portal [www.gst.gov.in]



# CHAPTER 10

## TAX INVOICE, CREDIT & DEBIT NOTES

### 1. INTRODUCTION

- Section 31 mandates the issuance of an Invoice/ Tax Invoice or a Bill of Supply for every supply of goods or services or both.
- Tax invoice is issued when a registered person makes taxable supply of goods or service or both.
- Tax invoice/ debit note enables recipient to claim ITC on their inward supply.
- Time limit for issuance of tax invoice has already been covered under Chapter 5 – Time of Supply.

- Registered supplier
  - Supplying **taxable** goods / services → Tax invoice
  - Supplying **exempt** goods/ services → Bill of supply
  - Paying GST under **composition levy** → Bill of supply
  - Supplying Goods/ services **taxable** under **RCM** → ~~Bill of supply~~ Tax Invoice

#### Points to Note

- No fixed format has been prescribed for tax invoice. Only few mandatory fields are prescribed as mandatory fields.
- Invoice can be issued electronically or manually  
Scanned copy of tax invoice is not required to be uploaded. Only prescribed details are to be furnished on GST common portal in GSTR-1 or IFF.

### 2. PARTICULARS OF A TAX INVOICE

[SEC 31(1) AND (2) R/W RULE 46]

i)	Name, address and GSTIN of the supplier;	
ii)	A consecutive serial number not exceeding 16 characters, unique for a FY; (furnished in GSTR 1/ IFF)	
iii)	Date of its issue;	
iv)	If recipient is registered - Name, address and GSTIN or UIN of recipient	
v)	If recipient is unregistered & value of supply is	Particulars of invoice
	INR 50,000 or more	Name & address of recipient; address of delivery, name of State & code
	less than INR 50,000	Unregd. recipient may request the aforesaid details to be recorded in TI
vi)	Where any taxable service is supplied by or through an ECO or by a supplier of OIDAR services to an unregistered recipient, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient.	

vii)	HSN code for goods or services;
viii)	Description of goods or services;
ix)	Total value of supply of goods or services or both;
x)	Taxable value of supply of goods or services or both taking into account discount, if any;
xi)	Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
xii)	Amount of tax charged in respect of taxable goods or services (CGST, SGST/UTGST, IGST, Cess);
xiii)	Place of supply along with the name of State, in case of inter-State supply;
xiv)	Whether the tax is payable on reverse charge basis;
xv)	Signature or digital signature of the supplier or his authorized representative (not required in case of issuance of an <u>electronic invoice</u> in accordance with provisions of Information Technology Act);
xvi)	Quick Response code, having embedded Invoice Reference Number (IRN) in it, in case of e-invoice.

### 3. NUMBER OF HSN DIGITS REQUIRED ON TAX INVOICE AND CLASS OF REGISTERED PERSON NOT REQUIRED TO MENTION HSN

S.No.	Aggregate Turnover (AT) in the preceding FY	Number of digits of HSN code
1.	AT upto INR 5 crores	For B2B supply - 4 For B2C supply - 4 (optional)*
2.	AT > INR 5 crores	For B2B supply and B2C supply - 6

**Note:** A registered person having aggregate turnover up to INR 5 crores in the previous FY is exempted from mentioning HSN Code in respect of supplies made to unregistered persons.

**Note:** HSN needs to be quoted in Tax invoice as well as Bill of supply.

For Service, 6-digit Service accounting code is used for classification of service. First 2 digit is '99'.

### 4. MANNER OF ISSUING TAX INVOICE / BILL OF SUPPLY

Supply of goods		Supply of services	
Triplicate copy	Original for Recipient	Duplicate copy	
	Duplicate for Transporter		
	Triplicate for Supplier	Original for Recipient	Duplicate for Supplier

### 5. E- INVOICING

'E-invoicing' has been introduced for reporting of business to business (B2B) invoices to GST System for certain notified category of taxpayers by uploading such particulars as contained in Form GST INV-01 on the Common GST Electronic Portal and obtain an IRN (Invoice Reference Number).

i) Logic	<p>Businesses use various accounting/billing software, each generating &amp; storing invoices in their own electronic formats. These different formats are neither understood by GST System nor by the systems of suppliers and receivers.</p> <p>Example: An invoice generated by SAP system cannot be read by a machine which is using 'Tally' system, unless a connector is used. With more than 300 accounting/billing software products, there was no way to have connectors for all.</p> <p>'E-invoicing' was introduced to enable machine-readability &amp; uniform interpretation. To ensure this complete 'inter-operability' of e-invoices across entire GST eco-system,</p>
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	<p>an invoice standard is a must. By this, e-invoices generated by one software can be read by any other software, thereby eliminating the need of fresh/manual data entry. This uniform standard format (containing specified fields) applicable across the country is known as 'e-invoice schema'. It is notified as Form GST INV-1.</p>
ii) <b>Meaning/ Procedure</b>	<p>E-Invoicing is not generation of invoice on a Government portal. Taxpayers will continue to create their GST invoices on their own Accounting/ Billing / ERP Systems.</p> <p>The details of this invoice are uploaded/reported by the taxpayer to the Invoice Registration Portal (IRP) in prescribed e-invoice schema in JSON format (JavaScript Object Notation).</p> <p>On uploading, IRP returns the e-invoice with a unique IRN after digitally signing the e-invoice and adding a QR Code. Then, the supplier shares the e-invoice with the receiver (along with QR Code).</p> <p>Thus, businesses will continue to issue invoices as they were doing earlier. They need to get the updated version of ERP/Accounting and Billing Software having this facility of reporting of invoices to IRP and obtain IRN.</p> <p>Note: Bulk uploading of invoices to IRP is also possible.</p>
iii) <b>Applicability</b>	<p>All registered businesses with an</p> <ul style="list-style-type: none"> <li>➤ aggregate turnover (based on PAN) in</li> <li>➤ any preceding FY from 2017-18 onwards &gt; 10 crores</li> <li>➤ will be required to issue e-invoices in case of             <ul style="list-style-type: none"> <li>a) B2B supplies or</li> <li>b) for exports.</li> </ul> </li> </ul> <p><b>Points to Note:</b></p> <ul style="list-style-type: none"> <li>a) If invoice is issued by a notified person w.r.t. supplies tax on which is payable under RCM u/s 9(3), e-invoicing is applicable.</li> <li>b) e-invoicing system is also available for E-Commerce Operators (ECO) to report the invoices to the IRP, generated by them on behalf of the suppliers.</li> <li>c) E-invoicing is not voluntary; only notified persons can report invoices on IRP.</li> <li>d) Where e- invoicing is applicable, no need of issuing invoices in triplicate/duplicate.</li> <li>e) Invoices, credit notes and debit notes, when issued by notified persons are together referred as e-Invoicing for ease of reference.</li> </ul>
iv) <b>Transactions where E-Invoice is not required</b>	<ul style="list-style-type: none"> <li>a) B2C invoices issued by notified person.</li> <li>b) Import of goods (Bills of Entry) or import of services.</li> <li>c) Where specified category of supplies is received by notified person from unregistered persons attracting reverse charge u/s 9(4).</li> </ul> <p>In above cases, notified person is not required to issue e-invoice.</p> <p><b>Example</b></p> <p>A firm of advocates having aggregate turnover in a FY of more than INR 10 crore is supplying services to a company. This supply is taxable under RCM and Company will be discharging tax liability as recipient under RCM.</p> <p>In this case, notified person need to report such invoices to IRP.</p>
v) <b>Exemption from e-commerce</b>	<p>Following entities are exempt from the mandatory requirement of e-invoicing:</p> <ul style="list-style-type: none"> <li>a) Special Economic Zone units</li> <li>b) Insurer or banking company or financial institution including NBFC</li> </ul>

<p><b>invoicing</b></p>	<p>c) GTA supplying services w.r.t. transportation of goods by road in a goods carriage  d) Supplier of passenger transportation service  e) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.  f) Government Department and a local authority.</p> <p>Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds INR 10 crore in the preceding FY from 2017-18 onwards.</p> <p><b>Note:</b> Such taxpayers are now required to provide a declaration on the tax invoice stating that though their aggregate turnover exceeds the notified aggregate turnover for e-invoicing, they are not required to prepare an e- invoice.</p> <p><b>Note :</b> Only SEZ units and not SEZ developers are exempt from issuing e- invoices. Thus, SEZ developers whose turnover exceeds 10 crores in any preceding FY from 2017-18 onwards are mandatorily required to issue e-invoices.</p> <p>Further, in case of supplies made by notified persons to SEZ units, e- invoices needs to be issued.</p> <p><b>Example</b></p> <p>MPL has an SEZ unit and a regular DTA unit (both having same PAN). The aggregate total turnover of MPL is more than 10 crores (considering both the GSTINs). However, the turnover of DTA unit is below 10 crores for current FY.</p> <p>In this scenario, SEZ unit is exempt from e-invoicing. However, e-invoicing will be applicable to DTA Unit because aggregate turnover of the legal entity in this case &gt; 10 crores. The eligibility is based on aggregate annual turnover on the common PAN.</p>
<p><b>Clarification:</b></p>	<p><b>Issue:</b> Whether the exemption from mandatory generation of e- invoices is available for entity as whole, or whether in respect of certain supplies made by the said entity.</p> <p><b>Clarification:</b> Exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.</p> <p><b>Example:</b> A bank may also be involved in making supply of some goods, including bullion. In this case, bank is exempted from issuing e-invoice for all supplies of goods and services.</p>
<p><b>vi) Advantages of e- invoicing</b></p>	<p>a) Auto-reporting of invoices into GSTR 1 of the supplier and GSTR 2B of the Recipient along with auto-generation of EWB.</p> <p>b) Substantial reduction in transcription errors as same data will get reported to tax department as well as to the buyer to prepare his inward supplies register.</p> <p>c) It facilitates standardization &amp; interoperability leading to reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs and thereby greatly improving overall business efficiency.</p> <p>d) Complete trail of B2B invoices is available with the Department. It will enable the system-level matching of ITC and output tax thereby reducing the tax evasion.</p> <p>e) E- invoicing will eliminate the fake invoices.</p>
<p><b>vii) Cancellation/ amendment of reported invoice</b></p>	<p>Where needed, the seller can cancel IRN for an e-invoice already reported by reporting it on IRP within specified time.</p> <p>Amendment of e-invoice already uploaded on IRP will be done only on GST portal (while filing GSTR-1). Amendment of invoices is not possible through the IRP.</p>
<p><b>Note:</b> In case of issuance of e-invoice, no requirement to carry the physical copy of tax invoice. production of the QR code having an embedded IRN electronically, for verification by the proper officer, would suffice.</p>	

**5.1. IMPORTANT TERMS**



i) Invoice Registration Portal (IRP)	Refers to website for uploading/reporting of invoices by the notified persons. Example: <a href="http://www.einvoice1.gst.gov.in">www.einvoice1.gst.gov.in</a>		
ii) Invoice Reference Number (IRN)	IRN is a unique reference number generated and returned by IRP, on successful registration of e-invoice. IRN is embedded in the QR Code which shall be extracted and printed on the invoice. The digitally signed QR code will have a unique IRN which can be verified on the central portal as well as by an offline app by the officer. This will be helpful for tax officers checking the invoice offline on the roadside where internet may not be available all the time. IRN is different from invoice number.		
iii) Quick Response (QR) code	QR code enables quick view, validation & access of the invoices from the GST system from hand-held devices. The digitally signed QR code will have a unique IRN which can be verified on the central portal as well as by an offline app by the officer. This will be helpful for tax officers checking the invoice offline on the roadside where internet may not be available all the time. QR code consists of following details:		
a) GSTIN of Supplier	b) GSTIN of Recipient	c) Invoice number	
d) Date of generation of invoice	e) Invoice value (taxable value and gross tax)	f) Number of line items	
g) HSN code of main item (line item having highest taxable value)	h) IRN (hash)	i) Date of generation of IRN	

## 6. DYNAMIC QR CODE

Dynamic QR Code	Static QR code
User specific. For each payer, new QR code is generated	Common QR code for all. Can be used by anyone.
On scanning, Name of supplier & Amount is pre-filled.	On scanning, only name of supplier appears.
Payer just needs to scan & use OTP/PIN to pay, thus 'scan and pay' is possible.	Amount is typed by Payer & then payment made.

### Objective

The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly.

Dynamic QR Code will be generated by the seller himself either on the PoS machine or the invoice issued.

Applicability	Supplier whose Agg. T/o > 500 crores in any FY wef FY 2017-18 & making B2C supplies.
Clarification	<b>Dynamic QR Code in case of an invoice, issued to person having a UIN.</b> Any person, who has obtained a Unique Identity Number (UIN), is not a "registered person" u/s 2(94). Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.
Not Applicability	a) Insurer or banking company or financial institution including NBFC b) Goods transport agency supplying services in relation to transportation of goods by road in a goods carriage c) Supplier of passenger transportation service

	<p>d) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens</p> <p>e) Supplier of online information and database access or retrieval (OIDAR) services.</p> <p>f) In case of exports, No Dynamic QR code, as e-invoicing is applicable in this case.</p>
Parameters/ details in Dynamic QR code	<ol style="list-style-type: none"> <li>1. Supplier GSTIN number</li> <li>2. Supplier UPI ID</li> <li>3. Payee's Bank A/c number and IFSC</li> <li>4. Invoice number &amp; invoice date,</li> <li>5. Total invoice value and</li> <li>6. GST amount along with breakup i.e. CGST, SGST, IGST, Cess, etc.</li> </ol>

### 6.1. COMPLIANCE WITH THE DYNAMIC QR CODE REQUIREMENTS IN CERTAIN CASES

#### Six Scenarios

Pre-paid i.e. payment made before generation of invoice	Payment being made at the time of generation of Invoice	Payment being made after generation of Invoice
Payment through DQR code on Invoice is not possible	Supplier shall put dynamic QR code on Invoice	Supplier need to provide DQR code on Invoice
It shall be deemed that taxpayer has complied with requirements of QR code if cross reference of payment, either through cash or electronic payment or in combination, is made on invoice.	If recipient makes payment through scanning DQR → Ok	If recipient makes payment through scanning DQR → Ok
	If R makes payment other than through DQR, it shall be deemed that taxpayer has complied with requirements of QR code, <u>If supplier provides the cross reference of such payment made without use of Dynamic QR Code, on the invoice.</u>	If in future R makes payment w/o DQR code, it shall be deemed that taxpayer has complied with requirements of QR code, <u>If supplier provides the cross reference of such payment made without use of Dynamic QR Code, on the invoice.</u>
<b>Note:</b> Cross reference of payment means transaction id along with date, time amount & mode of payment.		

Where ECO has complied with the Dynamic QR Code requirements, whether Supplier using ECO is still be required to comply with the requirement of Dynamic QR Code?	<p>Dynamic QR code requirements apply to each supplier/registered person separately w.r.t. B2C supplies.</p> <p>Hence, notified supplier shall be required to comply with the requirement of Dynamic QR Code.</p> <p>He needs to give cross references of the payment received in respect of the supply made through ECO on the invoice, &amp; then such invoices would be deemed to have complied with the requirements of Dynamic QR Code.</p> <p>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.</p>
In case of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice,	<p>In such cases, it may not be possible for the merchant/ supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each receipt of payment from a customer has a unique Order ID/ sales reference number, which is linked with the invoice for the said transaction.</p> <p>In such cases, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be</p>

along with invoice number, is generated on the processing system being used by supplier/ merchant after receiving the payment.	provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.
Part-payment is received before dynamic QR code is generated, either in advance or by adjustment like using voucher, coupon etc.	Dynamic QR code may provide only the remaining amount payable by the customer/ recipient against “invoice value”. The details of total invoice value, along with details/ cross reference of the part payment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice <sup>14</sup>

### 7. REVISED TAX INVOICE [31(3)(a)]

Tax invoice includes include any revised invoice issued by the supplier in respect of a supply made earlier. A registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration, or in case of renovation of suspension of registration; he

- may issue Revised Tax Invoices
- w.r.t. invoices already issued during the said period
- within 1 month from the date of issuance of certificate of registration.

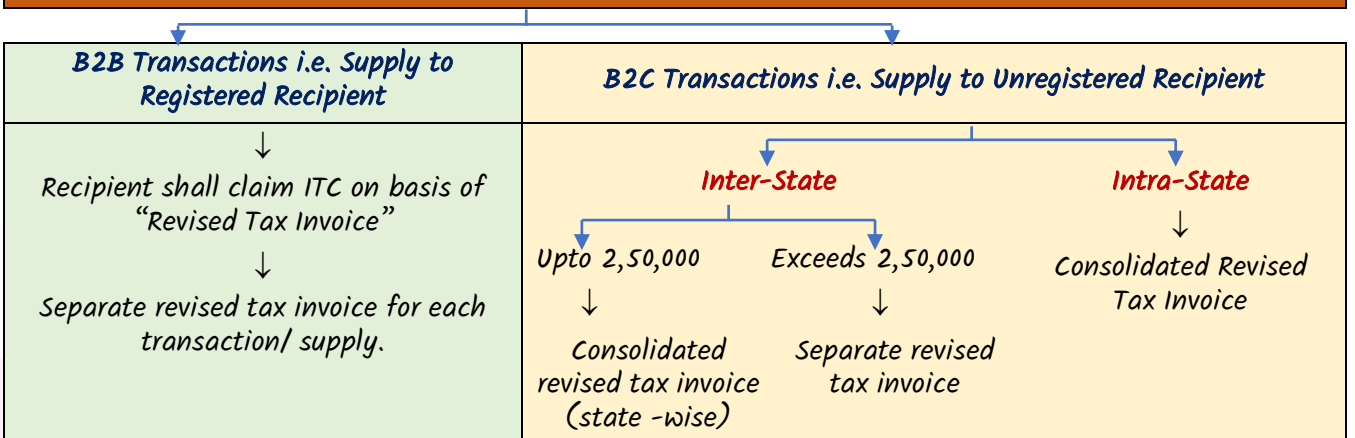
#### Example

Sarabhai Private Ltd. commenced business of supply of goods on 1<sup>st</sup> April in Delhi. Its turnover exceeded the applicable threshold limit on 3<sup>rd</sup> September. Thus, it became liable to registration on 3<sup>rd</sup> September. It applied for registration on 29<sup>th</sup> September and was granted registration certificate on 5<sup>th</sup> October.

Since it applied for registration within 30 days of becoming liable to registration, registration granted is effective from 3<sup>rd</sup> September.

Sarabhai Private Ltd. may issue Revised Tax Invoices on or before 5<sup>th</sup> November in respect of taxable supplies effected between 3<sup>rd</sup> September and 4<sup>th</sup> October.

### Manner of Issuing Revised Tax Invoice: Depends on nature Recipient and VoS



Separate Revised Tax Invoice All B2B supplies + Inter-state B2C supply where VoS exceeds 2,50,000

### 8. CONSOLIDATED TAX INVOICE/ BOS BY REGISTERED SUPPLIER [31(3)(b)]

#### Conditions

- |                                      |                                                 |
|--------------------------------------|-------------------------------------------------|
| 1. Value of supply less than 200 (+) | Instead of issuing tax invoice for each supply, |
|--------------------------------------|-------------------------------------------------|

2. Recipient is unregistered (+)	"Consolidated tax invoice" may be issued for all such supplies at the end of the day.
3. Recipient do not demand tax invoice	
If the first two conditions are satisfied, always assume that third condition is also satisfied.	

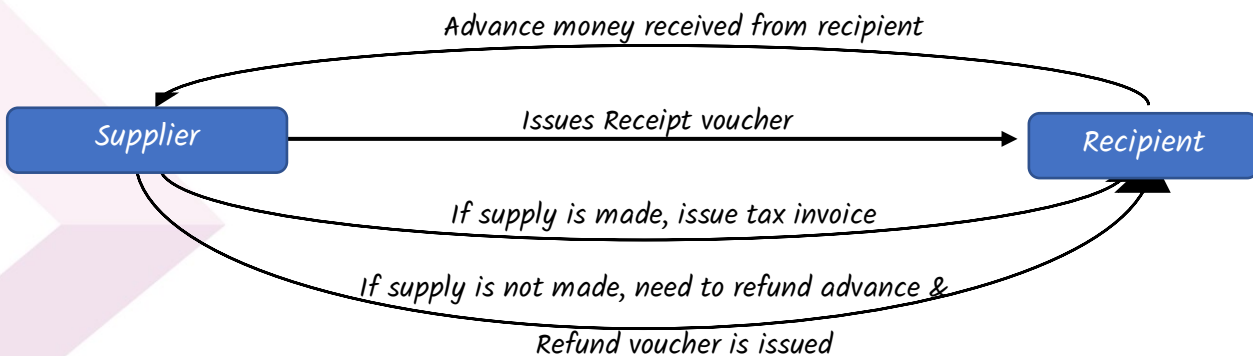
Illustrations:		
1. Registered supplier	value ₹ 120 Issue tax invoice	Registered recipient u/s 9
2. Registered supplier	value ₹ 120 Issue tax invoice	Composition dealer u/s 10
3. Registered supplier	value = ₹ 200 Issue tax invoice	Unregistered dealer
4. Registered supplier	value ₹ 199 Consolidated tax invoice, provided he doesn't demand tax invoice	Unregistered dealer
Hence in case of registered recipient (regular or composition), registered dealer/ supplier is mandatorily required to issue tax invoice for each taxable supply.		
<p><b>Note</b> – This option is not available to single screen or multiplex owners who are required to issue an electronic ticket (deemed invoice) in all cases.</p> <p><b>Note</b> - Above provision is also applicable to Bill of Supply as well.</p>		

**9. INVOICE-CUM-BILL OF SUPPLY: REGISTERED PERSON MAKING SUPPLIES TO**

Registered Recipient		Unregistered recipient	
Taxable Supply	Exempt Supply	Taxable Supply	Exempt Supply
↓	↓	↓	↓
Issue Tax Invoice	Issue Bill of Supply	Issue Tax Invoice	Issue Bill of Supply
If registered person makes both taxable & exempt supply to registered recipient, he needs to		If registered person makes both taxable & exempt supply to unregistered recipient, he may issue	
<ul style="list-style-type: none"> <li>➤ issue separate tax invoice for taxable supply &amp; bill of supply for exempt supply.</li> </ul>		<ul style="list-style-type: none"> <li>➤ single "Invoice -cum-bill of supply" for both taxable &amp; exempt supply.</li> </ul>	

**10. KINDS OF VOUCHERS**

**10.1. Receipt Voucher and Refund Voucher**



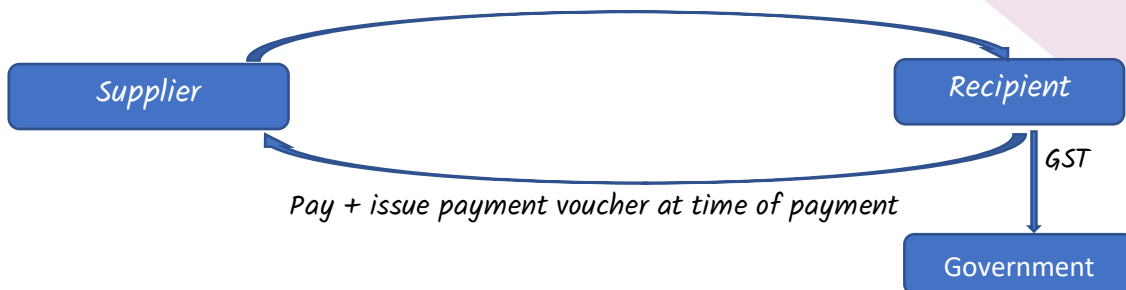


**Notes:**

- a) If rate of GST is not known at the time of supply, assume it to be 18%.
- b) If nature of supply is not known, assume it to be 'Inter -state supply'.

**10.2. Invoice and Payment voucher in case of RCM**

supply under RCM u/s 9(3) or 9(4)



**Who will issue Tax Invoice in case of RCM?**

If supplier is registered →	Supplier shall issue Tax Invoice. Recipient needs to issue Payment voucher.
If supplier is unregistered →	Supplier shall issue Tax Invoice as well as Payment voucher.

**11. OPTION TO ISSUE ANY DOCUMENTS OTHER THAN TAX INVOICE [SEC 31(2)]**

Optional for 4 class of suppliers:

1. <b>Banking company/ NBFC/ Insurance company</b>	<ul style="list-style-type: none"> <li>▪ Such doc may not have serial no. and address of recipient.</li> <li>▪ May issue consolidated invoice at end of the month.</li> <li>▪ Signature or digital signature of the supplier/ his authorised representative not required in case of consolidated tax invoice or any other document in lieu thereof as per IT Act, 2000.</li> </ul>
2. <b>GTA supplying transportation service w.r.t. goods in a goods carriage</b>	<ul style="list-style-type: none"> <li>▪ Consignment Note is deemed to be tax invoice.</li> <li>▪ Need to mention name of consignor, consignee, details of vehicle and goods and gross weight of consignment</li> </ul>
3. <b>Supplier of passenger transportation service</b>	<ul style="list-style-type: none"> <li>▪ Ticket is deemed to be tax invoice</li> <li>▪ Such doc may not have serial no. and address of recipient.</li> <li>▪ Signature or digital signature of the supplier/his authorised representative not required in case of ticket as per IT Act, 2000.</li> </ul>
4. <b>Multiplex or single screen cinema hall</b>	<ul style="list-style-type: none"> <li>▪ Only electronic ticket is deemed to be tax invoice.</li> <li>▪ Details of recipient not required.</li> <li>▪ Can't issue consolidated invoice</li> </ul>

**12. DELIVERY CHALLAN**

It is a document accompanying a shipment of goods that contains description & quantity of goods to be delivered

A copy of delivery challan signed by recipient is returned to seller as a proof of delivery.

Delivery challan is used at the time of removal of Goods where

- goods are removed/ transferred for reason other than supply or
- quantity of goods being removed is known after removal of goods.

In such cases, invoice is issued after delivery of goods.

**Issued in Triplicate**

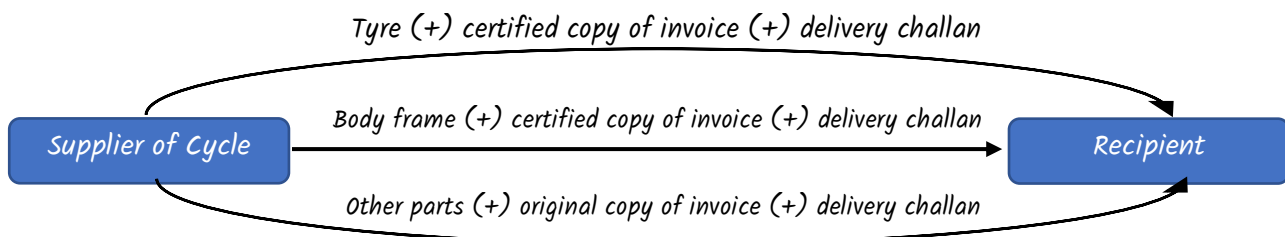
- First copy → for Consignee
- Second copy → for Transporter
- Third copy → for Consignor

**Must be declared in EWB**

**Cases where Goods can be removed on delivery challan:**

- Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known.
- Transportation of goods for job work
- Transportation of goods for reasons other than by way of supply
- Such other Supplies as may be notified by the Board

### 13. GOODS TRANSPORTED IN SKD/CKD CONDITION OR IN BATCHES OR LOTS



Tax invoice is issued before removal of **“first consignment”**.

However, Original copy of Invoice is sent with **“last consignment”**

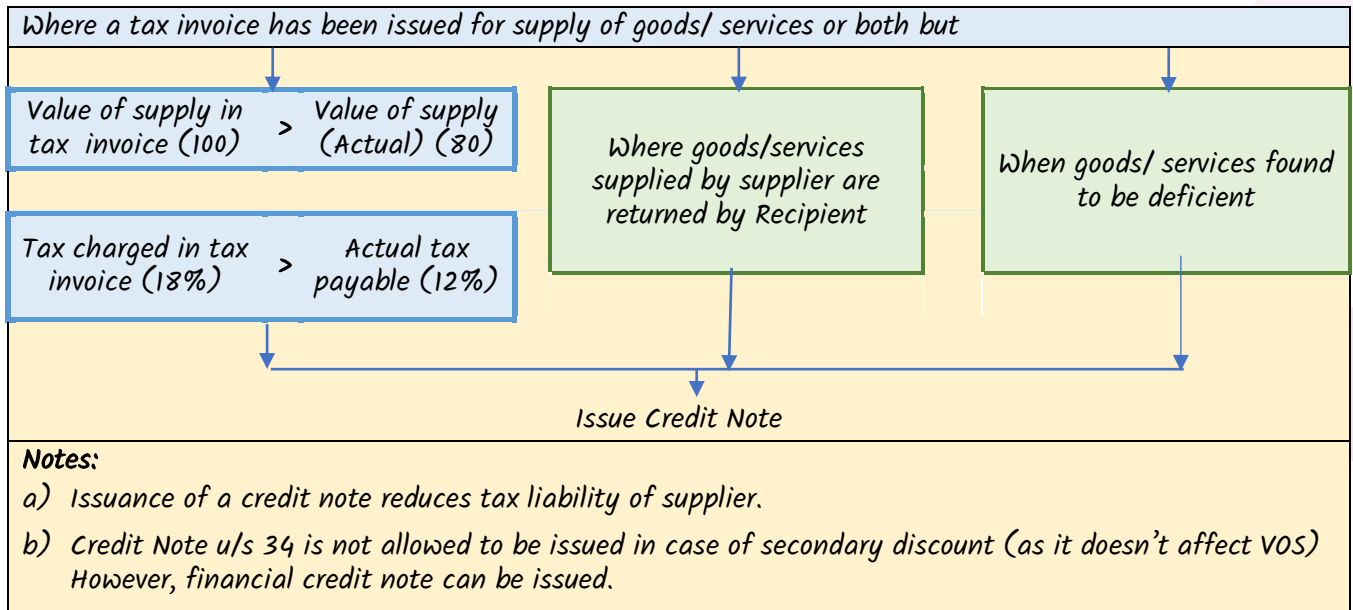
For earlier consignment, Certified copy of tax invoice is sent.

**“Delivery challan”** is issued for **“all consignment”**

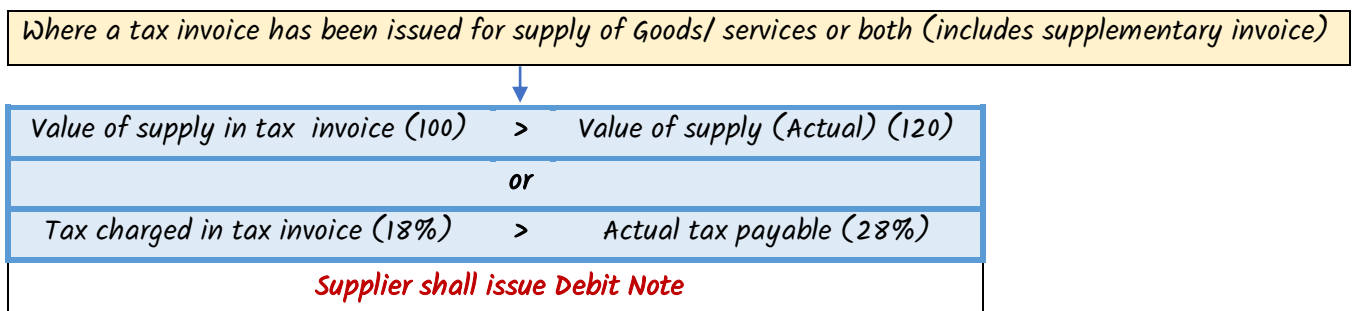
### 14. DEBIT NOTE AND CREDIT NOTE [SEC 34]

- Under GST law, cancellation of invoice is not allowed in case there is any change in VoS or tax amount.
- In such cases, rectification of under-billing or overbilling is done by issue of debit note & Credit note.
- Under GST, only supplier is allowed to issue credit note or debit note to recipient.
- If supplier needs to debit the recipient, he issues debit note. (increase in VoS or GST payable)
- If supplier needs to credit the recipient, he issues credit note. (decrease in VoS or GST payable)

**Insurance of Credit Note under GST**



**Insurance of Debit Note under GST**



Issuance of a debit note/supplementary invoice creates additional tax liability for supplier. Treatment of a debit note/ supplementary invoice is identical to the treatment of a tax invoice.

- Notes:**
- Details of Debit Note/ Credit Note issued u/s 34 is declared in return.
  - Last date for issuance of credit note w.r.t. an invoice: Earlier of
    - 30<sup>th</sup> November following the end of relevant financial year; &
    - Date of filing Annual Return for relevant FY.
  - Consolidated debit note or credit note can be issued for multiple invoices issued in a FY without linking it to individual invoices.

**15. PROHIBITION OF UNAUTHORISED COLLECTION OF TAX**

[SECTION 32]

Unregistered person shall not collect any amount by way of GST in respect of any supply of goods or services or both.

Registered person shall not collect tax except as per provisions of this Act or the rules made thereunder.

**Example:**

Rujuta is engaged in providing grooming services. She is not registered under GST law as her turnover is below the threshold limit. Rujuta cannot collect tax on the grooming services provided by her.

**16. AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER DOCUMENTS**

**[SECTION 33]**

Where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.



## CHAPTER 11

# ACCOUNTS AND RECORDS

### 1. INTRODUCTION [SEC 35 & 36]

Assessment in GST is mainly focused on self-assessment by the taxpayers themselves. Every taxpayer is required to self-assess the taxes payable and furnish a return for each tax period.

Department ensures compliance by taxpayers through documentary checks rather than physical controls.

Hence, every registered person is required to keep and maintain all accounts and records.

Such accounts and records may be used by the department for compliance verification.

They need not enroll for this purpose.

It is not mandatory to maintain the accounts in electronic form. Accounts and records may be maintained either electronically or manually. Further, there is no prescribed format for maintaining the accounts.

### 2. WHICH ACCOUNTS AND RECORDS ARE REQUIRED TO BE MAINTAINED?

[SEC 35]

A true and correct account of following is to be maintained:

- production or manufacture of goods;
- inward and outward supply of goods or services or both;
- stock of goods;
- input tax credit availed;
- output tax payable and paid
- such other particulars as may be prescribed<sup>2</sup>

The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

The additional records to be maintained by specified persons are as under: True and correct account

(i) Registered person	<ol style="list-style-type: none"> <li>the goods/services imported/exported,</li> <li>supplies attracting payment of tax on RCM along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.</li> <li>separate account of advances received, paid and adjustments made thereto.</li> <li>particulars of:               <ul style="list-style-type: none"> <li>➤ names and complete addresses of suppliers from whom he has received the</li> </ul> </li> </ol>
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	<p>goods or services chargeable to tax under the Act;</p> <ul style="list-style-type: none"> <li>➤ names and complete addresses of the persons to whom he has supplied goods or services,</li> </ul> <p>v) complete address of the <b>premises where goods are stored</b> by him, including goods stored during transit along with the particulars of the stock stored therein.</p> <p>However, if any taxable goods are found to be stored at any place(s) other than those so declared without the cover of any valid documents, proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.</p>
	<p>A supplier is required to maintain following records relating to stock of goods and tax details.</p> <p>a) <b>Stock of goods:</b> Accounts of stock of goods received and supplied by him shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.</p> <p>b) <b>Details of tax:</b> Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.</p> <p><b>Note:</b> A supplier who has opted for composition scheme is not required to maintain such records.</p>
(ii) Agent	<p>a) particulars of authorisation received by him from each principal to receive/supply goods/services on behalf of such principal separately;</p> <p>b) particulars including description, value and quantity of goods/services received on behalf of every principal;</p> <p>c) particulars including description, value and quantity of goods/services supplied on behalf of every principal;</p> <p>d) details of accounts furnished to every principal; and</p> <p>e) tax paid on receipts/ supply of goods/services effected on behalf of every principal.</p>
(iii) Manufacturer	<p>Apart from other records, every registered person manufacturing goods has to maintain</p> <p>a) monthly production accounts showing quantitative details of raw materials/services used in the manufacture and</p> <p>b) quantitative details of the goods so manufactured including the waste and by products thereof.</p>
(iv) Service Provider	<p>Every registered person supplying services has to additionally maintain the accounts showing</p> <ul style="list-style-type: none"> <li>➤ quantitative details of goods used in the provision of services,</li> <li>➤ details of input services utilised and</li> <li>➤ the services supplied.</li> </ul>
(v) Person executing works contract	<p>Every registered person executing works contract shall keep separate accounts for works contract showing:</p> <p>a) the names and addresses of the persons on whose behalf the works contract</p>

	<p>is executed;</p> <p>b) description, value and quantity of goods/services received for the execution of works contract;</p> <p>c) description, value and quantity of goods/services utilized in the execution of works contract;</p> <p>d) the details of payment received in respect of each works contract; and</p> <p>e) the names &amp; addresses of suppliers from whom he received goods or services.</p>
<b>(vi) Custodian/ clearing and forwarding agent</b>	<p>Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain</p> <p>➤ true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.</p>
<b>(vii) Owner/operator of a warehouse/ godown and Transporter</b>	<p>Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.</p> <p><b>Enrolment, if not already registered in GST:</b> If such persons are not already registered, they shall obtain a unique enrolment number by applying electronically [in Form GST ENR-01] at the GST Common Portal.</p> <p>Registration in one State or Union territory shall be valid other State/UT.</p> <p>Such person, once obtained unique enrollment number, shall not be eligible to use any of the GSTIN.</p> <p><b>Transporter:</b> Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches.</p> <p><b>Owner/operator of a warehouse/ godown:</b></p> <p>Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.</p> <p>The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.</p>

### **3. HOW THE ACCOUNTS AND RECORDS WILL BE MAINTAINED**

- i) **Records may be maintained manually** - In such case, each volume of books of account maintained manually by the registered person shall be serially numbered.
- ii) **Records may be maintained in electronic form**
- Books of account include any electronic form of data stored on any electronic device.
  - The registered person may keep and maintain such accounts in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature.
  - Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.

- The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.
- Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

**Note:** Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

**Other Points:**

<b>No entry to be erased/overwritten</b>	<ul style="list-style-type: none"> <li>▪ Any entry in registers, accounts and documents shall not be erased, effaced or overwritten.</li> <li>▪ All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded.</li> <li>▪ Where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.</li> </ul>
<b>Consequences of failure to maintain the accounts</b>	<p>Proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for,</p> <ul style="list-style-type: none"> <li>➤ as if such goods or services or both had been supplied by such person and</li> <li>➤ provisions of section 73/74, shall, mutatis mutandis, apply for determination of such tax.</li> </ul>

**4. PERIOD OF RETENTION OF ACCOUNTS [SECTION 36]**

until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a

- party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court,
- whether filed by him or by Commissioner, or is under investigation for an offence under Chapter XIX,
- shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of
- one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.



## CHAPTER 12

# E-WAY BILL

### 1. INTRODUCTION

Under GST regime, for quick and easy movement of goods across India without any hindrance, all the check posts across the country are abolished. However, in order to monitor the movement of goods for controlling any tax evasion, e-way bill system has been introduced.

Under this, a taxpayer, prior to movement of goods via a conveyance,

- would inform each transaction's details to the tax department,
- obtain an acknowledgement number for having thus informed, and then
- use this acknowledgement number as a valid document accompanying the conveyance carrying goods.

The idea is that the taxpayer be made to upload the details of each transaction to a common portal through the internet, and once uploaded, the common portal would automatically generate a document which can be tracked and verified easily by any stakeholder.

### 2. E-WAY BILL [SEC 68 READ WITH CGST RULES]

#### Meaning

It is an electronic document, generated on the GST portal evidencing movement of goods i.e., through which details of each movement of goods is informed to GST Department.

Under EWB, the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods.

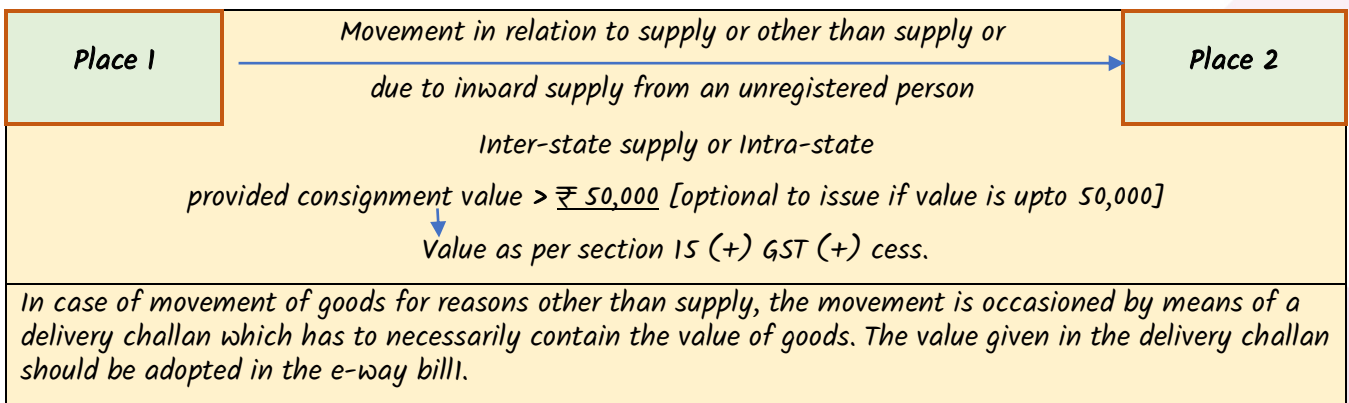
It is generated electronically in Form GST EWB 01 on the common portal ([www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in)).

EWB can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (Application Program Interface) based site to site integration etc.

#### Benefits

- a. It eliminates physical interface with digital interface resulting in elimination of state boundary check-posts.
- b. It facilitates faster movement of goods.
- c. It improves turnaround time of trucks & help the logistics industry by reducing travel time & cost.

### 3. WHEN IS E-WAY BILL REQUIRED TO BE GENERATED?



#### Illustration:

Value of taxable goods	40,000
Value of exempt goods	25,000
	65,000
IGST @ 18%	
<b>Invoice Value</b>	
<b>Whether required to issue E-way Bill?</b>	
Value as per section 15	
(+) IGST	
<b>Consignment Value</b>	

#### Examples

Bhanu Shoe Manufacturers, registered in Punjab, sold shoes to a retail seller in Gujarat, at a value of INR 48,000 (excluding GST leviable @ 18%) and wants to send the consignment of such shoes to Gujarat. Consignment value will be INR 56,640 [48,000 × 118%].

Since the movement of goods is in relation to supply of goods & the consignment value exceeds 50,000, EWB is mandatorily required to be issued.

Sindhi Textiles of Ludhiana, registered in Punjab, sends cloth to a job worker in Jalandhar, Punjab on a delivery challan. The value of cloth mentioned in the delivery challan is 48,000.

Since the movement of goods is for reasons other than supply, value given in delivery challan is adopted for the purpose of EWB. Such value does not exceed INR 50,000. Hence, EWB is not required to be issued.

**Note:** In case of movement of goods for reasons other than supply, the movement is occasioned by means of a delivery challan which has to necessarily contain the value of goods. The value given in the delivery challan should be adopted in the e-way bill.

Special situations where EWB needs to be issued even if value of the consignment is upto INR 50,000:

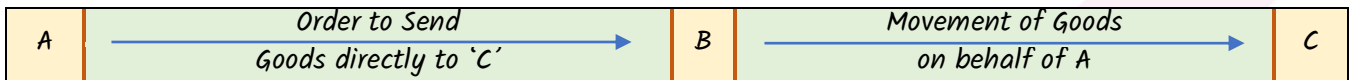
- Inter-state movement of handicraft goods by a person exempt from obtaining registration under GST.
- Inter-state transfer of goods from principal to job worker.

### 4. WHO CAUSES MOVEMENT OF GOODS?

If supplier is registered and undertakes to transport the goods	→	Registered Supplier
-----------------------------------------------------------------	---	---------------------

If recipient is registered & arranges transport →	Registered Recipient
If goods are supplied by an unregistered supplier to a registered recipient →	Registered known Recipient

### 5. EWB IN CASE OF BILL TO SHOP TO MODEL



Movement of goods → 1 → 1 EWB  
 Either of A or B can issue EWB but not only 1 EWB is required to be generated.

### 6. INFORMATION TO BE FURNISHED IN E-WAY BILL

#### Part-A

a) Details of supplier & recipient	<ul style="list-style-type: none"> <li>Name, address &amp; GSTIN of supplier &amp; recipient</li> </ul>
b) Details of Goods	<ul style="list-style-type: none"> <li>Place of delivery (indicating PIN Code also),</li> <li>Document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date,</li> <li>Value of goods, HSN code, &amp; reasons for transportation, etc.</li> </ul>
Who shall fill Part A?	<p>Furnished by Registered person causing movement of goods.                  However, information in Part-A may be furnished:</p> <ul style="list-style-type: none"> <li>➤ By Transporter, if authorised by such registered person; or</li> <li>➤ by E-commerce operator or courier agency, where the goods to be transported are supplied through such ECO or courier agency, if authorised by consignor.</li> </ul>
<p>Once the consignor/consignee enters all the details in Part-A of EWB, a Part-A slip is generated which contains a temporary number. This slip can be shared with the transporter or used by the supplier himself later to enter the details in Part-B of EWB and generate the EWB.</p>	

#### Part-B

Details of Transport	<ul style="list-style-type: none"> <li>Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number); and</li> <li>Vehicle number, in case of transport by road</li> </ul>
Who shall fill Part B?	Person who is transporting the goods
<p><b>Points to Note:</b></p> <p>a) E-way Bill can be generated only after entering the details of Part-B.</p> <p>b) Movement of Goods by Road can commence after filling Part B &amp; generating EWB. EWB is not valid for movement of goods without vehicle number on it.</p> <p>c) EWB may be updated with vehicle number any number of times i.e. Part B can be updated multiple times. The latest vehicle number should be available on EWB and should match with the vehicle carrying it in case checked by the department.</p>	

- d) Validity of EWB shall be counted from the date details in Part B was furnished for first time.
- e) If multiple invoices are issued by the supplier to same recipient for movement of goods, multiple e-way bills have to be generated.
- Thus, for each invoice, one EWB has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one EWB.
- However, after generating all these e-way bills, one Consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

**7. WHO IS MANDATORILY REQUIRED TO GENERATE E-WAY BILL i.e. FILL PART B?**

1) Where the goods are transported by a registered person - whether as consignor or recipient as consignee (whether in his own conveyance or a hired one or a public conveyance, by road)	said person shall have to generate EWB (by furnishing information in part B on the common portal)
2) Where EWB is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road	Registered person shall furnish the information relating to Transporter in Part B on common portal & EWB shall be generated by Transporter
3) Where the movement is caused by an unregistered person either in his own conveyance or a hired one or through transporter	He or the transporter may, at their option, generate the EWB
4) Where the goods are supplied by an unregistered supplier to a recipient who is registered,	Movement shall be said to be caused by such recipient and he shall generate EWB
5) Where the goods are transported by railways or by air or by vessel	EWB shall be generated by the registered person, being Supplier or Recipient, who shall, either before or after start of movement, furnish info. in part B

**Points to Note:**

- a) The pre-requisite for generation of EWB is that the person who generates EWB should be a registered person on GST portal and he should register on the EWB portal using his GSTIN.
- If the transporter is generating EWB, but he is not registered person under GST law, it is mandatory for him to get enrolled on EWB portal before generation of EWB to get 15-digit Unique Transporter Id called TRANSIN.
- b) No need to carry EWB during the transport of goods through railway. However, railway shall not deliver the goods unless EWB is produced during at the time of delivery.

**8. WHEN IS IT NOT MANDATORY TO FURNISH THE DETAILS OF CONVEYANCE IN PART-B?**

If all following conditions are satisfied:

- a) Goods are transported for a distance upto 50 Km; and
- b) Within the same state/ UT [Intra-state]; and
- c) From PoB of consignor to PoB of transporter or from PoB of Transporter to PoB of consignee.

**9. EDITING, CANCELLATION & REJECTION OF EWB**

On generation of Part A of EWB, a unique 12 digits EWB number is generated, which is made available/ communicated to consignor, consignee & transporter.

It is a valid for 15 days for updating Part B of EWB.



Cancellation	Rejection
<p>If EWB is generated but, goods are not transported as per details of EWB, or there is any mistake or vehicle number is incorrect, it cannot be Edited.</p> <p style="text-align: center;">↓</p> <p>Only option is that it can be cancelled within 24 hrs of generation of EWB</p> <p style="text-align: center;">↓</p> <p>However cancellation is not allowed after verification of EWB in transit.</p>	<p>On generation of e-way bill it shall be communicated to other party for acceptance/ rejection</p> <p style="text-align: center;">↓</p> <p>Rejection can be done earlier of:</p> <p>a. 72 hrs of communication of details of EWB to him on common portal; or</p> <p>b. Time of delivery of goods.</p> <p style="text-align: center;">↓</p> <p>If not rejected, deemed to be accepted.</p>

### 10. VALIDITY OF E-WAY BILL

1) Normal cargo	upto 200 km for each additional 200 kms.	→ 1 day → 1 day each
2) Over-dimensional cargo/ multi modal transport involving ship	upto 20 km for each additional 20 kms	→ 1 day → 1 day each.

#### Note:

- Counted from the date, entry is made in part B for first time. i.e. vehicle entry is made first time.
- Each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of EWB.
- It may be noted that validity is not re-calculated for subsequent entries in Part-B.
- EWB generated in 1 state is valid in other states as well.

#### Examples

- a) An EWB is generated at 00:04 hrs. on 14<sup>th</sup> March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.
- b) An EWB is generated at 23:58 hrs. on 14<sup>th</sup> March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

#### Special Case:

A consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday.

The validity period of EWB starts only after the details in Part B are updated by the transporter for the first time.

In the given situation, consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill Part B i.e. on Monday and the validity period of the EWB will start from Monday.

#### Extension of Validity

If validity of the EWB expires, goods are not supposed to be moved. In general, the validity cannot be extended. However, the validity can be extended in following cases:

- a) **Extension by Commissioner for certain categories of goods:** on the recommendations of the Council, by issuing notification.

- b) **Extension by transporter in exceptional circumstances:** If the consignment is not being reached the destination within the validity period due to exceptional circumstance like
- natural calamity, law and order issues, trans-shipment delay, accident of conveyance, etc.,
  - transporter may extend the validity period after updating the details in Part B.
  - The validity of the EWB may be extended within 8 hours from the time of its expiry.
  - He needs to explain this reason in details while extending the validity period.

## II. TRANSPORT OF GOODS FROM ONE CONVEYANCE TO ANOTHER

Consignor or the recipient, who has provided information in **Part A**, or the transporter shall,

- before such transfer and further movement of goods,
- update the details of conveyance in **Part B** of the EWB on the common portal.

The user can update Part-B (Vehicle details) as many times as he wants for movement of goods to the destination. However, the updating should be done within the validity period.

### Example

Babbal Associates is moving the goods from Cochin to Chandigarh through road, ship, air and road again.

First, Babbal Associates generates the EWB by entering first stage of movement (by road) from its place to shipyard and enters the vehicle number.

Next, it will submit the goods to shipyard and update the mode of transportation as ship and transport document number on the EWB system.

After reaching Mumbai, Babbal Associates or concerned transporter updates movement as road from shipyard to airport with vehicle number.

Thereafter, Babbal Associates or transporter updates using 'update vehicle number' option on the portal, the Airway Bill number.

Again, after reaching Delhi, Babbal Associates updates movement through road with vehicle number. This way, EWB will be updated with multiple modes of transportation.

### Assigning the e-way bill number to another transporter

The consignor/ recipient, who has furnished the information in **Part A**, or the transporter,

- may assign EWB number to another registered/enrolled transporter
- for updating the information in **Part B** for further movement of the consignment.

However, once the details of the conveyance have been updated by the transporter in **Part B**, the consignor or recipient, as the case may be, who has furnished the information in **Part A** shall not be allowed to assign EWB number to another transporter.

### Example

A consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y.

For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B.

In such a scenario, only one EWB would be required. Part A can be filled by the consignor and then the EWB will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y.

On reaching City Y, Transporter A will assign the said EWB to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the

goods from City Y to City Z

## 12. CONSOLIDATED E-WAY BILL

Where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in Form GST EWB-02 may be generated by him on the said common portal prior to the movement of goods

Consolidated EWB is a document containing multiple EWBs for multiple consignments being carried in a single goods carriage.

It allows a transporter to carry a single document instead of separate document for each consignment.

Consolidated EWB does not have independent validity. Individual consignment should reach destination as per validity of Individual EWB.

**Note:** Consolidated EWB can't be issued in case of transport by Railway, Air or Water.

## 13. DOCUMENTS AND DEVICES TO BE CARRIED BY A PERSON-IN-CHARGE OF A CONVEYANCE

- a) Invoice or bill of supply or delivery challan, as the case may be; and
- b) a copy of the EWB in physical form or the EWB number in electronic form\* or mapped to a RFID\*\* embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel].

\*Carrying EWB in electronic form implies that person-in-charge of conveyance can merely quote EWB number to Proper tax officer. Tax officer will do all the requisite verifications, based on that number.

\*\*RFIDs are Radio Frequency Identification Device used for identification

### **Invoice Reference Number in lieu of Tax Invoice**

In case, e-invoice is issued, the QR code having an embedded IRN in it, may be produced electronically, for verification by PO in lieu of physical copy of such tax invoice.

## 14. DOCUMENTS IN LIEU OF E-WAY BILL

Where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the EWB:

- a) tax invoice or bill of supply or bill of entry; or
- b) a delivery challan, where the goods are transported for reasons other than by way of supply.

## 15. VERIFICATION/ INSPECTION OF E-WAY BILL, DOCUMENTS, CONVEYANCE, GOODS

Commissioner or an officer empowered by him, may authorize PO to intercept any conveyance to verify the EWB in physical or electronic form for all inter-State and intra-State movement of goods.

Commissioner shall get RFID readers installed at places where the verification of movement of goods is required to be carried out. Verification of movement of vehicles shall be done through such device readers.

Physical verification of conveyances shall be carried out by PO as authorised by the Commissioner or an officer empowered by him in this behalf.

However, on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

### **How to stop Harassment / Misuse**

- a) Summary record of every inspection of goods-in-transit shall be uploaded online by PO within 24 hrs &

final report within 3 days of such inspection.

In special circumstances and on sufficient cause being shown, Commissioner, or any other officer authorised by him, may, extend the time for recording of the final report, for further 3 days (max).

- b) If physical verification has been done during transit at one place within the State/UT or in any other State/UT, no further physical verification of the said conveyance shall be carried out again in the State/UT, unless a specific information relating to evasion of tax is made available subsequently.
- c) If vehicle is detained > 30 minutes, transporter may upload said information on common portal.

#### **16. BLOCKING OF EWB GENERATION FACILITY IN RESPECT OF OUTWARD MOVEMENT OF GOODS**

Blocking of EWB generation facility means disabling a taxpayer from generating EWB.

No person (including a consignor, consignee, transporter, an ECO or a courier agency) can furnish the information in Part A of Form GST EWB-01 in respect of any outward movement of a Supplier if:

- a) Composition Supplier has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or
- b) Supplier paying tax under regular scheme has not furnished Returns for consecutive 2 tax periods, or
- c) Supplier paying tax under regular scheme has not furnished GSTR-1 for any 2 months or quarters, as the case may be.
- d) Supplier whose registration has been suspended u/r 21A of the CGST Rules.

#### **Example:**

Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (regular return filer) wants to generate an EWB for goods to be supplied to Mr. A.

In terms of the amended position of law, there will be no more restriction in generating e-way Bill as Mr. B who is making outward movement of goods is a regular return filer.

Mr. A wants to generate EWB bill in respect of an outward supply of goods to Mr. H. EWB generation is blocked in this case as it's an o/w movement of goods of Mr. A who has not filed GSTR-1 for 2 months.

#### **17. EXEMPTION FROM ISSUING E-WAY BILL**

1. Supply of Goods which are not treated as supply under schedule III
2. Non-taxable goods being Alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel
3. Gems, Jewellery, Precious or semi-precious stones and Metals, Coral, Currency  
Note: EWB is required to be generated for transporting imitation jewellery.
4. LPG, Kerosene oil under Public Distribution System
5. Postal baggage transported by Post Office
6. Goods transported in non- motorized vehicles
7. Custom controlled goods
8. Movement of Used personal/ household goods.
9. Transit cargo to Nepal & Bhutan
10. Movement of empty containers
11. Movement of goods caused by defense as consignor or consignee
12. Consignor of goods is Central Government/ State Government/ Local Authority by Railway
13. Transportation of goods upto 20 km from place of business of consignor to the weighing bridge for weighing purpose [Need delivery chalan]





## CHAPTER 13

# PAYMENT OF TAX

### 1. INTRODUCTION [SEC 49]

On registration under GST, following three electronic ledgers are automatically created on common portal:

- a) electronic liability ledger in GST PMT-1;
- b) electronic credit ledger in GST PMT-2; and
- c) electronic cash ledger in GST PMT-5.

All payments of tax & other dues like interest, penalty and fee under GST is made through these ledgers.

### 2. ELECTRONIC LIABILITY LEDGER

It is maintained in GST PMT-1 on common portal (auto updated).

It reflects total liability of a taxpayer towards

- Minor heads of Tax, Interest, Penalty, Fee, others
- for each Major head of CGST, IGST, SGST and Cess [20 varieties of Liabilities]

The liability of outward tax is adjusted

- first by utilizing ITC [Electronic credit Ledger] &
- balance tax liability, if any, shall be paid by using electronic cash ledger.

All other liabilities, like liability towards Interest, Penalty, Fee, Others, tax liability under RCM and Composition tax is discharged by using electronic cash ledger only.

#### Presumption that incidence of tax is passed on [Sec 49(9)]

If tax has been paid under the CGST Act, 2017 by a taxable person, then he is deemed to have passed on the incidence of such payment of CGST to the recipient.

### 3. ELECTRONIC CREDIT LEDGER

It is maintained in GST PMT 2 on common portal.

It reflects total ITC as self-assessed by Taxpayer in monthly returns and credited on Provisional basis.

This ledger can be used only to make payment of outward tax liability.

Further, it is clarified that Any payment towards output tax, whether self- assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST laws, can be made by utilization of the amount available in the electronic credit ledger.

However, it cannot be used to pay liability of

- a) interest, penalty, fee & others; or
- b) liability under RCM; or
- c) composition levy tax.

Following topics have already been covered in detail under Chapter 7 – Input Tax Credit.

1. Procedure for utilization of ITC [Rule 88A]
2. Restrictions on utilisation of amount available in electronic credit ledger [Rule 86A]
3. Restrictions on use of amount available in electronic credit ledger [Rule 86B]

#### 4. ELECTRONIC CASH LEDGER

It is maintained in GST PMT 5 on common portal.

It contains summary of total deposits made by taxpayer [online or offline].

In the e-cash ledger, information is kept minor head-wise for each major head.

**E-cash ledger is used to pay**

- a) Net outward tax liability [Outward tax liability – ITC]
- b) All Liabilities of interest, penalty, fee & others
- c) Liability under RCM
- d) Composition tax.

Thus, there are two different procedures for payment of GST:

- 1) Use ITC to pay outward tax liability.
- 2) Use e-cash ledger to pay net outward tax liability, tax under RCM, Compo. tax and other dues.

#### Electronic Cash Ledger

	Tax	Interest	Penalty	Fee	Others
IGST					
CGST					
SGST/UTGST					
CESS					
Total					

#### 4.1. MANNER OF UTILIZATION OF AMOUNT REFLECTED IN ELECTRONIC CASH LEDGER

Amount available in e-cash ledger can be used to pay any liability under e-liability ledger provided major and minor heads of e-liability ledger & e-cash ledger is same.

A registered person can transfer amount available in minor head in e-cash ledger to other minor head of same major head or other major head in e-cash by making a due transfer entry using Form GST PMT-09.

Thus, amount available in the e-cash ledger

- can be utilised for payment of
- any liability for the major and minor heads
- after making a due transfer entry using Form GST PMT-09
- so that both major & minor head of e-cash ledger and e-liability ledger becomes same.

This is known as Cross utilization of funds across major or minor heads.

**Question:** Cross utilization of funds across major or minor heads is possible? – Yes!!

Refer class Lecture for multiple illustrations.

**Transfer of Amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the CGST Act/ IGST Act of a distinct person allowed:**

Earlier, cross utilization of funds across major/ minor heads of electronic Cash Ledger was permissible within same registration/ GSTIN.

Now, cross utilization of funds in e-cash ledger is allowed even between distinct person i.e. a registered person may, using GSP PMT 9, transfer any

- amount of Tax, Interest, Penalty, Fee or other amount available under CGST major head in his Electronic Cash Ledger
- to the CGST or IGST major head of Electronic Cash Ledger of a distinct person as specified u/s 25.

However, no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic Liability Register.

Thus, Form GST PMT 9 can be used either for -

- a) transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads; or
- b) transfer of any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger; or
- c) transfer of any amount lying in the electronic cash ledger to the electronic cash ledger for CGST/IGST of a distinct person.

**Example:** A registered person has deposited a sum of 1,000 under the head of “Interest” column of CGST & 1,000 under the head of “Interest” column of SGST, instead of the head “Fee”.

Such amount can be transferred using Form GST PMT- 09 for making a transfer to the head “Fee”. The said transfer is required using the above Form PMT 09, because when the registered person has to make the remittance of Tax/Interest/Penalty/Fee/Other amount at a stage “Offset Liabilities” in any of the GST Returns/ Forms for Tax payments through Electronic Cash Ledger, adequate amount should be available under the respective head of account.

#### 4.2. MODES OF PAYMENT/ DEPOSIT IN ELECTRONIC CASH LEDGER

1) Online Payment	a) Internet Banking through authorised banks	No limit
	b) Cr card/ Debit card through authorised bank	
	c) Unified payment Interface (UPI)	
	d) Immediate Payment Services (IMPS)	
2) Offline Payment	1) NEFT or RTGS from any bank	No limit Need to download challan & mandate form which is generated online & pay at Bank's counter
	2) Over the Counter payment through 25 authorized banks in ➤ Cash; Cheque; Demand Draft	Maximum 10,000 per chalan per tax period Need to download challan which is



**Non-applicability of Over the Counter payment limit on deposits to be made by**

1. Proper officer or any other officer authorized
  - a) to recover outstanding dues including attachment proceedings or sale of moveable/ immovable properties
  - b) to collect the amount by way of cash/cheque/demand draft during any investigation/enforcement activity /any ad hoc deposit
2. Government Departments or Persons notified by Commissioner.

**4.3. CHALLAN**

1. Deposit in e- cash ledger is done through challan. Single Challan is prescribed for all taxes, fees, penalty, interest, and other payments.
2. Challan is always generated online in GST PMT 06. It remains valid for a period of 15 days. No manual challans.
3. The commission for making payment through e-challan has to be borne by the person making the payment.
4. **Common portal identification number** - A 14-digit CPIN is created for every Challan successfully generated by the taxpayer.
5. **Challan Identification Number** - A 17-digit number [14-digit CPIN plus 3-digit Bank Code] CIN is generated by the authorized banks/ RBI and indicated in challan when
  - payment is actually received by such authorized banks or RBI; and
  - credited in the relevant Government account held with them.

It is an indication that the payment has been realized & credited to appropriate Government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the taxpayer.
6. If CIN is not generated even after making payment and submission of mandate form or when after generation, it is not reflected in the common portal, the taxpayer, can make a representation in FORM GST PMT-07 through the common portal or e-gateway through which the payment has been made.
7. Where the bank fails to communicate details of CIN to the common portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the RBI in cases where the details of the said e-Scroll are in conformity with the details in challan generated in Form GST PMT-06 on the common portal.
8. **Date of deposit of Tax** = Credit into the treasury of the State Government/Central Government  
= Date of Debit of Electronic Cash Ledger/Electronic credit ledger.  
Thus, date of payment in e-cash ledger/input tax is not treated as Date of deposit of Tax.
9. Any amount deducted u/s 51 [TDS] or collected u/s 52 [TCS] and claimed by the registered taxable person from whom the said amount was deducted or collected shall be credited to his e-cash ledger.
10. An unregistered person has to make payment through electronic cash ledger on the basis of temporary identification number generated through common portal.
11. **BRN or Bank Reference Number** is the transaction number given by Bank for payment against Challan.
12. **E-FPB** stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each bank will nominate only one branch as its E-FPB.

**5. DISCHARGING OF LIABILITIES/ PAYMENT OF LIABILITIES**

In the books of Taxpayer	But we will talk from perspective of GST Authority
E- liability ledger has credit balance →	Debit balance
E- credit ledger has debit balance →	Credit balance
E-cash ledger has debit balance →	Credit balance

Our Liability is their Asset. So, in our books, e-Liability ledger has credit balance & in their books, it has debit balance, i.e, it is their receivable.

**We will talk from their perspective**


Before filing return, total GST Liability should be paid, either by DEBITING (from their perspective) e-credit ledger or e-cash ledger, as the case may be.

If e-liability ledger has DEBIT balance while filing the Return, Return shall be invalid.

Thus, for a return to be valid, entire liability in e-liability ledger must be paid & it should have NIL balance.

Discharging of Liability:	
In our books of accounts:	In books of accounts of GST Authority:
E- liability ledger Dr To E-credit Ledger To E-cash Ledger	E-credit Ledger Dr E-cash Ledger Dr To E- liability ledger A/c

Reverse



Manner of making payment	
Through debit of Electronic Credit Ledger →	ONLY Tax can be paid
In cash, by debit in the Electronic Cash Ledger →	Any liability

Debit to Electronic Credit/Cash ledger:	
Debit to Electronic Credit Ledger and Credit to Electronic Liability Register	Debit to Electronic Cash Ledger and Credit to Electronic Liability Register
Payment of all the liabilities of a registered person as per his return subject to section 49/ 49A/ 49B.	Payment of all the liabilities of a registered person as per his return subject to section 49/ 49A / 49B.
	Payment of TDS deducted u/s 51, TCS collected by ECO u/s 52, amount payable under reverse charge basis, amount payable u/s 10, amount payable towards payment of interest, penalty, fee or any other amount under the Act.

**Due date of Filing Return** → 20<sup>th</sup> of month following end of tax period.

**Due date of payment** → 20<sup>th</sup> of month following end of tax period (to be discussed later in Ch - Returns).

**Note:** GST common portal doesn't allow a registered person to make part payment of taxes.

**6. INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]**

Interest on Delay in Payment of Tax [Sec 50(1)]	Interest if ITC is wrongly availed & Utilised
<p>Maximum Rate as per Act → 18%</p> <p>Currently Notified Rate → 18%</p>	<p>Maximum Rate as per Act → 24%</p> <p>Currently Notified Rate → 18%</p> <p>If ITC wrongly availed but not utilised → No interest</p>

**6.1. INTEREST\* ON DELAYED PAYMENT OF TAX [SEC 50(1)]**

If GST is paid after due date along with belated return (before commencement of proceedings u/s 73 or 74)	If Return for a Tax Period was filed on time & later GST w.r.t. such tax period is paid												
<p>Interest is chargeable on portion of tax liability that is payable by debiting electronic cash ledger.</p> <p style="text-align: center;">↓</p> <p>Thus, interest liability shall not arise on that portion of the output tax liability which is paid using the ITC available in the electronic credit ledger.</p>	<p>This may happen when return is filed within due date along with relevant payment.</p> <p>Later, some mistake/ shortfall is noticed.</p> <p style="text-align: center;">↓</p> <p>Interest is chargeable on unpaid tax liability.</p>												
<p><b>Illustration</b></p> <table border="1"> <tr> <td>GST o/w Tax Liab</td> <td>1,000</td> <td>1,000</td> </tr> <tr> <td>ITC</td> <td>800</td> <td>1,500</td> </tr> <tr> <td>Liability under RCM</td> <td>1,000</td> <td>1,000</td> </tr> <tr> <td>Interest levied on</td> <td></td> <td></td> </tr> </table>	GST o/w Tax Liab	1,000	1,000	ITC	800	1,500	Liability under RCM	1,000	1,000	Interest levied on			<p><b>Example:</b> Return for m/o July filed on 20<sup>th</sup> Aug. In Dec, taxpayer realised that he needs to pay 50,000 w.r.t. July missed earlier.</p> <p>He paid 50,000 along with return of Dec [40,000 through ITC and 10,000 through e-cash]</p> <p>Interest shall be levied on gross amount of 50,000.</p>
GST o/w Tax Liab	1,000	1,000											
ITC	800	1,500											
Liability under RCM	1,000	1,000											
Interest levied on													
<p>Levied @ 18% p.a. for the period of delay in filing the said return beyond the due date.</p>	<p>Levied @ 18% p.a. for the period starting from the date on which such tax was due to be paid till the date such tax is paid.</p>												
<p><b>Note:</b> Interest shall be DEBITED to e-Liability Ledger. Interest liability shall be discharged by DEBITING e-cash ledger.</p>													
<p><b>Note:</b> Where returns are furnished after commencement of proceedings under Section 73 or Section 74 – Interest is payable on gross liability.</p>													

**6.2. INTEREST ON ITC WRONGLY AVAILED & UTILISED**

<p>Interest shall be calculated on the</p> <ul style="list-style-type: none"> <li>➤ amount of input tax credit wrongly availed and utilised, for the</li> <li>➤ period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount</li> <li>➤ at the rate specified under section 50(3).</li> </ul>
<p><b>What is ITC wrongly availed and utilised?</b></p> <p>ITC wrongly availed shall be construed to have been utilised, when the balance in the e-credit ledger falls below the amount of ITC wrongly availed.</p> <p>Extent of such utilisation of ITC shall be the amount by which the balance in the electronic credit ledger falls below the amount of ITC wrongly availed i.e</p> <p>ITC wrongly utilised = ITC wrongly availed – balance in e-credit ledger.</p>

**What is the date of utilisation of such ITC?**

- a) The date, on which the return is due to be furnished u/s 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of ITC wrongly availed, on account of payment of tax through the said return; or
- b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

**7. ORDER OF DISCHARGE OF TAX AND OTHER DUES**

**Mandatory** chronological order in which the liability of a taxable person has to be discharged:

1. Self-assessed tax and other dues of Previous tax period.
2. Self-assessed tax and other dues of Current tax period.
3. Liability arising out of demand Notice/ Adjudicating process.

**8. TRANSFER OF ITC [SECTION 53 OF CGST ACT & SECTION 18 OF IGST ACT]**

*Utilized to pay*

**Amount/ ITC of CGST** → **IGST Liability** → Balance in CGST A/c shall reduce.  
*against* CG shall transfer equal amount from CGST A/c to IGST A/c.

*Utilized to pay*

**Amount of IGST** → **Liability of CGST/UTGST** → Balance in IGST A/c shall reduce.  
*against* CG shall transfer equal amount from IGST A/c to CGST /UTGST A/c.

*Utilized to pay*

**ITC of IGST** → **Liability of SGST** → Balance in IGST shall reduce.  
*against* CG shall transfer apportioned amount to appropriate SG account.



# CHAPTER 14

## TAX DEDUCTION AT SOURCE & COLLECTION AT SOURCE

### 1. INTRODUCTION

Deduction at Source (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier.

It facilitates sharing of responsibility of tax collection between the deductor & the tax administrator.

This concept of TDS ensures

- a) regular inflow of tax collection to the Government; and
- b) acts as a powerful instrument to prevent tax evasion and
- c) expands the tax net, as it provides for the creation of an audit trail.

Section 51 of CGST Act, 2017 provides for deduction of tax at source in certain circumstances.

TCS refers to the tax which is collected by the electronic commerce operator (ECO), when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the ECO.

Section 52 of CGST Act, 2017 provides for collection of tax at source in certain circumstances.

### 2. TAX DEDUCTION AT SOURCE

[SEC 51]

<b>Deductor</b>	<p>(a) <b>Central/State Government department or establishment; being</b></p> <ul style="list-style-type: none"> <li>a) an authority or a board or any other body, -             <ul style="list-style-type: none"> <li>i) set up by an Act of Parliament or a State Legislature; or</li> <li>ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function.</li> </ul> </li> <li>b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;</li> <li>c) public sector undertakings:</li> </ul> <p>(b) <b>Local Authority</b></p> <p>(c) <b>Governmental Agencies</b></p> <p>(d) <b>Notified Persons/category of persons</b></p>
<b>Categories of persons not liable to deduct TDS</b>	<ul style="list-style-type: none"> <li>a) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person</li> <li>b) When supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of CGST Act.</li> </ul>

<b>Deductees</b>	Suppliers whose total value of supply of taxable goods and/or services under a contract ➤ exceeds 2,50,000 <u>exclusive</u> of tax & cess as per the invoice.									
<b>Standard Rate of deduction</b>	@ 1% of the payment made to the supplier (the deductee) of taxable goods and/or services, where the total value of such supply, <u>under a contract</u> , exceeds 2,50,000 (excluding the amount of CGST, SGST/UTGST, IGST and cess) <b>Note:</b> Individual supplies may be less than 2,50,000/-, but if total VoS under a contract is more than 2,50,000, TDS has to be deducted. The deductors have to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and/or services under CGST Act, 2017.									
<b>Value of Supply</b>	Amount indicated in the invoice excluding the CGST, SGST/UTGST, IGST and cess									
<b>Deposit of TDS</b>	should be deposited to Government account by deductor by 10 <sup>th</sup> of succeeding month.									
<b>TDS Certificate</b>	A TDS certificate is required to be issued by deductor in prescribed Form GSTR 7A to the deductee containing following details: <table border="1" data-bbox="383 750 1476 974"> <tr> <td>i) TDS Certificate No.</td> <td>ii) GSTIN of deductor</td> <td>iii) Name of deductor</td> </tr> <tr> <td>iv) GSTIN of deductee</td> <td>v) Legal name &amp; Trade Name of deductee</td> <td>vi) Tax period in which tax deducted &amp; accounted for in GSTR-7</td> </tr> <tr> <td>vii) Details of supplies</td> <td>viii) Amount of tax deducted</td> <td></td> </tr> </table>	i) TDS Certificate No.	ii) GSTIN of deductor	iii) Name of deductor	iv) GSTIN of deductee	v) Legal name & Trade Name of deductee	vi) Tax period in which tax deducted & accounted for in GSTR-7	vii) Details of supplies	viii) Amount of tax deducted	
i) TDS Certificate No.	ii) GSTIN of deductor	iii) Name of deductor								
iv) GSTIN of deductee	v) Legal name & Trade Name of deductee	vi) Tax period in which tax deducted & accounted for in GSTR-7								
vii) Details of supplies	viii) Amount of tax deducted									
<b>Non- remittance by the deductor</b>	If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay ➤ penal interest under Section 50 in addition to the amount of tax deducted.									
<b>Reflection of amount of TDS</b>	The amount of tax deducted is reflected in ➤ Electronic Cash Ledger of deductee. ➤ Return filed by deductor u/s 39(3) i.e. GSTR-7 [Refer Chapter: 15]. The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.									
<b>Determination of amount in Default</b>	Any default in determination of the amount u/s 51 shall be made in the manner specified u/s 73 or section 74, as the case may be.									
<b>Refund on excess/erroneous deduction</b>	The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases.									
<b>Registration</b>	Any person required to deduct tax u/s section 51 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application. Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source u/s 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.									
<b>Example</b>	Supplier makes a supply worth 20 lakhs to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of 20 lakh to the									

	<p>supplier, shall deduct 2%. [CGST 1% + SGST 1%] viz 4 lakhs as TDS.</p> <p>The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10<sup>th</sup> of the succeeding month.</p> <p>The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount.</p>
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**No TDS** - when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

Supplier, place of supply and recipient are in the same state.	It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
Supplier as well as the place of supply are in different states.	In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
Supplier as well as the place of supply are in State A and the recipient is located in State B.	The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.  Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

**Illustrations**

Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s SI
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT 1	UT 1	UT 1	Yes
UT 1	UT 2	UT 2	Yes
UT 1	UT 1	UT 2	No

**3. TAX COLLECTION AT SOURCE**

[SEC 52]

refers to the tax which is collected by the ECO when a supplier supplies taxable goods or services through portal of ECO and the payment for that supply is collected by said ECO.

**Example**

There are many ECOs [hereinafter referred to as an Operator], like Amazon, Flipkart, Urban clap etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, actual supplier supplies the selected product/service through the Operator to consumer.

The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission and incidental expenses mutually agreed upon by the Operator.

<b>Who is liable to</b>	Every ECO, not being an agent, is required to collect tax at source (TCS) on
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<p><b>collect TCS ?</b></p>	<ul style="list-style-type: none"> <li>➤ net value of taxable supplies [net of returns] made through it by suppliers,</li> <li>➤ where the ECO collects the consideration on behalf of supplier for such supplies.</li> </ul>
<p><b>Rate of TCS</b></p>	<p>Half percent of the net value of intra-State taxable supplies. 1% of the net value of inter-State taxable supplies.</p> <p><b>Example</b></p> <p>A product is sold at 1,120 [including GST @ 12%] through an Operator by a supplier. The operator would collect tax @ 1% of the net value of 1,000 i.e. 10 in case of inter-State supplies.</p> <p>Further, the power conferred on the ECO to collect tax at source, is without prejudice to other modes of recovery from operator. The powers of ECO are restricted only to the extent of tax collection at source under circumstances specified therein and nothing more.</p>
<p><b>Deposit of TCS by ECO to Government Treasury</b></p>	<p>within 10 days after the end of the month in which the collection was made.</p> <p><b>Example</b></p> <p>If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10<sup>th</sup> August.</p>
<p><b>Registration</b></p>	<p>Any person required to deduct tax u/s 52 shall electronically submit a registration application in prescribed form through the common portal.</p> <p>The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.</p> <p>Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source u/s 52 then the officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.</p>
<p><b>Filing of Monthly &amp; Annual Statements by ECO</b></p>	<p>An electronic statement [Form GSTR 8] has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month</p> <ul style="list-style-type: none"> <li>➤ within 10 days after the end of the each month in which supplies are made.</li> </ul> <p>Additionally, the ECO is also mandated to file an Annual Statement [Form GSTR 9B]</p> <ul style="list-style-type: none"> <li>➤ on or before 31<sup>st</sup> day of December following the end of the financial year.</li> </ul> <p>The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.</p>
<p><b>Notice to the Operator seeking details</b></p>	<p>An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc.</p> <p>The operator is required to furnish such details within 15 working days.</p> <p>In case an operator fails to furnish the information, besides being liable for penal action u/s 122, it shall also be liable for penalty up to 25,000.</p>



# CHAPTER 15

## RETURNS UNDER GST

### 1. RETURNS UNDER GST [SEC 37 TO 48]

Refers to Statement of Information/ facts furnished by Taxpayers to Tax Authorities.

GSTR 1	GSTR 2A/B	GSTR 3B	GSTR 4	GSTR 5	First Return	GSTR 9	GSTR 10	GSTR 11
↓	↓	↓	↓	↓	↓	↓	↓	↓
Sec. 37	Sec. 38	Sec. 39	Sec. 39	Sec. 39	Sec. 40	Sec. 44	Sec. 45	UIN
Details of outward supplies	Details of inward supplies	Furnishing of Returns	Furnishing of Returns by Compo. dealer	Furnishing of Returns by NRTP		Annual Return	Final Return	

Practically, the due dates are often extended by Government on account of various reasons.

Also, the quantum of late fee for delayed filing of statements/returns are often waived off either partially or fully. Such extended due dates and late fee waivers are not relevant from examination point of view.

#### Returns filed by taxpayers serve the following purposes:

- Mode for transfer of information to tax administration;
- Compliance with verification program of tax administration;
- Finalization of tax liabilities of the taxpayer within stipulated period of time;
- Working sheet/supporting documents for tax authorities that can be relied upon as the basis on which tax has been computed by the taxpayer;
- Providing necessary inputs for taking policy decisions;
- Management of audit and anti-evasion programs of tax administration, etc.

#### Correct and timely filing of returns is of utmost importance because of two reasons:

- Enables taxpayer to estimate his tax liability on “self-assessment” basis & deposit tax amount along with Return.
- it also has a huge impact on determination of tax liability of other persons with whom the former has entered into transactions in course or furtherance of business.

#### Modes of filing Return

All returns are filled electronically on common portal either directly or through Facilitation Center. Various modes are:

- Directly on GST common portal online [gst.gov.in]
- Offline utilities have been provided by GSTN that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the common portal.
- GSPs [GST Suvidha Providers] that will integrate with the common portal. [discussed later]

## 2. FURNISHING DETAILS OF OUTWARD SUPPLIES IN GSTR-1 [SEC 37]

Details of outward supply of goods/ service (Taxable, Exempt, Zero rated, Interstate, Intra-state, B2B, B2C) is required to be filed in

- Form GSTR-1
- for every month
- by registered person including causal taxable person
- except
  - N RTP [GSTR-5]
  - Composition dealer [GSTR-4]
  - Person deducting tax at source
  - Person collecting tax at source i.e., ECO, not being an agent
  - Input service distributor/ OIDAR service provider.

**Due Date:** Between 1<sup>st</sup> to 10<sup>th</sup> of the immediately succeeding month.

Time limit is extended to 11<sup>th</sup> of next month by N/n 82/2020.

### Time limit for furnishing GSTR 1

A registered person shall not be allowed to furnish the details of outward supplies u/s 37(1) for a tax period

- after the expiry of a period of three years from the due date.

**Note:** Both the Due date & Time limit for filing GSTR-1 may be extended by Govt. by way of a notification on recommendation of GST Council subject to certain conditions and restrictions.

## 2.1. MANNER OF FURNISHING DETAILS OF OUTWARD SUPPLIES IN GSTR-1/ IFF

<p>Invoice wise details of all B2B transactions i.e., where Recipient is registered [Intra or Inter-state]</p> <p style="text-align: center;">+</p> <p>Invoice wise detail of B2C transactions i.e., where Recipient is unregistered if</p> <p>a) It is inter-state supply &amp;</p> <p>b) Value of Invoice &gt; 250,000.</p>	<p>Consolidated details of all Intra states supplies to unregistered Recipient (B2C)</p> <p style="text-align: center;">+</p> <p>State wise consolidated details of all inter-state supplies to unregistered Recipient where value of invoice is upto 2,50,000.</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Example:** Mr. XY makes intra-State taxable supplies for 10,000 and 50,000 to Mr. AB, a registered person and 1,00,000 to Mr. DE, an unregistered person. He also makes inter-State taxable supplies for 2,60,000 and 45,000 to Mr. RS, a registered person and 1,50,000 to Mr. OP, an unregistered person.

Mr. XY will report invoice-wise details of intra-State supplies made to Mr. AB and inter-State supplies made to Mr. RS, in GSTR-1 to be filed by him.

## 2.2. WHAT ARE CONTENTS OF GSTR 1?

Basic & Other Details	Details of Outward Supplies
<ul style="list-style-type: none"> <li>a) GSTIN</li> <li>b) Legal name and Trade name</li> <li>c) Aggregate turnover in previous year</li> <li>d) Year and month (Tax period)</li> <li>e) HSN-wise summary of outward supplies</li> <li>f) Details of documents issued</li> </ul>	<ul style="list-style-type: none"> <li>a) B2B supplies including UIN holders</li> <li>b) B2C inter-State supplies where invoice value exceeds 2.5 lakh</li> <li>c) Consolidated details of other B2C supplies</li> <li>d) Zero Rated Supply and Deemed exports</li> <li>e) Debit/ Credit notes issued</li> <li>f) Nil rated/ Exempted/ Non-GST Supply</li> <li>g) Place of supply</li> <li>h) Amendments for prior period</li> </ul>

**Note:** GST is a destination-based consumption tax. Hence, the tax revenue is transferred to the State which is the place of supply of the particular transaction. Since, PoS is crucial for determining the share of every State in the tax revenue, GSTR-1 also captures information relating to place of supply.

## 2.2. RECTIFICATION OF ERROR/ OMISSION IN DETAILS OF OUTWARD SUPPLIES

[SEC 37(3)]

Details of outward supplies furnished in GSTR-1 of prior periods can be amended by way of

➤ Amendment Tables given in GSTR-1 of subsequent period in which such Error/ Omission is discovered.

In case there is short payment pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.

**Last date for such rectification:** Earlier of

- i) 30<sup>th</sup> day of November following the end of the financial year to which such details pertain, or
- ii) furnishing of the relevant annual return.

**Examples:**

- a) A supplier discovers a mistake in details of the invoice furnished in GSTR-1 for the month of August, in October. He can rectify the said mistake in the GSTR-1 for the month of October.
- b) An entity has furnished the annual return for the previous financial year on 15<sup>th</sup> August in the current financial year. An error is discovered in respect of a transaction pertaining to the month of November of the previous financial year.

In this case, any error pertaining to the transaction in the month of November of the previous financial year cannot be rectified beyond 15<sup>th</sup> August in the current financial year.

## 2.3. MISCELLANEOUS POINTS

a) Invoices related details can be uploaded any time during the tax period and not just at the time of filing of GSTR-1.

Such details can be modified/deleted any number of times till the submission of GSTR-1.

Once submitted, taxpayer can rectify any error/omission in future GSTR 1s using Amendment Table.

b) Scanned copies of invoices are not required to be uploaded. Only certain prescribed fields of information from invoices need to be furnished.

c) Taxpayer opting for voluntary cancellation of GSTIN has to file GSTR-1 for active period.

d) **No business activity** → still needs to file GSTR-1.

In case of Nil return, it can be filed though SMS using the registered mobile number of the taxpayer.

GSTR-1 submitted through SMS is verified by registered mobile number-based OTP facility. [Common for all Returns]

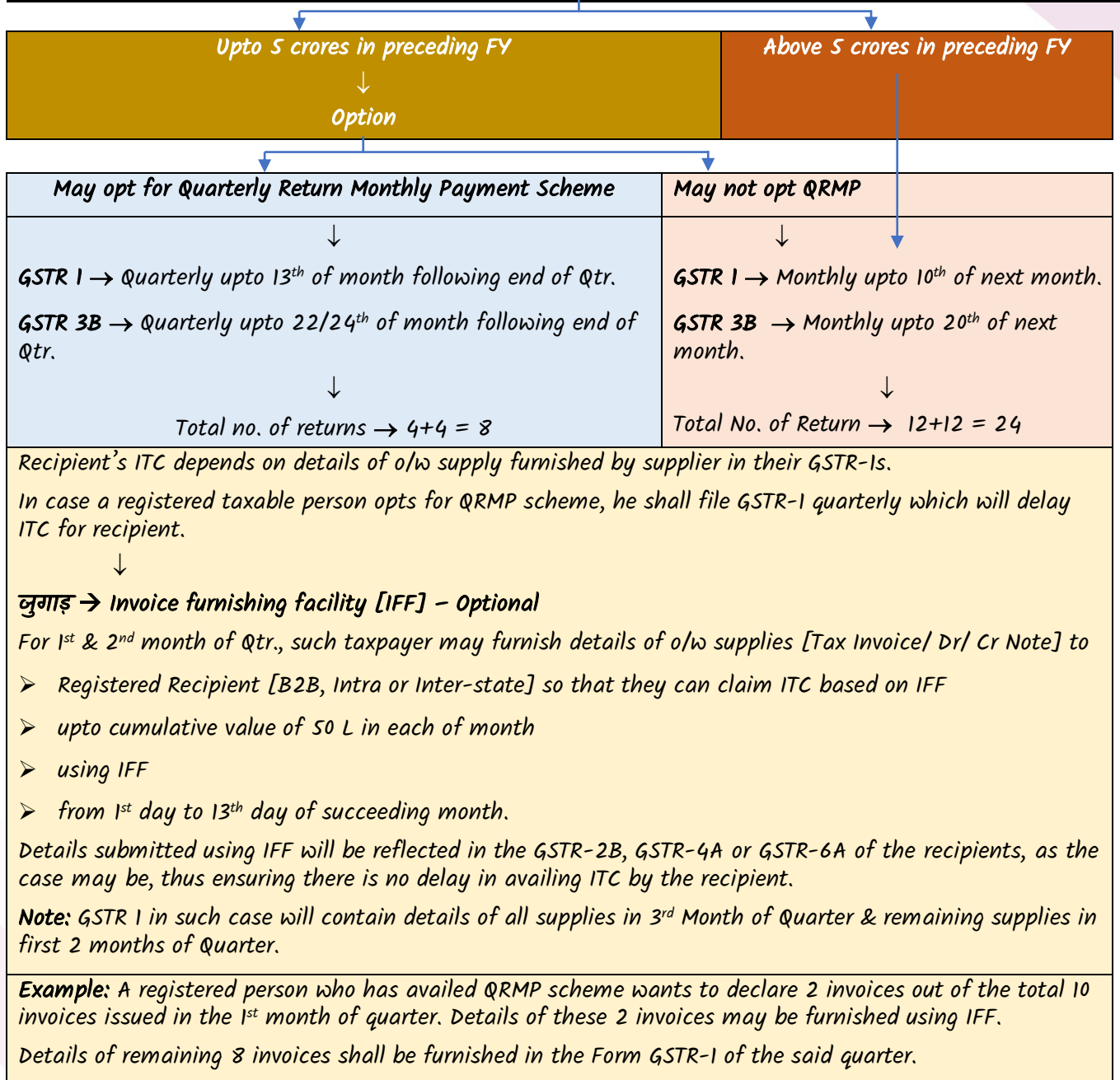
**Note:** Nil Return means no transaction/entry in any of the fields.

e) **General Law:** A taxpayer cannot file GSTR-1 before the end of current tax period.

Exceptions i.e. GSTR-1 can be filed before end of relevant month/quarter:

- i) Casual taxpayers, after the closure of their business
- ii) Cancellation of GSTIN of a normal taxpayer.

**3. REGISTERED PERSON HAVING AGGREGATE TURNOVER**



**Illustration: Quarter 2 [01.07.22 to 30.09.22]**

**Case I**

If aggregate T/o in preceding FY exceeds 5 crore or

**Due Date**



Aggregate T/o upto 5 cr but not Opted QRMP scheme	GSTR 1 for m/o July → 10/8/22 GSTR 1 for m/o August → 10/9/22 GSTR 1 for m/o Sep → 10/10/22
Details furnished by Suppliers in IFF/ GSTR-1 is reflected in GSTR 2B of Recipient who can claim ITC based on such detail.	
<b>Case II</b>	
If aggregate T/o upto 5 crores & taxable person opted QRMP scheme	<p>→ GSTR 1 for Quarter 2 [July to Sep] → 13/10/22</p> <p>↓</p> <p><b>Optional</b></p> <p>Month 1 (July) → IFF → 13/8/22</p> <p>Month 2 (Aug) → IFF → 13/9/22</p> <p>July to Sep → GSTR 1 → 13/10/22</p>

### 3.1. SUMMARY OF GSTR 1 & IFF UNDER QRMP SCHEME

Supplier opted for QRMP	Month 1	→	Can furnish B2B invoice/ debit or credit note in IFF upto 50 lakhs each month	→	To be furnished between 1 <sup>st</sup> to 13 <sup>th</sup> of next month	→	Details uploaded in IFF/ GSTR 1 will be reflected in GSTR 2B/ 4A of Recipient on date following due date of filing IFF/ GSTR 1.
	Month 2	→					
	Month 3	→	Furnish all invoices for all 3 months in GSTR 1 except those furnished though IFF in month 1 & 2	→	Upload GSTR 1 from 1 <sup>st</sup> to 13 <sup>th</sup> of next month following end of relevant Quarter		

### 3.4. BAR ON FILING GSTR 1 / IFF I.E. SITUATIONS WHERE NOT ALLOWED TO BE FURNISHED

- Registered person can't furnish details of outward supplies in Form GSTR 1/ IFF for the current tax period,
- if he has not furnished Form GSTR 1 for any of the preceding tax period or
  - if he has not furnished Form GSTR 3B for any of the preceding tax period; or
  - where an intimation has been issued under rule 88C in respect of a tax period and such registered person has neither deposited the amount specified in the said intimation nor has furnished a reply explaining the reasons for any amount remaining unpaid.

### 4. COMMUNICATION OF DETAILS OF INWARD SUPPLIES AND INPUT TAX CREDIT

[SECTION 38]

GSTR 2B is a static **auto generated statement** containing details of Inward Supplies and ITC & made available to Recipient once every month



It is based on details of outward supplies furnished by Suppliers in their GSTR 1 / IFF

+ Details of outward supplies furnished by NRTP in GSTR 5 + Details of IGST paid on Import of Goods or Goods brought in DTA from SEZ unit/ SEZ developer.
<b>Note:</b> Detailed content of GSTR 2B is already discussed in Ch 8 – ITC.

Due date of GSTR 2B is as follows: Date following due date of filing IFF/ GSTR 1 by their Suppliers	
If all Suppliers are filing monthly returns	If all or even one supplier has opted for QRMP scheme
↓	↓
GSTR 2B will be available on 11 <sup>th</sup> of next month	GSTR 2B will be available on 14 <sup>th</sup> of next month

Example: If all or any of the supplier opted for QRMP scheme [E.g. July-Sep]	
For first month (July)	→ GSTR 2B will be available on date following due date of IFF → 14/8 & shall contains details between preceding one month i.e. 14/7 – 13/8.
For second month (Aug)	→ GSTR 2B will be available on date following due date of IFF → 14/9 & shall contains detail between 14/8 – 13/9.
Third month (Sep)	→ GSTR 2B will be available on date following due date of GSTR 1 → 14/10 & contains detail between 14/9 – 13/10.
Example:	
If a supplier opting for QRMP files an invoice dated 15 <sup>th</sup> July on 13 <sup>th</sup> August, it will get reflected in GSTR-2B of July (generated on 14 <sup>th</sup> August).	
If the document is filed on 14 <sup>th</sup> August, the document will be reflected in Form GSTR-2B of August (generated on 14 <sup>th</sup> September).	

### 5. FURNISHING OF RETURN: GSTR 3B U/S 39

Needs to be filed by taxpayers required to file GSTR 1	
↓	
On common portal, directly or through notified facilitation center (Nil Return can be filed through SMS)	
↓	↓
If regd. person opted for QRMP scheme including CTP	Regd. person other than those under QRMP scheme
↓	↓
Quarterly Return upto 22 <sup>nd</sup> / 24 <sup>th</sup> day of next month depending on the State/ UT	Monthly return upto 20 <sup>th</sup> of next month
<b>Note:</b> Invoice wise details not required. Rather, consolidated details of outward tax, ITC, exempt supply etc. is provided.	

QRMP scheme is allowed if
a) Aggregate t/o in preceding FY is upto 5 crores &
b) Registered person has opted for it.
Other Conditions
a. Opting QRMP scheme is GSTIN wise. Distinct persons can avail QRMP scheme for one or more GSTINs.

It implies that some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt for the said scheme.

b. While opting for QRMP, Regd. person must ensure that GSTR 3B which is due on date of opting QRMP scheme is duly filed.

E.g. If QRMP is opted on 27/10, GSTR 3B for Sep which was due must have been filed before opting QRMP scheme.

### Validity of QRMP scheme

a) Once opted for QRMP, Regd. person shall continue to follow QRMP unless they revise the said option.

b) If aggregate turnover exceeds 5 crores during a quarter, the regd. person shall not be eligible for QRMP scheme w.e.f. first month of next quarter.

### 5.1. MANNER OF EXERCISING QRMP OR OPTING OUT OF QRMP

	Period for Opting / Opting Out		
AP – June →	1/2 till 30/4	2 months before start of relevant quarter till 1 month from start of relevant quarter	First date of second month of preceding quarter till last date of first month of relevant quarter for which option is exercised
July – Sep →	1/5 till 31/7		
Oct – Dec →	1/8 till 31/10		
Jan – March →	1/11 – 31/1		

### Time limit for furnishing Return u/s 39

A registered person shall not be allowed to furnish the return u/s 39 for a tax period

➤ after the expiry of a period of three years from the due date of furnishing it.

**Note:** Time limit for filing the return may be extended by Govt. by way of a notification on recommendation of GST Council subject to certain conditions and restrictions.

### 5.2. DETAILS TO BE FURNISHED IN GSTR 3B

Basic & Other Details	Other Details related to Supplies
a) GSTIN	a) Summarised details of outward supplies and inward supplies liable to reverse charge.
b) Legal name and Trade name	b) Summarised detail of inter-state supplies made to unregistered persons, composition taxable persons and UIN holders.
c) Year and month/quarter	c) Eligible and ineligible ITC
	d) Values of exempt, nil-rated and non-GST inward supplies
	e) Payment of tax
	f) TDS/TCS credit

### 5.3. DUE DATES OF FILING GSTR 3B FOR TAXPAYERS OPTING FOR QRMP SCHEME

Class of registered persons	Due date
Registered persons whose principal place of business is in States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Union	22 <sup>nd</sup> day of the month succeeding such quarter.

Class of registered persons	Due date
territories of Daman & Diu & Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	
Registered persons whose principal place of business is in 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.	24 <sup>th</sup> day of the month succeeding such quarter.

**5.4. BAR ON FILING GSTR 3B I.E. SITUATIONS WHERE GSTR 3B NOT ALLOWED TO BE FURNISHED**

A registered person can't furnish return in Form GSTR 3B for the current tax period, if he has not furnished

- Form GSTR -1 or GSTR 3B for any of the previous tax periods.

**6. PROCEDURE FOR PAYMENT OF TAX BY REGISTERED PERSON**

Other than QRMP scheme (monthly payment)	QRMP scheme	GSTR 4 (Quarterly)	GSTR 5 (Monthly)	GSTR 7 (Monthly)
Upto due date of filing GSTR 3B i.e., 20 <sup>th</sup> of next month	Next page	18 <sup>th</sup> of month following end of relevant quarter	Upto due date of filing GSTR 5	Upto due date of filing GSTR 7

**6.1. PAYMENT OF TAX UNDER QRMP SCHEME**

Payment shall be monthly	
For First 2 months	For 3 <sup>rd</sup> month
<p>Payment is made by depositing required amount in GST PMT 6 upto 25<sup>th</sup> of next month [Balance in e- credit &amp; e- cash ledger is considered]</p> <p>If monthly tax liability is Nil or balance in e-credit &amp; e-cash ledger &gt; monthly payment liability; no need to deposit any amount in GST PMT 6.</p> <p>While selecting challan, reason for challan shall be selected as "Monthly payment for quarterly return".</p>	<p>Net GST liability for entire quarter needs to be paid upto due date of filing GSTR 3B (22/24) of next Month.</p>

Fixed Sum Method	Self-Assessment Method
<p>Auto filled GST PMT 06 is generated that can't be edited equal to</p> <ul style="list-style-type: none"> <li>➤ 35% of tax paid in cash in preceding quarter where Return was filed quarterly; or</li> <li>➤ 100% of tax paid in cash in return for month</li> </ul>	<p>Calculation Net tax payable using ITC [GSTR 2B] &amp; o/w tax liability for each of 2 months</p> <p>Pay the tax using GST PMT 6</p>



<p>immediately preceding the quarter if monthly return was filed earlier.</p> <p style="text-align: center;">↓</p> <p>No interest for first 2 months even if actual tax liability &gt; auto calculated fixed sum deposited by due date.</p>	<p>In case of shortfall, interest u/s 50 is also calculated</p>
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Determine the amount payable in Quarter I if the Taxpayer has opted for fixed sum method under QRMP.  
Case 1: In case the last return filed was on quarterly basis for quarter ending March:

Tax paid in cash in quarter (Jan - March)		Tax required to be paid in each of the months – April & May	
CGST	100	CGST	35
SGST	100	SGST	35
IGST	500	IGST	175
Cess	50	Cess	17.5

Case 2: In case the last return filed was monthly for the month of March:

Tax paid in cash in March		Tax required to be paid in each of the months – April & May	
CGST	50	CGST	50
SGST	50	SGST	50
IGST	80	IGST	80
Cess	-	Cess	-

## 6.2. APPLICABILITY OF INTEREST IN CASE OF DELAYED PAYMENT

QRMP	Others
<p><b>Fixed Sum Method</b></p> <p>If tax due is paid in first 2 months of quarter by depositing auto calculated fixed amount by due date</p> <p style="text-align: center;">↓</p> <p>No Interest u/s 50</p> <p>If amount is not paid by due date, then interest is payable.</p>	<p><b>Self-Assessment Method</b></p> <p style="text-align: center;">↓</p> <p>Interest u/s 50 on shortfall (already done in Ch 10)</p>
	<p style="text-align: center;">↓</p> <p>Interest u/s 50 on shortfall</p>

### Examples

A registered person, who has opted for the QRMP scheme, had paid a total amount of INR 100/- in cash as tax liability in the previous quarter of October to December.

He opts to pay tax under fixed sum method. He pays INR 35/- each on 25<sup>th</sup> February and 25<sup>th</sup> March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that liability, based on the outward and inward supplies, for January was INR 40/- and for February it was INR 42/-.

However, no interest would be payable for the lesser amount of tax (i.e. INR 5 and INR 7 respectively) discharged in these 2 months provided that he discharges his entire liability for the quarter in the Form

GSTR-3B of the quarter by the due date.

Suppose in above case, while filing return for the quarter, it is found that total liability for the quarter net of available credit was INR 125, but he files the return on 30<sup>th</sup> April. Interest would be payable at applicable rate on INR 55 [INR 125 – INR 70 (deposit made in cash ledger in first and second month)] for the period between due date of quarterly GSTR 3B and 30<sup>th</sup> April.

### Summary of Due Dates

	Monthly	QRMP Scheme
GSTR 1	11 <sup>th</sup> of next month	13 <sup>th</sup> of month following end of relevant quarter
GSTR 2B	12 <sup>th</sup> / 14 <sup>th</sup> of Next Month	12 <sup>th</sup> / 14 <sup>th</sup> of Next Month
GSTR 3B	20 <sup>th</sup> of next month	22/24 <sup>th</sup> of month following end of relevant quarter
Payment	20 <sup>th</sup> of next month	25 <sup>th</sup> of next month for first 2 months of Quarter 22/24 of next month following end of relevant quarter

### 6.3. TAXPAYER TO BE INTIMATED THE DIFFERENCE IN LIABILITY IN FORM GSTR-1 AND FORM GSTR-3B AND BE REQUESTED TO PAY THE DIFFERENTIAL LIABILITY OR EXPLAIN THE DIFFERENCE [RULE 88C]

Where the tax liability as per Form GSTR-1 for a tax period exceeds the tax liability as per Form GSTR-3B for that period by more than a specified extent,

the registered person would be intimated on common portal of such difference and be directed to either

- pay the differential tax liability along with interest u/s 50, or
- explain the difference, within specified time, within a period of 7 days.

Such registered person shall, within 7 days, either:

- pay the amount of the differential tax liability, fully or partially, along with interest u/s 50, and furnish the details on the common portal; or
- furnish a reply on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any,

Where any amount specified in the said intimation remains unpaid within 7 days' period and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer,

- said amount shall be recoverable in accordance with the provisions of section 79.

Further, such a person should not be allowed to file Form GSTR-1/ IFF for the subsequent tax period.

### 7. RETURN FOR COMPOSITION TAX PAYER [GSTR 4 u/s 39(2)]

- Such taxpayer needs to file quarterly statement [GST CMP-08] in prescribed form containing details of payment of self-assessed tax upto 18<sup>th</sup> of month, following end of quarter.

April – June → 18<sup>th</sup> July

January – march → 18<sup>th</sup> April

- A return [GSTR4] shall be filled for any financial year or part of financial year to be filed upto 30/4 of next financial year.
- Invoice – wise details of outward supplies Not required.

**d) Nil GST CMP-08 in case there is no Transaction/ Entry in any of the Tables**

Filing of GST CMP-08 is mandatory for all taxpayers who have opted to pay tax under composition scheme, even if there is no business activity in any particular tax period.

A Nil GST CMP-08 can be filed through an SMS using the registered mobile number of the taxpayer. A Nil GST CMP-08 submitted through SMS is verified by registered mobile number-based OTP facility.

As per section 29(2), a proper officer is empowered to cancel the registration of a taxable person if,

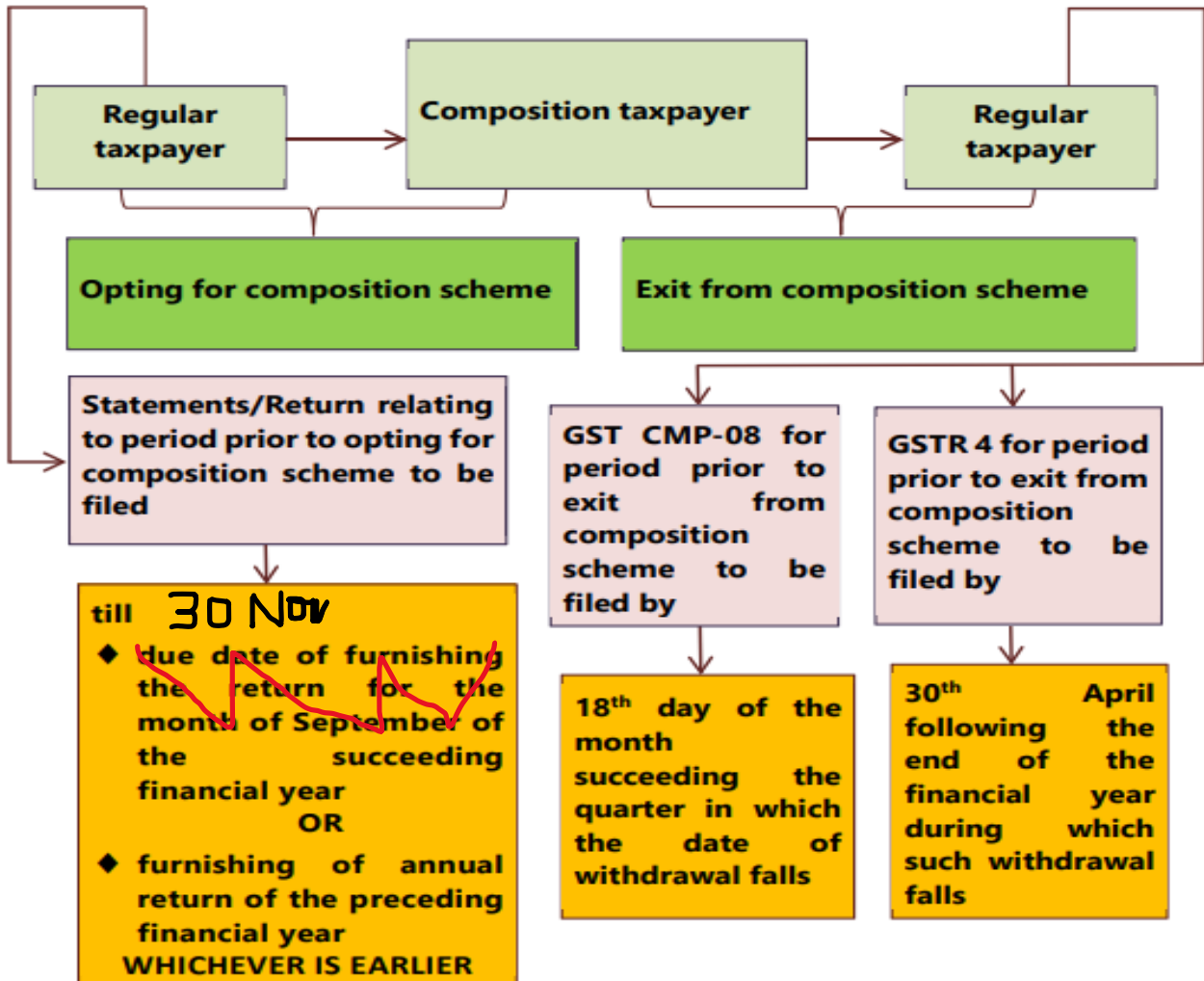
- a composition dealer has not furnished his GSTR-4 for a financial year
- beyond 3 months from the due date of furnishing the said return.

**7.1. CONTENTS OF GSTR 4**

Basic & Other Details	Other Details related to Supplies
<ul style="list-style-type: none"> <li>a) GSTIN</li> <li>b) Legal name and Trade name</li> <li>c) TDS/ TCS credit received</li> <li>d) Tax, interest, late fee payable and paid</li> <li>e) Refund claimed from electronic cash ledger</li> </ul>	<ul style="list-style-type: none"> <li>a) Invoice-wise details of all inward supplies (i.e., intra and inter-State supplies and from registered and unregistered persons) including reverse charge supplies and import of services</li> <li>b) Summary of self-assessed tax liability as per GST CMP-08</li> <li>c) Tax rate wise details of outward supplies/inward supplies attracting reverse charge - <b>Consolidated details</b> of outward supplies</li> </ul>

**Note:** Inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in FORM GSTR-4A for viewing.

**7.2. RETURN FOR THE PERIOD PRIOR TO OPTING FOR COMPOSITION SCHEME & EXITING IT**



**8. RETURN FOR NRTP: GSTR 5 [SEC 39(5)]**

Monthly Return

**Due date of filing GSTR 5:**

Earlier of –

- a) 13<sup>th</sup> of next month and
- b) within 7 days after the last day of validity period of the registration.

**Note:** NRTP shall pay Interest/ Penalty/ Fee etc. till the last date of filing GSTR 5.

**Illustration**

John is a NRTP who obtain registration on 12<sup>th</sup> October till 4<sup>th</sup> January. Decide due date of filing GSTR-5.

**Solution:**

Month	Due Date
October	13 <sup>th</sup> November
November	13 <sup>th</sup> December
December	13 <sup>th</sup> January or 11 <sup>th</sup> January

} Earlier → 11 January



January	13 <sup>th</sup> February or 11 <sup>th</sup> January	} Earlier → 11 January

### 9. RETURN FOR TAX DEDUCTED AT SOURCE: GSTR 7 [SEC 39(3)]

Monthly Return

Last date of filing GSTR 7 → 10<sup>th</sup> of month succeeding the calendar month in which tax has been deducted

**TDS details available to deductee on common portal**

Details of TDS furnished by the deductor in GSTR-7 is made available electronically to each of the deductees on the common portal after filing of Form GSTR-7.

The supplier can take this amount as credit in his electronic cash ledger after validation and use the same for payment of tax or any other liability.

**Tax Deduction at Source (TDS) Certificate** - issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from whose payment, TDS is deducted), within 5 days of crediting the amount to the Government.

### 10. STATEMENT FOR TAX COLLECTED AT SOURCE: GSTR 8 [SEC 52(3), (4), (7) & (7)]

Monthly Statement in Form GSTR-8 is furnished by ECO liable to collect tax at source

Last date of filing GSTR 8 → 10<sup>th</sup> of month succeeding the calendar month in which tax has been collected

Note: Amount of tax collected by ECO (TCS amount) is also required to be deposited by the 10<sup>th</sup> of the month succeeding the calendar month in which tax has been collected at source.

**TCS details available to suppliers on common portal and claiming of TCS by suppliers**

Details of TCS furnished by the ECO in GSTR-8 is made available electronically to each of the Suppliers who supplied goods/services through ECO, on the common portal after filing of Form GSTR-8.

The supplier can take this amount as credit in his electronic cash ledger after validation and use the same for payment of tax or any other liability.

**Rectification of errors/omissions in GSTR-8** – Same as Rectification in case of GSTR 3B

**Time limit for furnishing the statement u/s 52**

The operator shall not be allowed to furnish the statement under

➤ after the expiry of a period of three years from the due date of furnishing the said statement:

**Note:** Time limit of filing the statement may be extended by Government by way of a notification on recommendation of GST Council subject to certain conditions and restrictions.

### 11. RECTIFICATION OF ERROR OR OMISSION 39(9)

Under GST law, a return once filed cannot be revised. However, GST Return is made up of individual transactions.

Hence, details of those transactions filed earlier which are required to be amended due to any error/ omission can be changed in any of the future GSTR- 1s using Amendment Tables.

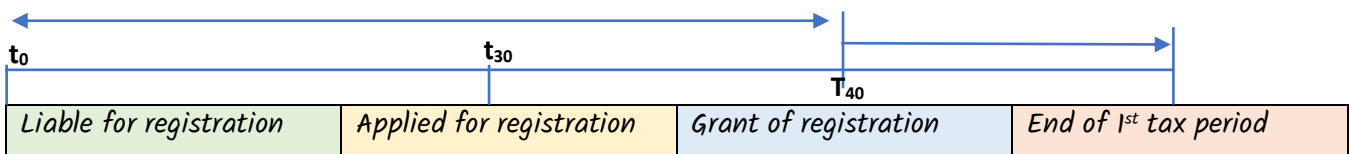
The tax payable on account of such error/ omission will be paid along with interest in GSTR-3B for the month in which rectification is being made.

Error/omission noticed by Registered person	→	To be rectified in tax period in which error/omission is noticed	→	Last date for rectification Same as last date for availing ITC
---------------------------------------------	---	------------------------------------------------------------------	---	-------------------------------------------------------------------

**Notes:**

- A return filed u/s 39 on which self-assessed tax is not paid in full is considered as invalid return.
- Filing of returns for current month is possible only when returns of the previous month have been filed.
- Rectification of error or omission discovered on account of scrutiny, audit, inspection, or enforcement activities by tax authorities is not allowed.  
Hence, Assessee may not be able to pass on the ITC to the receiver in respect of tax payments made by him in pursuance of any of the afore-mentioned situations.
- In order to valid, GST return should be electronically signed else it will be considered as not filed.
  - Digital signature (mandatory for all companies & LLPs)
  - E-sign [Aadhar based OTP verification]
  - EVC [electronic verification code sent to the registered mobile number of the authorized signatory]

**12. FIRST RETURN [SEC 40]**



**Details of first return:**

- Details of outward supplies made
  - in first tax period after grant of the certificate of registration till the end of first tax period; and
  - after becoming liable for registration but before grant of registration (assuming that taxpayer applied for registration within 30 days of becoming liable for registration)

**Note:** The format for this return is the same as that for regular return.

**13. ANNUAL RETURN [SEC. 44]**

Who is required to file Annual Return →	All registered person required to file GSTR 3B and GSTR 4 ECO required to collect tax at source is required to file an annual statement referred u/s 52(5) in Form GSTR-9B.
Due date →	Upto 31 <sup>st</sup> December of subsequent financial year
GST Return Form →	GSTR 9 GSTR 9A for composition dealer
Who is not required to file Annual Return	CTP, NRTP, Persons authorized to deduct/collect tax at source under section 51/52

Self-Certified Reconciliation Statement reconciling the value of supplies declared in the Annual Return furnished for the financial year, with the audited annual Financial Statement needs to be filed along with

Annual Return in the manner given below:		
Aggregate Turnover	Annual Return	Reconciliation Statement in GSTR 9C
Upto 2 crore	Yes*	X
Exceeding 2 crores upto 5 crores	Yes	X
Exceeding 5 crores	Yes	Yes

**Note:** Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section.

**Note:** Reconciliation Statement in GSTR 9C needs to be self-certified rather than mandatory certification by CA/CMA.

**Note:** Govt. department of CG/SG/LA whose accounts is audited by Comptroller and Auditor General (CAG) need not file annual return or reconciliation statement.

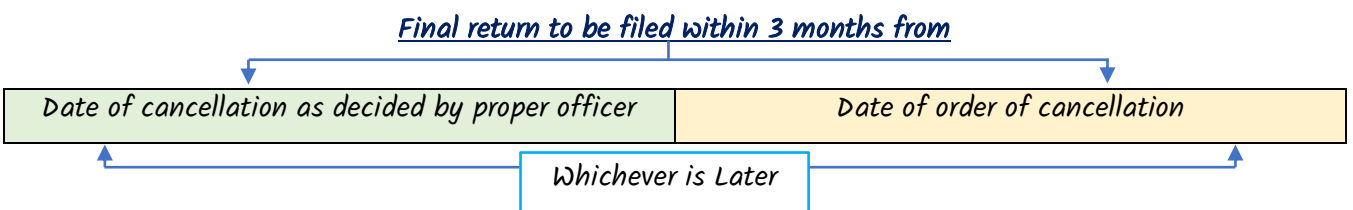
**Time limit for furnishing Annual Return u/s 44**

A registered person shall not be allowed to furnish the annual return u/s 44 for a tax period

- after the expiry of a period of three years from the due date of furnishing it.

**Note:** Time limit for filing the return may be extended by Government by way of a notification on recommendation of GST Council subject to certain conditions and restrictions.

**14. FINAL RETURN IN GSTR-10 [SECTION 45]**



**Illustration :** Date of order of cancellation → 27/12/XX

**Case-I :** Date of cancellation as decided by PO → 20/12/XX

**Ans :** GSTR-10 needs to be filled within 3 months from 27/12/XX.

**Case-II :** Date of cancellation as decided by PO → 30/12/XX

**Ans :** GSTR-10 needs to be filed within 3 months from 30/12/XX.

**15. DETAILS OF INWARD SUPPLIES OF PERSONS HAVING UIN: GSTR 11 [SEC 39(5)]**

**Due date of filing GSTR 11:** 28<sup>th</sup> of the month following the month in which the UIN holder has received inward supplies.

**16. DEFAULT/ DELAY IN FURNISHING RETURN [SECTIONS 46 & 47]**

**16.1. NOTICE TO RETURN DEFAULTERS [SECTION 46 READ WITH RULE 68]**

A notice in prescribed form is issued, electronically, to a registered person who fails to furnish return

- u/s 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement].

The notice requires the registered person to furnish the return **within 15 days**, failing which the tax liability will be assessed u/s 62, based on the relevant material available with the proper officer.

In addition to tax so assessed, applicable interest and penalty will also be payable.

**16.2. LATE FEE FOR DELAY IN FILING RETURN [SECTION 47]**

<b>GSTR 1 u/s 37 or GSTR 3B u/s 39</b>	
Nil outward supplies (GSTR 1) or Nil tax payable (GSTR 3B) in the tax period	Lower of a) ₹ 10 per day of delay or b) 250
Aggregate Turnover upto 1.5 crore in preceding FY	Lower of a) ₹ 25 per day of delay or b) 1,000
Aggregate Turnover exceeding 1.5 crore but upto 5 crores in preceding FY	Lower of a) ₹ 25 per day of delay or b) 2,500
Aggregate Turnover exceeding 5 crores in preceding FY	Lower of a) ₹ 25 per day of delay or b) 5,000
<b>GSTR 4 u/s 39</b>	
Total tax payable in GSTR 4 is Nil	Lower of a) ₹ 10 per day of delay or b) 250
Total tax payable in GSTR 4 is Not Nil	Lower of a) ₹ 25 per day of delay or b) 1,000
<b>Other Cases</b>	
GSTR 7	Lower of a) ₹ 250 per day of delay or b) 1,000
GSTR 5 u/s 39 (NRTP) or GSTR 10 u/s 45 (Final Return)	Lower of a) ₹ 100 per day of delay or b) 5,000
<b>Annual Return u/s 44</b>	
Aggregate turnover ≤ INR 5 crores in the relevant FY	Lower of a) ₹ 25 per day of delay or b) 0.02% of Turnover in the State or Union territory
Aggregate Turnover exceeding 5 crores but upto 20 crores in preceding FY	Lower of c) ₹ 50 per day of delay or d) 0.02% of Turnover in the State or Union territory



Aggregate turnover > 20 crores in the relevant FY	Lower of a) ₹ 100 per day of delay or b) 0.25% of Turnover in the State or Union territory
<b>Note:</b> Further equal amount shall be payable under SGST/ UTGST Act as well.	
<b>Note:</b> No late fee for delay in payment of tax in first 2 months of the quarter under QRMP scheme.	

### 17. GST SUVIDHA PROVIDER

It is an ecosystem of third-party service providers having access to GST system.  
It acts as enabler for taxpayer to comply with provisions of GST through its web platform.  
GSP develops application or website for return filing, reconciliations etc. in an easy-to-use manner.

### 18. GST PRACTITIONERS [SEC 48]

An eligible person wishing to render GST services to clients can apply on common portal for registration as GST practitioner (GSTP).  
A registered person may authorize approved GSTP to furnish information, on his behalf, to the Government by logging on common portal and selecting it.  
GSTN will provide separate user ID and Password to GSTP to enable him to work on behalf of his clients without asking for their user ID and passwords.  
A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.  
**Note:** A GSTP enrolled in any State or Union Territory shall be treated as enrolled in the other States/ Union territories.

#### 18.1. ACTIVITIES WHICH CAN BE UNDERTAKEN BY A GSTP

GSTP can undertake any/all of the following activities on behalf of a registered person, if authorized:

- Furnish monthly, quarterly, annual or final return;
- Make deposit for credit into the electronic cash ledger;
- File a claim for refund;
- File an application for registration amendment/ cancellation;
- Appear as authorized representative before any officer of Department, Appellate Authority etc.;
- Furnish information for generation of e-way bill;
- Furnish details of challan in the prescribed form;
- file an application for amendment or cancellation of enrolment under Rule 58;
- file an intimation to pay tax under the composition scheme or withdraw from the said scheme; and
- To perform such other functions in such manner as may be prescribed.

#### Furnishing returns through GSTP:

When a registered person opts to furnish his return through GSTP, such registered person shall:

- Give his consent in prescribed form to any GSTP to prepare and furnish his return.
- Before confirming submission of any statement prepared by GSTP, ensure that the facts mentioned in the return are true and correct.

Thus, the responsibility for correctness of any particulars furnished in the return or other details filed by the GSTP shall continue to rest with the registered person on whose behalf such return is furnished.

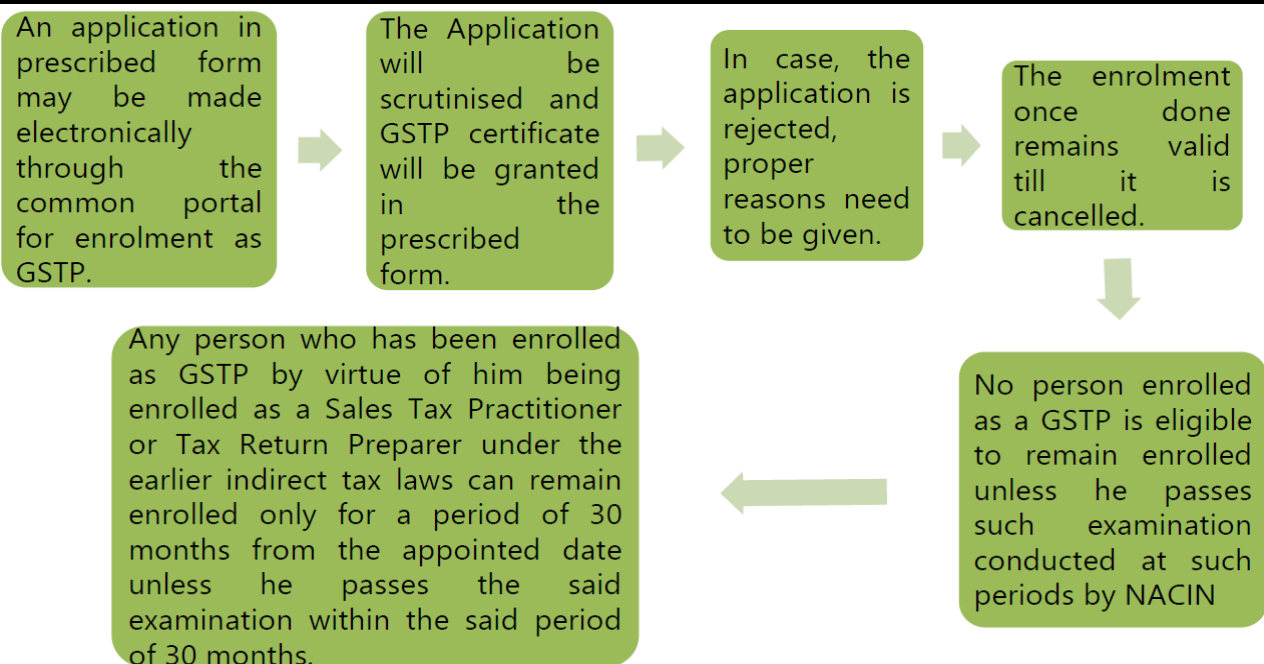
Any statement furnished by the GSTP shall be made available to registered person on GST Common Portal. For every statement furnished by GSTP, a confirmation shall be sought from the registered person over email or SMS.

However, failure to respond to request for confirmation shall be treated as deemed confirmation.

### 18.2. ELIGIBILITY CRITERIA FOR GSTP

General Criteria	Additional Conditions relating to experience and qualification
All of following needs to be fulfilled:	Need to satisfy either of following:
<ul style="list-style-type: none"> <li>a) Indian citizen</li> <li>b) Person of sound mind</li> <li>c) Not adjudicated as insolvent</li> <li>d) Not been convicted by a competent court.</li> </ul>	<ul style="list-style-type: none"> <li>a) person should be retired officer of Commercial Tax Department of any State Govt./CBIT who, had worked for at least 2 years in a post not lower than the rank of a Group-B gazetted officer</li> <li>b) person should have enrolled as a Sales Tax Practitioner or Tax Return Preparer for at least 5 years under earlier indirect tax law.</li> <li>c) person should have acquired any of the prescribed qualifications mentioned below:               <ul style="list-style-type: none"> <li>i) Graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law from any Indian university established by any law</li> <li>ii) Degree examination of any Foreign University recognized by any Indian University as equivalent to the degree examination mentioned above</li> <li>iii) Has passed final examination of ICAI/ICSI/ Institute of Cost Accountants of India; or</li> </ul> </li> </ul>

### 18.3. PROCEDURE FOR ENROLMENT AS GSTP



## CHAPTER 16

# DEFINITIONS & FORMS

### 1. DEFINITIONS

<p><b>1) Actionable claim:</b> [Sec 2(1)]</p>	<p>Shall have the same meaning as per section 3 of the Transfer of Property Act, 1882. As per section 3 of the Transfer of Property Act, 1882, actionable claim means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent.</p>
<p><b>2) Agent</b> [Sec 2(5)]</p>	<p>Means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on business of supply or receipt of goods or services or both on behalf of another.</p>
<p><b>3) Aggregate turnover</b> [Sec 2(6)]</p>	<p>Means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.</p>
<p><b>4) Agricultural extension</b></p>	<p>means application of scientific research and knowledge to agricultural practices through farmer education or training.</p>
<p><b>5) Agricultural produce</b></p>	<p>means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.</p>
<p><b>6) Appointed day</b></p>	<p>means the date on which the provisions of CGST Act shall come into force [Sec 2(10)].</p>
<p><b>7) Arbitral tribunal</b></p>	<p>has the same meaning as assigned to it in clause (d) of section 2 of the Arbitration and Conciliation Act, 1996. Arbitral tribunal means a sole arbitrator or a panel of arbitrators [Section 2(d) of the Arbitration and Conciliation Act, 1996].</p>
<p><b>8) Associated enterprises</b></p>	<p>shall have the same meaning as per sec 92A of the Income-tax Act, 1961 [Sec 2(12)].</p>
<p><b>9) Authorized bank</b></p>	<p>shall mean a bank or a branch of a bank authorized by the Government to collect the tax or any other amount payable under this Act. [section 2(14)]</p>
<p><b>10) Business facilitator or</b></p>	<p>means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the</p>

<b>business correspondent</b>	guidelines issued by the Reserve Bank of India.
<b>11) Capital goods</b>	means goods, the value of which is capitalized in the books of account of the person claiming the ITC and which are used or intended to be used in the course or furtherance of business [Section 2(19)].
<b>12) Cess</b>	shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].
<b>13) Central Tax</b>	means the central goods and services tax levied under Section 9 [Section 2(21)].
<b>14) Common portal</b>	means the common goods and services tax electronic portal [Section 2(26)].
<b>15) Council</b>	means GST Council established under article 279A of the Constitution [Sec 2(36)].
<b>16) Consideration</b>	<p>In relation to the supply of goods or services or both includes:</p> <p>a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government,</p> <p>b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.</p> <p>However, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply. [Sec 2(31)].</p> <p>A subsidy given by Central Government or State Government shall not be treated as a part of Consideration.</p>
<b>17) Consignment Note</b>	<p>means a document, issued by a GTA against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains:</p> <p>a) the name of the consignor and consignee,</p> <p>b) registration number of the goods carriage in which the goods are transported,</p> <p>c) details of the goods transported details of the place of origin and destination,</p> <p>d) gross weight of the consignment;</p> <p>e) GSTIN of the person liable for paying tax whether consignor, consignee or GTA</p> <p>f) other particulars as prescribed for a tax invoice.</p>
<b>18) Continuous supply of goods</b> [Section 2(32)]	<p>means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis</p> <ul style="list-style-type: none"> <li>➤ under a contract</li> <li>➤ whether or not by means of a wire, cable, pipeline or other conduit, and</li> <li>➤ for which the supplier invoices the recipient on a regular or periodic basis; and</li> <li>➤ includes supply of such goods as the Govt. may, subject to such conditions, as it may, by notification, specify.</li> </ul>
<b>19) Continuous supply of services</b> [Section 2(33)]	<p>means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis</p> <ul style="list-style-type: none"> <li>➤ under a contract</li> </ul>



	<ul style="list-style-type: none"> <li>➤ for a period exceeding 3 months with periodic payment obligations and</li> <li>➤ includes supply of such services as the Govt. may, by notification, specify.</li> </ul>
<b>20) Contract carriage</b>	<p>has the same meaning as assigned to it in section 2(7) of the Motor Vehicles Act, 1988. Contract carriage means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorized by him in this behalf on a fixed or an agreed rate or sum-</p> <ul style="list-style-type: none"> <li>a) on a time basis, whether or not with reference to any route or distance; or</li> <li>b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes- <ul style="list-style-type: none"> <li>i. a maxi cab; and</li> <li>ii. a motor cab notwithstanding that separate fares are charged for its passengers.</li> </ul> </li> </ul>
<b>21) Credit note</b>	means a document issued by a registered person under section 34 (1) [Section 2(37)].
<b>22) Customs station</b>	shall have the same meaning as assigned to it in section 2(13) of the Customs Act, 1962. Customs station means any customs port, customs airport, international courier terminal, foreign post office or land customs station [Sec 2(13) of Customs Act, 1962].
<b>23) Debit note</b>	means a document issued by a registered person under section 34(3) [Section 2(38)].
<b>24) Declared tariff</b>	includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.
<b>25) E-Commerce operator</b>	Means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. [Section 2(45) of CGST Act]
<b>26) Electronic Cash ledger</b>	means the electronic cash ledger referred to in Section 49 (1) [Section 2(43)].
<b>27) Electronic credit ledger</b>	means the electronic credit ledger referred to in section 49(2) [Section 2(46)].
<b>28) Exempt supply</b>	Means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, & includes non-taxable supply [Sec 2(47) of CGST Act].
<b>29) Fixed establishment</b>	means a place (other than the registered place of business) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs. [Sec 2(50)]
<b>30) Goods</b> [Sec. 2(52)]	Means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.
<b>31) Goods and services tax practitioner</b>	means any person who has been approved u/s 48 to act as such practitioner [Sec 2(55)].
<b>32) Goods transport agency</b>	means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.
<b>33) Governmental authority</b>	means an authority or a board or any other body–

	<p>i. set up by an Act of Parliament or a State Legislature; or</p> <p>ii. established by any Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.</p>
<b>34) Incubatee</b>	means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognized by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech & innovative products.
<b>35) Input</b>	means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [Section 2(59)].
<b>36) Input service</b>	means any service used or intended to be used by a supplier in the course or furtherance of business [Section 2(60)].
<b>37) Input tax</b>	means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes— <ul style="list-style-type: none"> <li>a) the integrated goods and services tax charged on import of goods</li> <li>b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;</li> <li>c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;</li> <li>d) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or</li> <li>e) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,</li> </ul> but does not include the tax paid under the composition levy [Section 2(62)].
<b>38) Input tax credit</b>	means the credit of input tax [Section 2(63)].
<b>39) Integrated tax</b>	means the IGST levied under the Integrated Goods and Services Tax Act [Sec 2(58)].
<b>40) Inward supply</b>	in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration [Sec 2(67)].
<b>41) Intermediary</b>	means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account [Section 2(13) of the IGST Act, 2017].
<b>42) Legal service</b>	means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.
<b>43) Manufacture</b>	Means 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 [Section 2(72) of CGST Act].
<b>44) Money</b>	Means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender

	of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75) of CGST Act].
<b>45) Non-resident taxable person</b>	means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India [Section 2(77)].
<b>46) Notification</b>	means a notification published in the Official Gazette and the expression “notify” and “notified” shall be construed accordingly [Section 2(80)].
<b>47) Output tax</b>	in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].
<b>48) Place of business</b>	includes <ul style="list-style-type: none"> <li>a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or</li> <li>b) a place where a taxable person maintains his books of account; or</li> <li>c) a place where a taxable person is engaged in business through an agent, by whatever name called.</li> </ul>
<b>49) Person</b>	includes- <ul style="list-style-type: none"> <li>a) an individual;</li> <li>b) a Hindu Undivided Family;</li> <li>c) a company;</li> <li>d) a firm;</li> <li>e) a Limited Liability Partnership;</li> <li>f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;</li> <li>g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013;</li> <li>h) anybody corporate incorporated by or under the laws of a country outside India;</li> <li>i) a co-operative society registered under any law relating to cooperative societies;</li> <li>j) a local authority;</li> <li>k) Central Government or a State Government;</li> <li>l) society as defined under the Societies Registration Act, 1860;</li> <li>m) trust; and</li> <li>n) every artificial juridical person, not falling within any of the above [Section 2(84)]</li> </ul>
<b>50) Principal</b>	Means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [Section 2(88) of CGST Act].
<b>51) Principal place of business</b>	means the place of business specified as the principal place of business in the certificate of registration [Section 2(89)].
<b>52) “Promoter”</b>	means, — <ul style="list-style-type: none"> <li>i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other</li> </ul>

	<p>persons and includes his assignees; or</p> <p>ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or</p> <p>iii) any development authority constructing buildings on lands owned by them or placed at their disposal by the Government;</p> <p>iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or</p> <p>v) any other person who acts himself as a builder, colonizer, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or</p> <p>vi) such other person who constructs any building or apartment for sale to the general public.</p>
<b>53) Proper officer</b>	in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91)].
<b>54) Print media</b>	<p>means,</p> <p>a) 'book' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;</p> <p>b) 'newspaper' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867.</p>
<b>55) Quarter</b>	shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].
<b>56) Recipient</b>	<p>Recipient of supply of goods and/or services means-</p> <p>a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,</p> <p>b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and</p> <p>c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,</p> <p>and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply.</p> <p>It shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied. [Section 2(93) of CGST Act]</p>
<b>57) Registered person</b>	means a person who is registered under section 25 but does not include a person having a Unique Identity Number [Section 2(94)].
<b>58) Return</b>	means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder [Section 2(97)].
<b>59) Reverse charge</b>	Means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3)/9(4), or under section 5(3)/5(4) of the IGST Act [Section 2(98) of CGST Act].



<p><b>60) Services</b></p>	<p>Means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. [Section 2(102) of CGST Act].</p> <p>For the removal of doubts, it is hereby clarified that the expression <b>“services” includes facilitating or arranging transactions in securities;</b></p>
<p><b>61) Supplier</b></p>	<p>In relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].</p>
<p><b>62) Senior advocate</b></p>	<p>has the same meaning as assigned to it in section 16 of the Advocates Act, 1961 which, inter alia, provides that an advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability standing at the Bar or special knowledge or experience in law he is deserving of such distinction. Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.</p>
<p><b>63) Single residential unit</b></p>	<p>means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.</p>
<p><b>64) Stage carriage</b></p>	<p>shall have the same meaning as assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988. Stage carriage means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey [Section 2(40) of the Motor Vehicles Act, 1988].</p>
<p><b>65) State Tax</b></p>	<p>means the tax levied under any State Goods and Services Tax Act [Section 2(104)].</p>
<p><b>66) Tax period</b></p>	<p>means the period for which the return is required to be furnished [Section 2(106)].</p>
<p><b>67) Taxable person</b></p>	<p>Means a person who is registered or liable to be registered under section 22 or section 24 [Section 2(107)]. It is important to note that even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration &amp; got himself registered is also a taxable person.</p>
<p><b>68) Taxable supply</b></p>	<p>Means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].</p>
<p><b>69) Taxable territory</b></p>	<p>Means the territory to which the provisions of this Act apply [Section 2(109)].</p>
<p><b>70) Valid return</b></p>	<p>means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].</p>
<p><b>71) Voucher</b></p>	<p>means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].</p>
<p><b>72) Zero-rated supply</b></p>	<p>means any of the following supplies of goods or services or both, namely</p> <ol style="list-style-type: none"> <li>a) export of goods or services or both; or</li> <li>b) supply of goods or services or both to a SEZ developer or a SEZ unit [Section 16(1) of IGST Act].</li> </ol>

**2. FORMS**

<b>Registration</b>	
<b>GST REG - 01</b>	Application for Registration
<b>GST REG - 02</b>	Acknowledgment
<b>GST REG - 03</b>	Notice for Seeking Additional Information/ Clarification / Documents relating to Application for (Registration/ Amendment/ Cancellation)
<b>GST REG - 04</b>	Clarification/ additional information/ document for (Registration/ Amendment/ Cancellation)
<b>GST REG - 05</b>	Order of Rejection of Application for (Registration/ Amendment/ Cancellation)
<b>GST REG - 06</b>	Registration Certificate
<b>GST REG - 07</b>	Application for Registration as Tax Deductor at Source (u/s 51) or Tax collector at source (u/s 52)
<b>GST REG - 08</b>	Order of Cancellation of Registration as Tax Deductor at sources or Tax Collector at source
<b>GST REG - 09</b>	Application for Registration of Non-Resident Taxable Person
<b>GST REG - 10</b>	Application for registration of person supplying online information and data base access or retrieval services from a place outside India to person in India, other than a registered person
<b>GST REG - 11</b>	Application for extension of registration period by casual/ non –resident taxable person
<b>GST REG - 12</b>	Order of Grant of Temporary Registration/ Suo Moto Registration
<b>GST REG - 13</b>	Application/Form for grant of Unique Identify Number to UN Bodies / Embassies/ other
<b>GST REG - 14</b>	Application for Amendment in Registration Particulars (For all types of registered persons)
<b>GST REG - 15</b>	Order of Amendment
<b>GST REG - 16</b>	Application for Cancellation of Registration
<b>GST REG - 17</b>	Show Cause Notice for Cancellation of Registration
<b>GST REG - 18</b>	Reply to the Show Cause Notice issued for cancellation for registration
<b>GST REG - 19</b>	Order for Cancellation of Registration
<b>GST REG - 20</b>	Order for dropping the proceedings for cancellation of registration
<b>GST REG - 21</b>	Application for Revocation of Cancellation of Registration
<b>GST REG - 22</b>	Order for revocation of cancellation of registration
<b>GST REG - 23</b>	Show Cause Notice for rejection of application for revocation of cancellation of registration
<b>GST REG - 24</b>	Reply to the notice for rejection of application for revocation of cancellation of registration
<b>GST REG - 25</b>	Certificate of Provisional Registration
<b>GST REG - 26</b>	Application for Enrolment of Existing Taxpayer
<b>GST REG - 27</b>	Show Cause Notice for cancellation of provisional registration
<b>GST REG - 28</b>	Order for cancellation of provisional registration
<b>GST REG - 29</b>	Application for cancellation of provisional registration

<b>Composition Scheme</b>	
<b>GST CMP - 01</b>	Intimation to pay tax under section 10 by registered person migrating to GST (No relevant)
<b>GST CMP - 02</b>	Intimation to pay tax under section 10 (composition levy)
<b>GST CMP - 03</b>	Intimation of details of stock on date of opting for composition levy
<b>GST CMP - 04</b>	Intimation/Application for Withdrawal from Composition Levy
<b>GST CMP - 05</b>	Notice for denial of option to pay tax under Section 10
<b>GST CMP - 06</b>	Reply to the notice to Show Cause
<b>GST CMP - 07</b>	Order for acceptance / rejection of reply to show cause notice
<b>GST CMP - 08</b>	Statement for payment of self-assessed tax

<b>Input Tax Credit</b>	
<b>GST ITC - 01</b>	Declaration for claim of input tax credit u/s 18(1)
<b>GST ITC - 02</b>	Declaration for transfer of ITC in case of sale, merger, demerger, amalgamation, lease or transfer of a business u/s 18(3)
<b>GST ITC - 03</b>	Declaration for intimation of ITC reversal/payment of tax on inputs held in stock, inputs contained in semi-finished and finished goods held in stock and capital goods u/s 18(4)
<b>GST ITC - 04</b>	Details of goods/capital goods sent to job worker and received back – CA Final

<b>E-Way Bill</b>	
<b>GST EWB - 01</b>	Form for generating EWB
<b>GST EWB - 02</b>	Consolidated E-Way Bill
<b>GST EWB - 03</b>	Verification Report
<b>GST EWB - 04</b>	Report of Detention

<b>Payments</b>	
<b>GST PMT - 01</b>	Electronic Liability Register of Registered Person ( <b>Part-I: Return related liabilities</b> )
<b>GST PMT - 01</b>	Electronic Liability Register of Taxable Person ( <b>Part-II: other return related liabilities</b> )
<b>GST PMT - 02</b>	Electronic Credit Ledger of Registered Person
<b>GST PMT - 03</b>	Order for re-credit of amount to cash or credit ledger on rejection of refund claim – CA Finals
<b>GST PMT - 05</b>	Electronic Cash Ledger
<b>GST PMT - 06</b>	Challan for deposit of goods and services tax
<b>GST PMT - 07</b>	Application for intimating discrepancy relating to payment

<b>Returns</b>
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<b>GSTR - 1</b>	Details of outward supplies of goods or services
<b>GSTR - 2B</b>	Details of auto-generated inward supplies and input tax credit
<b>GSTR - 3B</b>	Return for registered person liable to file GSTR 1
<b>GSTR - 4</b>	Return for Financial Year of Registered Person, who has opted for Composition levy
<b>GSTR - 4A</b>	Auto-generated details for registered person opting for composition levy
<b>GSTR - 5</b>	Return for non-resident taxable person
<b>GSTR - 5A</b>	Details of supplies of Online Information and Database Access or Retrieval Services (OIDAR) by a person located outside India made to non- taxable persons in India – CA Finals
<b>GSTR - 6</b>	Return for Input Service Distributor – CA Finals
<b>GSTR - 6A</b>	Details of supplies auto-drafted form ( <i>Auto-generated from GSTR-1</i> ) – CA Finals
<b>GSTR - 7</b>	Return for tax deducted at source (TDS)
<b>GSTR - 7A</b>	Tax deduction at source certificate
<b>GSTR - 8</b>	Statement for tax collection at source (TCS)
<b>GSTR - 9</b>	Annual return
<b>GSTR - 9A</b>	Annual return (For Composition Taxpayer)
<b>GSTR - 9C</b>	PART – A - Reconciliation Statement; Part B – Certificate
<b>GSTR - 10</b>	Final Return
<b>GSTR - 11</b>	Statement of inward supplies by persons having Unique Identity Number (UIN)



## GST AMENDMENTS – ALL AT ONE PLACE

This Note contains **all RELEVANT AMENDMENTS as notified by ICAI and applicable for CA Inter May 2024 exams.**

All amendments made by Finance Act 2023 and relevant Notifications/ Circulars till **October 31, 2023** is covered in simplified manner.

This Notes **MUST BE READ** along with our YouTube Lecture on Unacademy for full clarity/coverage: <https://www.youtube.com/live/7lyvSR22iLc?si=DUOncqnEH23IELVb>

All the best!!

CA Kishan Kumar

### CH 2 – SUPPLY UNDER GST

#### 1. Casinos, horse racing and online gaming excluded from the purview of Schedule III to clarify their taxability [Entry 6 of Schedule III amended]

Amended Entry 6 provides as follows:

“Actionable claims, other than ~~betting, gambling and lottery~~ **specified actionable claims.**”

Thus, **specified actionable claims** qualify as supply. All other actionable claims are outside the ambit of definition of supply.

**Specified actionable claim** means the actionable claim involved in or by way of—

i) lottery;	ii) Betting;	iii) gambling;
iv) <b>casinos;</b>	v) <b>horse racing;</b>	vi) <b>online money gaming;</b>

**Online money gaming** means online gaming in which players

- pay or deposit money or money's worth, including virtual digital assets,
- in the expectation of winning money or money's worth, including virtual digital assets,
- in any event including game, scheme, competition or any other activity or process,
- whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.

#### 2. Definition of supplier amended [Section 2(105)]

The definition of supplier has been amended to provide that

- a person who organizes or arranges, directly or indirectly, supply of **specified actionable claims**, including a person who owns, operates or manages digital/electronic platform for such supply, shall be

deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him.

All the provisions of CGST Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

#### 3. Supply of food and beverages at cinema halls taxable as restaurant service

It is clarified that:

- (i) supply of food or beverages in a cinema hall is **taxable as 'restaurant service'** as long as:
- the food or beverages are supplied by way of or as part of a service, and
  - supplied independent of the cinema exhibition service.
- (ii) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of **composite supply**, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the **principal supply**.

The cinema operator:

- may run these refreshment/eating stalls/ kiosks/ counters/ restaurant themselves  
or
- they may give it on contract to a third party.

The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services.

Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

#### 4. Clarification on taxability of shares held in a subsidiary company by holding company

Issue	Clarification
Whether the holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' and whether the same will attract GST or not.	Securities are considered neither as goods nor as services in terms of definition of goods u/s 2(52) and the definition of services u/s 2(102). Further, securities include 'shares' as per definition of securities <sup>1</sup> .  Therefore, <b>the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services</b> by a holding company to the said subsidiary company and cannot be taxed under GST.

### CH 3 - CHARGE UNDER GST

#### 5. Tax on services supplied by director of a company in his personal capacity such as renting of immovable property to the company/body corporate not payable under RCM

It is clarified that services supplied by a director of a company/body corporate to the company/body corporate

- in his **private/personal capacity**, such as services supplied by way of renting of immovable property
- are **not taxable under RCM**.

Only those services supplied by director of company/body corporate, which are supplied by him

- as or in the **capacity of director** of that company or body corporate
- shall be **taxable under RCM** in the hands of the company or body corporate.

#### 6. Tax on passenger transportation services by omnibus except where the person supplying such services through ECO is a company, payable by ECO

The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the **electronic commerce operator (ECO)** if such services are supplied through it. [Section 9(5) of the CGST Act/Section 5(5) of the IGST Act].

Services by way of transportation of passengers by a radio-taxi, motor cab, maxicab, motor cycle, omnibus or any other motor vehicle through ECO is covered u/s 9(5) and tax on such service is payable by ECO;

**With effect from 20.10.2023**, services by way of transportation of passengers

- by an omnibus has been excluded from the above entry and
- a separate category of services has been introduced for transportation of passengers by an omnibus.

Above category of services has been amended as under:-

- ❖ Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, **or any other motor vehicle except omnibus.**

Further, following new category of services has been introduced:

- ❖ **Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.**

Thus, **with effect from 20.10.2023**, the tax on services by way of transportation of passengers by an omnibus provided by a company through ECO is not payable by ECO. It will be payable by the company itself.

#### **7. Composition Supplier eligible to supply goods through e commerce operator.**

Earlier, composition supplier was barred from making supply of goods as well as services through e commerce operator u/s 10(2) and 10(2A).

Now, composition supplier can supply goods through e commerce operator. However, composition supplier is not permitted to supply services through e commerce operator.

## **CH 4 – PLACE OF SUPPLY**

### **8. Place of supply of goods purchased Over the Counter in one State and transported to another State by the buyer [Section 10 of the IGST Act amended]**

There are cases where an unregistered person purchases goods over the counter (OTC) in one State and thereafter, transports the goods to another State (generally, the State where he resides).

Example: Migrant workers, tourists, etc. who come to a State for work, tourism, etc. and purchase goods in that State to take it to their respective State.

Similarly, in automobile sector, the residents of a State may travel to another State to purchase vehicle from that State to take advantage of lower registration charges and road tax, which vary from State to State and thereafter, take the vehicle to their State.

POS in case of OTC sales to unregistered persons is as follows:

Where the **address** of the unregistered person **is recorded** in the invoice.

POS is location as per address of unregistered person recorded in the invoice\*\*

Where the **address** of the unregistered person **is not recorded** in the invoice.

POS is location of the supplier

\*\*Simply mentioning the State of unregistered person instead of complete address would be sufficient.

New clause (ca) inserted in section 10 of the IGST Act.

**9. Place of Supply in case of Transportation of Goods**

Nature of Supply	Place of Supply
Recipient is registered	Location of such person (recipient)
Recipient is unregistered	Location at which such goods are handed over for their transportation.
Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.	

**10. Clarification regarding place of supply in case of supply of services in respect of advertising sector**

Issue	Clarification
<p>Case: Supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure.</p> <p>What will be the place of supply of services provided by the vendor to the advertising company in such case?</p>	<p>The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth.</p> <p>PoS of any service provided by way of supply of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of the IGST Act which states</p> <ul style="list-style-type: none"> <li>➤ PoS of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the</li> <li>➤ location at which the immovable property is located.</li> </ul> <p>Therefore, the PoS in such case would be the location where such hoarding/ structure is located.</p>
<p>There may be another case where the advertising company wants to display its advertisement on hoardings/ billboards at a specific location availing the services of a vendor.</p> <p>The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself own such structure or may be taking it on rent from another person.</p> <p>During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure on which advertisement is displayed and the advertising company is not occupying the space or the structure.</p> <p>What will be the PoS of such services provided by the vendor to the advertising company?</p>	<p>In this case, Vendor is providing advertisement services to advertising company by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location.</p> <p>There is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company.</p> <p>Accordingly, the place of supply of the same shall not be covered u/s 12(3)(a) of IGST Act.</p> <p>Therefore, such services provided by the vendor to advertising <b>company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2) of IGST Act.</b></p>



## CH 5 – EXEMPTIONS FROM GST

### 11. Exemptions Modified:

Old Law	New Law
Satellite launch services supplied by Indian Space Research Organization, Antrix Corporation Limited or New Space India Limited exempted.	Satellite launch services supplied by <b>ANY ENTITY is Now Exempt.</b>
Services by the Central Government, State Government, Union territory or local authority excluding the following services— <b>a)</b> services by the Department of Posts; <b>b)</b> services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; <b>c)</b> transport of goods or passengers; or <b>d)</b> any service, other than services covered under entries (a) to (c) above, provided to business entities.	Services by the Central Government, State Government, Union territory or local authority excluding the following services— <b>a)</b> services by the Department of Posts <b>and the Ministry of Railways (Indian Railways);</b> <b>b)</b> services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; <b>c)</b> transport of goods or passengers; or any service, other than services covered under entries (a) to (c) above, provided to business entities.

### 12. New Exemption

Services provided to a Governmental Authority by way of —

- a) water supply;
- b) public health;
- c) sanitation conservancy;
- d) solid waste management; and
- e) slum improvement and upgradation.

## CH 6 - VALUE OF SUPPLY

### 13. Tax to be paid on specified actionable claims at the time of receipt of payment for such supplies by the suppliers

Earlier, *Notification No. 66/2017 CT* exempted all registered persons from the requirement of payment of tax at the time of receipt of advances in case of supply of goods and provides for payment of tax in such cases at the time of supply as specified in section 12(2)(a).

**With effect from 01.10.2023**, said notification has been amended to

- **exclude registered persons making supply of specified actionable claims** from the said exemption.

Effectively, in case of specified actionable claims, the tax shall be paid by the supplier at the time of receipt of payment for such supplies.

## CH 8 - ITC

### 14. Addition in Blocked Credit u/s 17(5)

Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;

## CH 9 - REGISTRATION

### 15. Requirement of the presence of the applicant for physical verification of business premises done away with [*Proviso to rule 9(1) amended and rule 25 substituted*]

Requirement of the presence of the applicant for physical verification of business premises has been done away with. Thus, as per amended proviso to rule 9(1), where—

- (a) a person, fails to undergo Aadhaar authentication or does not opt for Aadhaar authentication; or
- (aa) a person, who has undergone Aadhaar authentication, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- (b) the proper officer deems it fit to carry out physical verification of places of business,

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.

Thus, now, presence of the applicant is not required for physical verification.

Corresponding amendment has been made in rule 25. Substituted rule 25 provides as follows:

#### (i) Where the proper officer is satisfied that the physical verification of the place of business of a person is required **AFTER** the grant of registration;

he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal

- **within a period of 15 working days following the date of such verification.**

#### (ii) Where the physical verification of the place of business of a person is required **BEFORE** the grant of registration in the circumstances specified in the proviso to rule 9(1) [*as given above*]:

the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal

- **at least 5 working days prior to the completion of the time period specified** in the said proviso.

### 16. Time limit for furnishing Details of bank account amended [**Rule 10A amended**]

While filing the application for registration, a person is required to furnish the details of his bank account.

Rule 10A provides that the details of bank account can be provided soon after obtaining certificate of registration and a GSTIN, but within

- **30 days** ~~45 days~~ from the date of grant of registration or
- **before furnishing the details of outward supplies of goods or services or both u/s 37 in Form GSTR-1 or using IFF (Invoice Furnishing Facility)** ~~due date of furnishing return under section 39,~~ whichever is earlier.

**17. System based suspension of registration in case of failure to furnish the details of valid bank account within stipulated time. Automatic revocation on furnishing said details [Rule 21A(2A) substituted and third proviso to rule 21A(4) inserted]**

Rule 21A(2A) has been substituted to provide as follows: Where,-

(i) a comparison of the returns furnished by a registered person u/s 39 with:

- the details of outward supplies furnished in Form GSTR-1 or
- the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their Form GSTR-1,

OR

(ii) such other analysis, as may be carried out on the recommendations of the Council,

show that there are significant differences or anomalies indicating contravention of the provisions of the CGST Act or the rules made thereunder, leading to cancellation of registration of the said person, or

**(iii) there is a contravention of the provisions of rule 10A by the registered person,**

the registration of such person shall be suspended.

Said person shall be intimated in prescribed form by sending a communication to his e-mail address provided at the time of registration or as amended from time to time. In this intimation for suspension and notice for cancellation of registration, the said differences and anomalies are highlighted and said person is asked to explain, **within a period of 30 days**, as to why his registration shall not be cancelled.

Further, where the registration has been suspended as above for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

**18. Time-limit for filing application for revocation of cancellation of registration increased to 90 days and extension of 180 days permitted on sufficient reason being shown [Section 30 & Rule 23(1) amended]**

Representations were received by the Department to the effect that the earlier time limit of

- 30 days (normal period of revocation) plus
- 30 days (extension by Additional/Joint Commissioner) plus
- 30 days (extension by Commissioner) for applying for revocation of cancellation of registration u/s 30 was quite less.

**Consequently, time limit for making an application for revocation of cancellation of registration has been raised**

- from 30 days to 90 days and
- it can be further extended for a period not exceeding 180 days on sufficient reason being shown;
- by Commissioner or an officer authorized by him in this behalf.

**19. Unregistered persons with aggregate turnover upto threshold limit permitted to supply goods through an ECO.**

As per section 24(ix), persons who supply goods and/or services, other than services notified under section 9(5), through such ECO who is required to collect TCS under section 52 is required to obtain registration mandatorily.

However, persons making supplies of services through an ECO are exempted from obtaining registration with

aggregate turnover up to 20 lakh (10 lakh in case of MMNT).

No such exemption was available for a person supplying goods through such ECO. Thus, as per the prevalent position, unregistered persons were not permitted to make supply of goods through an ECO (who is required to collect TCS).

However, other suppliers supplying goods offline were allowed exemption from registration upto the threshold limit.

Consequently, it was decided to provide an **exemption from registration upto threshold limit to the suppliers supplying goods online through ECOs provided they are making only intra-State supply**; since inter-State supplier of goods has to otherwise obtain compulsory registration.

#### Conditions to follow:

- i) such persons shall **not make any inter-State supply** of goods;
- ii) such persons shall **not make supply** of goods through ECO **in more than one State/Union territory**;
- iii) such persons shall be required to have a **PAN issued** under the Income- tax Act, 1961;
- iv) such persons shall, before making any supply of goods through ECO, declare on the common portal:
  - a. their **PAN**
  - b. **address** of their place of business and
  - c. **State/UT in which such persons seek to make such supply**, which shall be subjected to validation on the common portal;
- v) such persons have been **granted an enrolment number** on the common portal on successful validation of the PAN declared above;
- vi) such persons shall **not be granted more than one enrolment number** in a State/UT;
- vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
- viii) where such persons are subsequently granted registration u/s 25, the enrolment number shall cease to be valid from the effective date of registration.

## CH 10 – TAX INVOICE; CREDIT & DEBIT NOTES

### 20. Threshold limit for e-invoicing reduced to 5 crore

**With effect from 01.08.2023**, such limit has been reduced to 5 crore. Thus, e-invoicing has been made mandatory for all registered businesses with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than 5 crore.

### 21. Applicability of e-invoicing to Government Departments/PSUs etc. registered solely for the purpose of deduction of tax at source as per provisions of section 51

Issue	Clarification
Whether e-invoicing is applicable for supplies made by a notified person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/ Government agencies/	Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct TDS u/s 51, are liable for compulsory registration u/s 24(vi).  Therefore, these entities are to be treated as registered persons under the GST law as per provisions of section 2(94).



local authorities/ PSUs which are registered solely for the purpose of deduction of TDS u/s 51.

Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such entities.

## CH 11 – PAYMENT OF TAX

### 22. Clarification on charging of interest under section 50(3) in cases of wrong availment of IGST credit and reversal thereof

Issue	Clarification
<p>In the case of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B, whether the balance of ITC available in electronic credit ledger (ECL) under the head of IGST only needs to be considered or total ITC available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.</p>	<p>Since the amount of ITC available in ECL, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total ITC available in ECL, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B and for determining as to whether the balance in the ECL has fallen below the amount of wrongly availed ITC of IGST, and to what extent the balance in ECL has fallen below the said amount of wrongly availed credit.</p> <p>Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under section 50(3) if, during the time period starting from such availment and up to such reversal, the balance of ITC in the ECL, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in ECL individually falls below the amount of such wrongly availed IGST credit.</p> <p>However, when the balance of ITC, under the heads of IGST, CGST and SGST of ECL taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in ECL under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per section 50(3) read with section 20 of the IGST Act, 2017 and of rule 88B(3).</p>
<p>Whether the credit of compensation cess available in ECL shall be taken into account while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>	<p>ITC in respect of compensation cess can be utilized only towards payment of compensation cess. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.</p> <p>Accordingly, credit of compensation cess available in ECL cannot be taken into account while considering the</p>

	balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.
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## CH 14 – TDS & TCS

### 23. Details of TCS furnished by ECO to be made available electronically to only registered suppliers [Rule 67(2) amended]

Unregistered suppliers of services and now unregistered suppliers of goods also are allowed to make supplies through ECOs till the time their turnover does not exceed the prescribed threshold limit.

Rule 67 has been amended to clearly bring out that the details of TCS furnished by ECOs in Form GSTR-8 shall be made available only to the registered suppliers, as the supplies by unregistered persons do not attract TCS.

Amended rule 67(2) provides as follows:

***The details of tax collected at source under section 52(1) furnished by the ECO shall be made available electronically to each of the registered suppliers*** on the common portal after filing of Form GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.

## CH 15 – RETURNS

### 24. Manner of dealing with difference in ITC available in auto-generated statement containing the details of ITC and that availed in return prescribed [New rule 88D introduced]

Where the amount of ITC availed by a registered person in the return for a tax period(s) furnished by him in Form GSTR-3B exceeds the ITC available to such person as per Form GSTR-2B in respect of the said tax period(s), by more than a specified extent,

- the said registered person shall be given an intimation in prescribed form electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time.

Said intimation shall highlight the said difference and will direct him to—

- a) pay an amount equal to the excess ITC availed in the said Form GSTR- 3B, along with interest payable under section 50, through prescribed form, or
- b) explain the reasons for the aforesaid difference in ITC on the common portal,

within a period of 7 days.

Such registered person shall, upon receipt of said intimation, either,

- a) pay an amount equal to the excess ITC, as specified in intimation, fully or partially, along with interest payable, through prescribed form and furnish the details thereof, electronically on the common portal, or
- b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess ITC that has still remained to be paid,

within 7 days' period.

Where any amount specified in the intimation remains to be paid within 7 days' period and where no explanation/reason is furnished by the registered person in default or where the explanation/reason furnished by such person is not found to be acceptable by the proper officer,

- the said amount shall be liable to be demanded in accordance with the provisions of section 73/section 74.

Further, such a person should not be allowed to file Form GSTR-1/ IFF for the subsequent tax period.

This provision would help in safeguarding the revenue by controlling the difference in ITC availed in Form GSTR-3B and that available as per Form GSTR-2B of the taxpayers and will reduce the ITC mismatches.

### **25. Additional cases prescribed wherein a registered person is debarred from furnishing details of outward supplies in Form GSTR-1/IFF [Rule 59(6) amended]**

Rule 59(6) stipulates the cases where a registered person is debarred from furnishing details of outward supplies in Form GSTR-1/IFF. Said rule has been amended to add two new clauses as follows:

- (e)** a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish GSTR-1/IFF for a subsequent tax period, unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under rule 88D(2);
- (f)** a registered person shall not be allowed to furnish GSTR-1/IFF, if he has not furnished the details of the bank account as per the provisions of rule 10A.

### **26. Section 23 overrides section 22 and section 24.**

Thus, if a person falls u/s 23, then there is no need of GST registration even if that person falls u/s 22 or 24.

### **27. Time limit upto which Return/ statement for a tax period can be furnished**

Return/ statement u/s 37, 39, 44 and 52 for a month **can't be furnished after the expiry of a period of three years from the due date** of furnishing the said return/ statement.

Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person to furnish the it even after the expiry of the said period of three years from the due date of furnishing the said details.