

Letter of Thanks

My Dear Students,

With all my great feelings, I dedicate this book to you. Thanks for all your feedbacks for appreciating my teaching over last 18 years, and for continuously supporting me to do my best in Indirect Taxation. Your valuable suggestions made me to design this book 100% "student-friendly" & "study-friendly". Here, I am going to share some of my memories, how did I arrive to design this book in an interactive format? and how your feedbacks helped me in doing things better & better in Indirect Taxation? I think, this is the best way to acknowledge you.

In my course of teaching, I remember many of you came to me and discussed your enormous fear about IDT subject and how you feel about this subject -"very theoretical, very boring, very difficult to remember"etc.. I agree, this is very lengthy & theoretical subject, but it is not as boring as you think. In my opinion, this is one of the most interesting subjects in CA studies if one starts visualizing the concepts and connecting them with real life examples.

However, you made me to think how can I make my classes more interactive & interesting? Your incredible feedbacks and advance multimedia technology helped me to set the highest standard in interactive teaching. I am overwhelmed with all your responses that you liked this new way of teaching using multimedia effects, animations, and graphics. Many of you said that these special effects are super helpful to visualize and recalling the concepts. This advance teaching made the concepts very interactive, interesting, and easy to understand. This was very nice feedback from you.

GST represents a major tax reform in the field of Indirect Taxation touting it as a games changer, GST will put India on path of a system that will be transparent, simple and keeps tabs on corruption as stated by honorable PM Modi.

Keeping in mind the new law I have prepared the notes in a manner that avoids legal jargons so that the concepts are easy to understand and are explained in a crisp format. The book contains a lot of pictorial presentations along with examples in order to provide clarity for each concept. I have added all my imaginations in this book in the form of cartoons, flow charts and picto-graphical presentations to explain the concepts in most simplest form. The left page of the book provides pictorial illustrations of the concept and right page of the book provides its theory. The multicolour design in this book makes the book attractive and interesting to read. The "Student Notes" section in this book provides useful space to take quick notes for second read. Overall book is very comprehensive and detailed in its content, but yet fun to read without losing your interest.

As a teacher, I am trying my best to provide the notes in a clutter-free format so that this subject becomes easy to interpret and comprehend. I find my success in you. My objective is to create your interest in this subject and I am sure that once you become interested **SUCCESS** is yours!!!

I am excited to provide this book to you as one of my best efforts to create your interest in GST

I strongly believe in "Learn with Fun" and so do you. Wish you all the best for your study. If you have any question or doubt regarding any concepts, feel free to contact me on my whats app 098 508 508 00 and I will try my best to respond to you ASAP. Thanks.

With Best Regards

CA Vishal Bhattad

(Your Teacher, Mentor, and Friend)





Central Goods and Services Tax Act, 2017

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Chapter 1

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MCQ PDF

Amendments



Amendment Discussion



Amendment PDF

Correction pages



Correction Pages

GST Chapter Wise Revision



Chapterwise Chart Revision Discssion Video



Wall Chart Marathon Revision

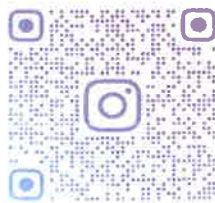


Chapterwise Chart Revision Smart Book

Instagram Channel



CA_VISHAL_BHATTAD



VSMARTACADEMY

Telegram Channel





CHAPTER 1

Basic Concepts of Indirect Taxes and Constitutional Levy of GST

TABLE OF CONTENT

1. Basic Concept of Indirect Taxes

- ☞ the concept of tax and the objective for its levy
- ☞ the concept of direct and indirect tax and the differences between the two
- ☞ the Constitutional provisions pertaining to levy of taxes
- ☞ what are the principal indirect taxes
- ☞ as to how the indirect taxes are administered in the country.

2. Basic Concept of GST

- ☞ Meaning of GST
- ☞ Constitutional authority for GST
- ☞ Input Tax Credit under GST
- ☞ Benefits of GST
- ☞ FAQ and MCQ



Sir... What is a tax?

1. The term "Tax" is derived from latin word "Taxo"
2. It is mandatory financial burden impose on individual or legal entity.
3. It is nothing but the money that people have to pay to the Government, which is used to provide public services.



Sir... What is need of Taxes?

In any Welfare State, it is the prime responsibility of the Government to fulfill the increasing developmental needs of the country and its people by way of public expenditure.

Money raised by taxation to carry out many functions such as :

- ⇒ Infrastructure
- ⇒ Education
- ⇒ Health
- ⇒ Military
- ⇒ Defense and other socio-economic objectives of the Government

Sir... what type of taxes leviable in India?

Taxes are broadly classified into direct and indirect taxes.

Direct Taxes

Indirect Taxes



History of Indirect Taxes :

Example 1 :- Mr. Viru a merchant of food grain. He want to do business in the kingdom of King Gabbarsing. He has brought 1000 bags from his village for business of costing ₹ 1,00,000. He has given 100 bags to king Gabbarsing as gift for having permission to do business in his kingdom. He started his business in the kingdom of Gabbarsing. What the price he will charge to customer? If he want to earn profit of 10% over cost?

cost-100000
1000 bags

→ 100 bags gift

= 900 bags

costing (900 bags)	90000
profit	10000
	<hr/>
	100000
gift cost	10000
	<hr/>
	110000



Sir... How Indirect Tax Charged in Current Scenario?



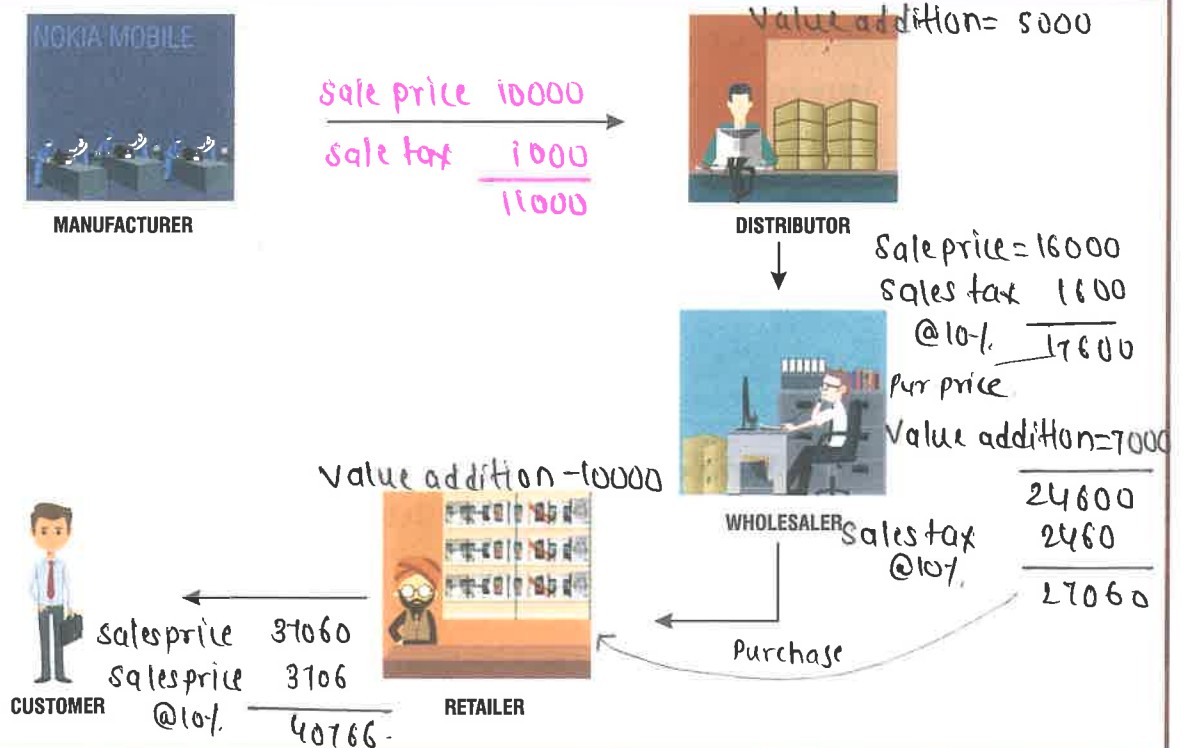
Beta, Try to understand it with the help of following example :

Example 2 : Mr. A sold the goods to Mr. 'B' for ₹ 1,00,000. Sale Tax is payable on such goods @ 10% Determine the total price charge by Mr. A to Mr. B.

Determination of total price

Value of supply	₹	100000
sales tax @10%	₹	10000
Total price		<u>110000</u>

Tax on Multiple Stages



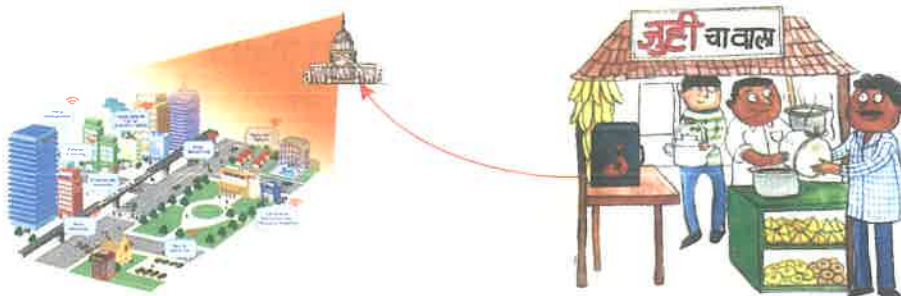
Difference between Direct Tax & Indirect Tax



Sir... what is the difference between Direct & Indirect Tax?



Beta, Try to understand it following example :





Sir... How Indirect Tax Charged in Current Scenario?



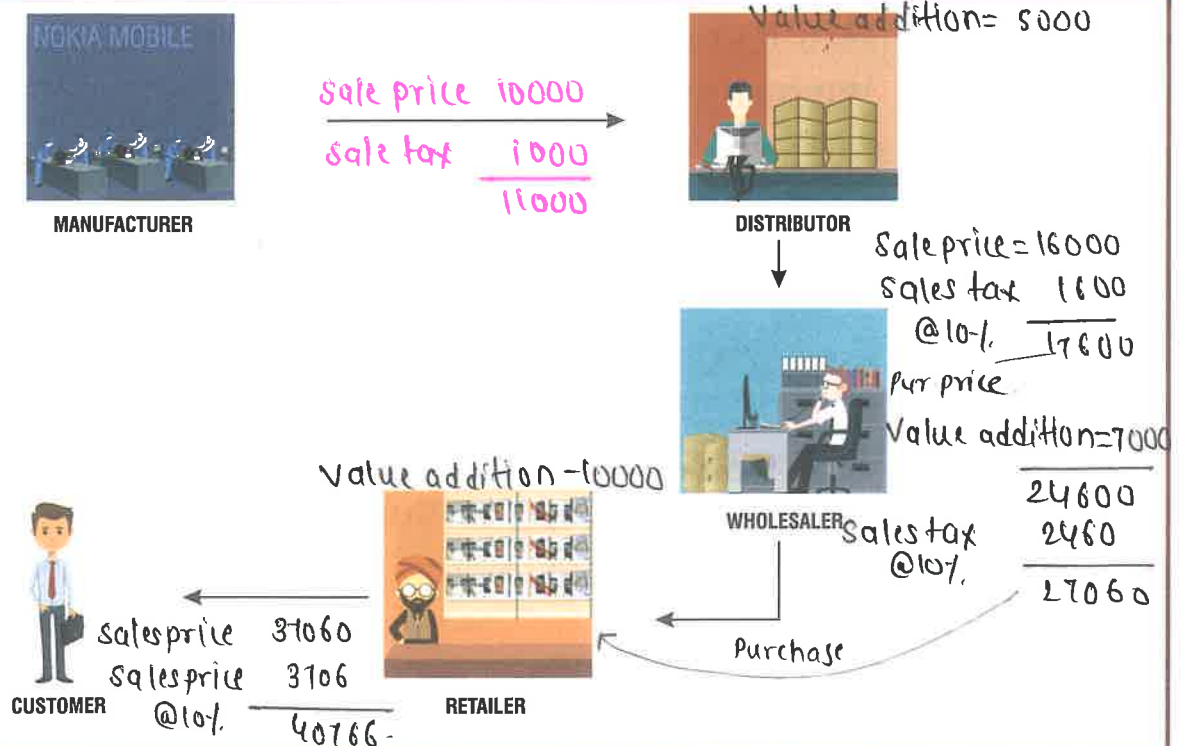
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Tax on Multiple Stages



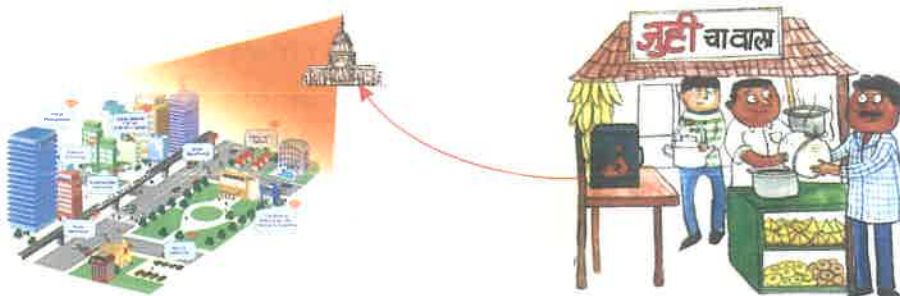
Difference between Direct Tax & Indirect Tax



Sir... what is the difference between Direct & Indirect Tax?



Beta, Try to understand it following example :



✓ P1: Mr. A a manufacturer of tooth paste. He has done only single sale in F.Y. 18-19 of ₹ 20,00,000 he has incurred a following expenses to run the business in the financial year,

Particulars	Amount (₹)
Salaries & Wages A/c	2,00,000
Electricity Charges A/c	1,00,000
Printing & Stationery A/c	1,50,000
Other Expenses A/c	3,50,000
Bank Charges A/c	1,00,000

Mr. A is also liable to pay tax on sale @ 10%. Calculate Direct and Indirect Taxes

Difference between Direct Tax & Indirect Tax

Particulars	Direct Tax	Indirect tax
1) Levied on	It is levied on income earned. Income earned by activities conducted.	It is levied on product or services
2) Incidence of tax	It is borne directly by a person paying tax to the govt	It is shifted to other person as the person paying tax to the govt. collect the same from ultimate consumer.
3) Nature	It is progressive in nature. i.e high rate of taxes for people with higher ability to pay.	It is regressive in nature as all the consumers equally bear the burden irrespective of their ability to pay.
4) When it is paid?	It is paid after the income reaches in the hands of tax payer.	It is paid before goods & services reaches tax payer.
5) collection	Tax collection is difficult & it is on yearly basis.	Tax collection is relatively easier & collected at the time of sale/purchase of goods or rendering of services. Normally it is payable to govt on monthly or quarterly basis.
6) examples :	Income tax	CGT, custom duty, excise duty, sales tax, etc.

Federal Structure in India



Constitutional Provisions

CONSTITUTION OF INDIA

Indian Constitution is largest written constitution of the world. It is supreme law of country from which all other law emanates. It is the foundation, on which the entire legislative and judicial system is structured. All the enactments should have its source in the Constitution of India.

India has a three-tier federal structure, comprising the Union Government, the State Governments and the Local Government. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provisions of the Indian Constitution.

Two important dates in Indian History:

15th August 1947 Independence Day The date on which India achieved independence

26th January 1950 Republic Day The date on which the Constitution of India came into force as the governing document of India.

Constitutional Provision



Friends,

I personally feel, before starting discussion on various law under Indirect Taxes, we must have knowledge of constitutional authority of such laws. Constitution of India contains the authority to make various legislations for the levy and collection of any tax in India which are given below:

Article 265

Taxes not to be imposed save by authority of law

Article 245

Extent of laws made by Parliament and by the Legislatures of States

Article 246

Subject-matter of laws made by Parliament and by the Legislatures of States

So friends, let's have discussion on each article in detailed.

Article 265: Taxes not to be imposed save by authority of law

"No tax shall be levied or collected except under authority of Law"

Tax is of two types Direct Taxes and Indirect Taxes.



Sir What?

If you read article 265 carefully, then it said for levy of any tax 'Authority of law' is needed...

Sir, who can make the laws in India?



Good question...Authority to make laws in India is given under Article 245 as below

Article 245: Extent of laws made by Parliament and by the Legislatures of States

It empowers the parliament to make Law for whole or any part of the territory of India, and the legislature of a state may make the Laws for the whole or any part of the state.

India is federal, not a unitary state. Laws are enacted by the union parliament as well as state legislature. The allocation of subject between the union & state is spelt out by Article 246 of the constitution through the schedule VII.

The allocation of subject between the union & state is spelt out by Article 246 of the constitution of India.

INDIRECT TAX STRUCTURE IN INDIA BEFORE 1st of JULY 2017

When you manufacture, you have to pay excise duty whether it is sold or not

MANUFACTURING AND SALE OF GOODS



Invoice

value of goods	100,000
excise @ 10%	10,000
<hr/>	<hr/>
	110,000
VAT @ 10%	11,000
<hr/>	<hr/>
	121,000
octroi/LBT	4,000
<hr/>	<hr/>
	125,000

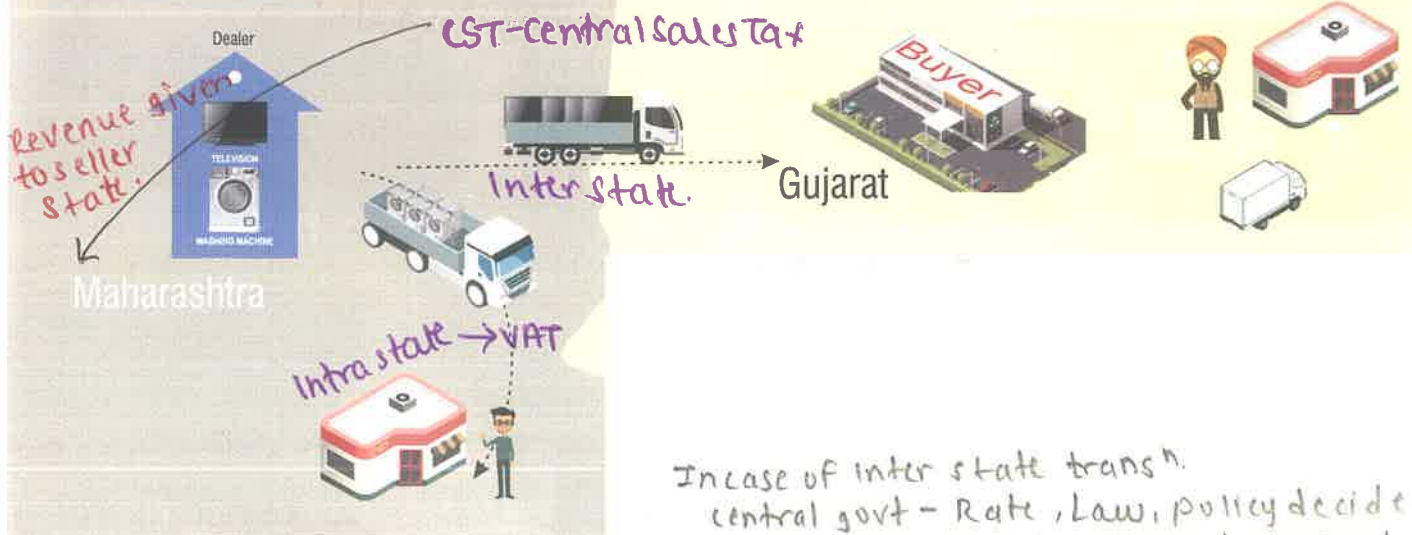
LBT = Local Body Tax

SALE OF GOODS WITHIN STATE (Trailer)



value	100,000
VAT @ 10%	10,000
<hr/>	<hr/>
	110,000
octroi/LBT	4,000
<hr/>	<hr/>
	114,000

SALE OF GOODS TO ANOTHER STATE



In case of inter state transⁿ. central govt - Rate, Law, policy decide krega but Revenue state govt ka hoga!

CUSTOM DUTY - IMPORTATION OR EXPORTATION OF GOODS



OCTROI/LBT OR ENTRY TAX

Levied when other city से हमारे city आता है



SERVICE TAX



LUXURY TAX



In addition to service tax, state govt was levying luxury tax on Hotel, Industry & etc.

TAX ON BETTING, GAMBLING OR LOTTERY

- state govt -

Betting



Gambling

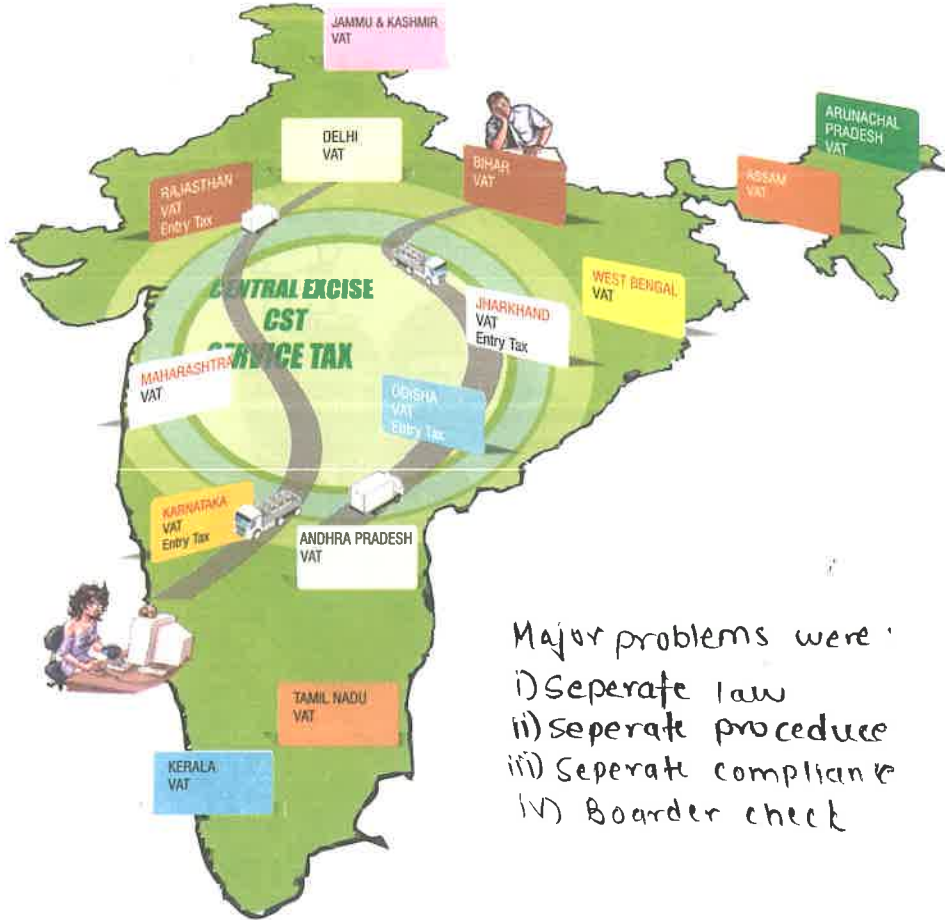


Lottery

Note: Lottery also treated as actionable claim.



Problem in existing tax structure in India



Major problems were :
 i) Seperate law
 ii) Seperate procedure
 iii) Seperate compliance
 iv) Boarder check

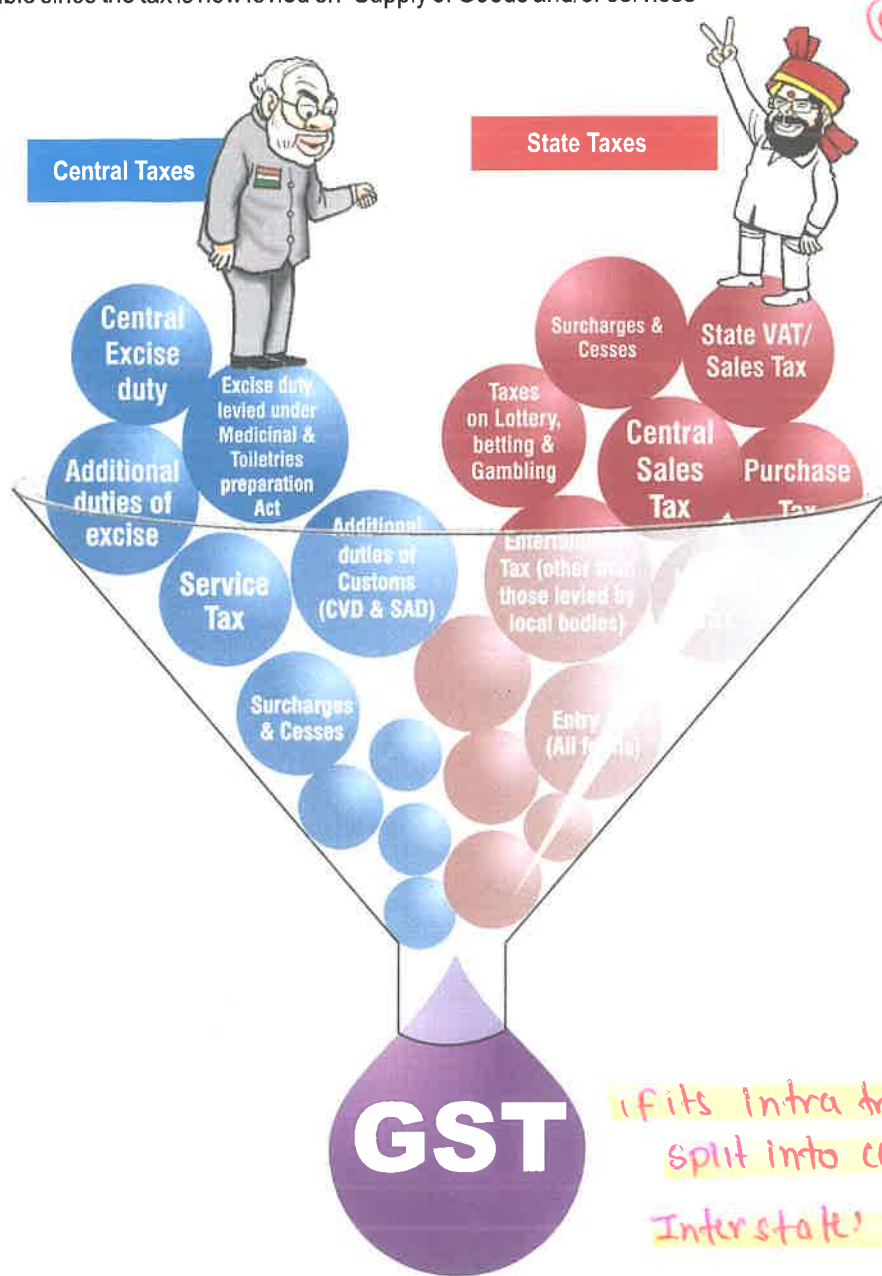


GST

T20 & T21 not used T20, T21 in later year

Taxes to be subsumed in GST

In the GST Regime, the major indirect taxes have been subsumed in the ambit of GST. The present concept of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services"



Central Taxes

- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toiletries preparation Act
- Additional duties of Customs (ACD)
- Service Tax
- Surcharges & Cesses

State Taxes

- State VAT/Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

*if its intra tran:
split into CST & SST
Interstate' IGST*

UTGST → is applicable when intra transactions are in union territory.

*My Nok! GST Aaya toh VAT & CST
nhi aata!*

merged

Taxes not subsumed under GST

1. Property Tax & Stamp Duty

2. Electricity Duty

3. Excise Duty on Alcohol

4. Basic Custom Duty

5. Excise Duty on Petrol Diesel

*Beoz Hst
immovable*

Tax Structure in GST Model

Taxes on Goods



MANUFACTURER

Sale
 Price 10000
 GST@18% 1800
11800



DISTRIBUTOR



DISTRIBUTOR

Sale
 Price 15000
 GST@18% 2700
17700



WHOLESALER



WHOLESALER

Sale
 Price 20000
 GST@18% 3600
23600



RETAILER



RETAILER

Sale
 Price 20000
 GST@18% 5400
25400



CUSTOMER

Taxes on Services



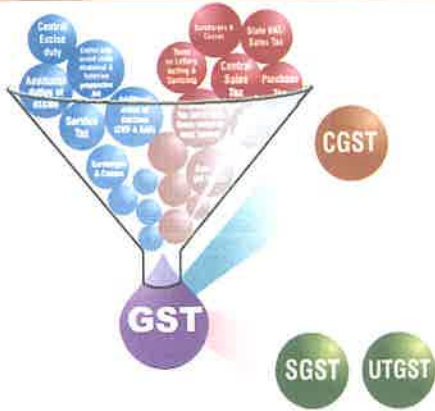
Value 100000
 GST@18% 1800



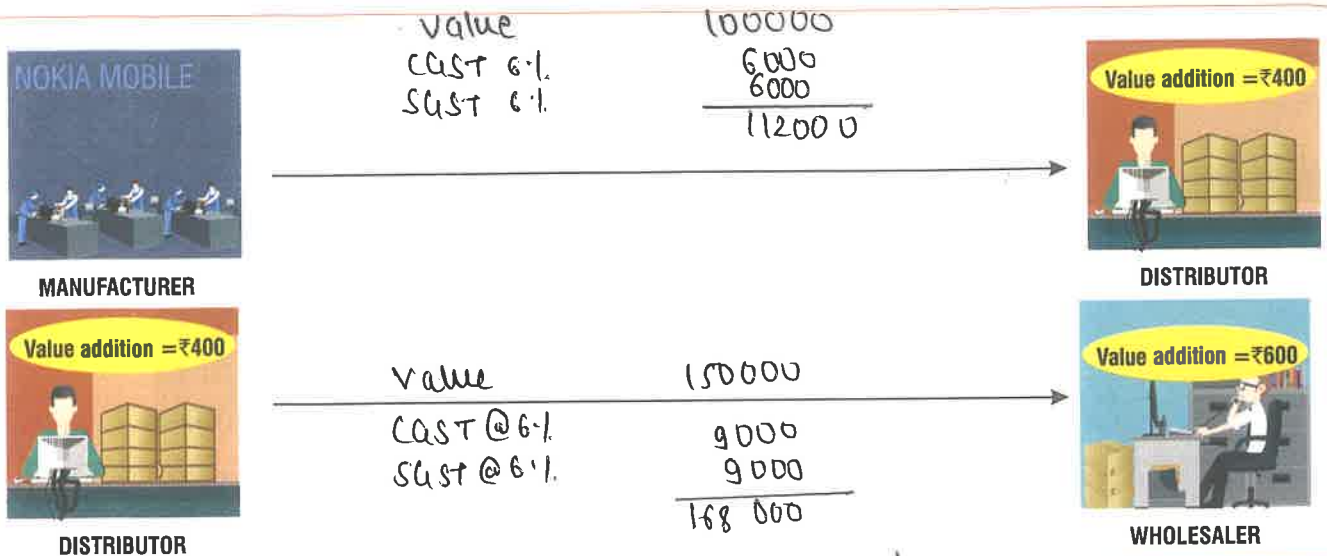
Value 200000
 GST@18% 3600



Dual GST Model Introduced in India



- India has adopted a **Dual GST model** in view of the federal structure of the country.
- Centre and States simultaneously levy GST on taxable supply of goods &/or services which, takes place within a State or Union Territory.
- Inter-State supplies of taxable goods and/or services will be subject to IGST & Intra-State supplies will be subjected to CGST & SGST/UTGST.
- IGST will approximately be a sum total of CGST and SGST/UTGST.
- Import of goods &/or services will be treated as inter-state supply u/s 7 of IGST, 2017.

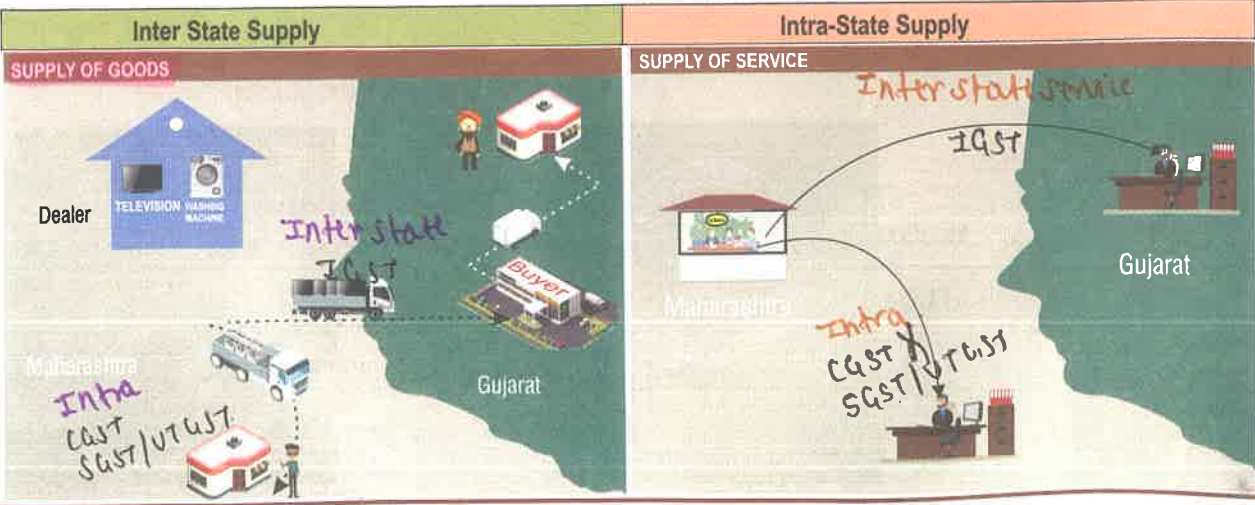


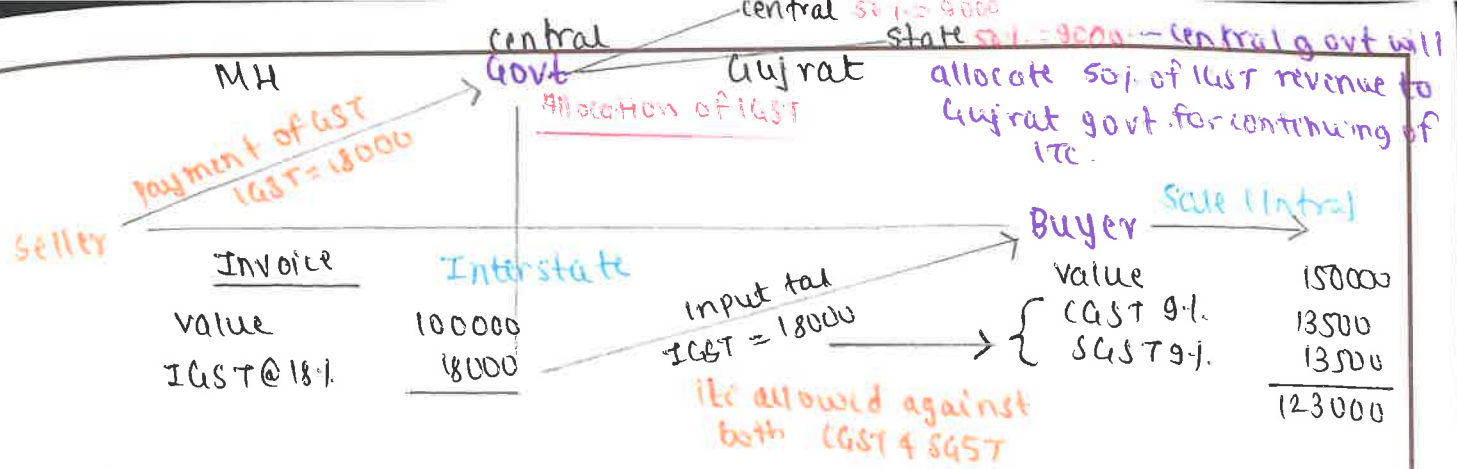
P 2: Mr. Suresh of Rajasthan supplied goods/services for ₹ 20,000 to Mr. Ramesh of Rajasthan. SGST and CGST rate on supply of goods and services is 9% each. Find the following:
 (a) Total price charged by Mr. Suresh
 (b) Who is liable to pay GST?

IGST.. UNIQUE FEATURES IN INDIAN GST MODULE

No other country has the concept of IGST which facilitates seamless flow of input tax credit for all supplies flowing in and around the territory of India.

Inter-State supplies of taxable goods and/or services will be subject to Integrated Goods and Services Tax (IGST). IGST will approximately be a sum total of CGST and SGST/UTGST and will be levied by Centre on all inter-State supplies.





Following are called as **Inter state supply** (i.e. IGST applicable)

- 1) Supply of goods or services from one state to another state
- 2) Supply of goods from one state to another union territory or vice versa.
- 3) supply of goods or services from one union territory to another union territory
- 4) **Import of goods & services**
- 5) **Export of goods or services**

INTER STATE & INTRA STATE SUPPLY

Intra State Supply	<ol style="list-style-type: none"> 1. Central Goods and Services Act, 2017 2. State Goods and Services Act, 2017 [28 states and 3 union territories (with state legislature) will be having their respective SGST Acts] 3. Union Territory Goods and services Tax Act, 2017 [All 5 Union territories (without state legislature) will be governed by single UTGST Act] <p><i>Author's Note:</i> CGST & SGST/UTGST would be levied jointly by Central & State. The CGST & SGST/UTGST Rate is 50:50% of GST Rate notified on the recommendation of GST Concept</p>	<p>It is levying CGST</p> <p>It is levying SGST OR It is levying UTGST</p>
Inter State Supply	<p>Integrated Goods and Services Tax Act, 2017</p> <p><i>Author's Note:</i> An IGST would be levied and collected by the Centre on inter-state supply of Goods and services. IGST will be a sum total of CGST and SGST/UTGST</p>	<p>It is levying IGST</p>

Import & Export Of Goods or Services also Treated as Inter-State Supply





Sir... why does introduction of GST require a Constitutional Amendment?

Currently, the fiscal powers between the Centre and States are clearly demarcated in list I, list II & list III of article 246 the constitution with almost no overlap between the respective domains.

The Centre has powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium narcotics etc.)

while the States have powers to levy tax on the sale of goods.

In the case of inter-state sales, the centre has power to levy tax (the central sales tax) but, the tax is collected and retained entirely by the states.

As for services, it is Centre alone that is empowered to levy Service Tax.

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The constitution of India has been amended by the constitution (101st amendment) Act, 2016 for this purpose. Article 246A of the constitution empowers the Centre and the states to levy and collect the GST.



Yellow sticky note with horizontal lines for writing.



ARTICLE 246A : SPECIAL PROVISION WITH RESPECT TO GOODS & SERVICES TAX

(1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation The provisions of this article, shall, in respect of goods and services tax referred to in clause (5), of article 279A, take effect from the date recommended by the Goods and Services Tax Council.

Author Comment: Article 279(A)(5) covers following 5 goods-

- ➔ Petroleum crude,
- ➔ High Speed diesel, motor spirit (commonly known as petrol)
- ➔ Natural gas and aviation turbine fuel.

GST on these will be applicable from such date as will be recommended by GST council in future.

In case of above 5 goods, GST is leviable when GST council will recommend. Till there is no recommendation from GST council, therefore these goods are out of the scope of GST & called as **Non-Taxable supply for GST**.
currently these goods are subject to payment of excise duty, VAT, CST.

CORRESPONDING AMENDMENT IN ARTICLE 246

Article 246: Subject-matter of laws made by Parliament and by the Legislatures of States

Schedule VII divides the legislative powers into following three categories.

Schedule VII

List I [referred as Union list]: This list enumerates the matters in respect of which the parliament has an exclusive right to make Laws		List II [referred as State List]: This list enumerates the matter in respect of which the legislature of any state has an exclusive right to make Laws.		List III [referred as the Concurrent List]: This list enumerates the matters in respect of which both the parliament & legislature of any state have power to make Laws.	
Entry no.	Items	Entry no.	Items	Entry no.	Items
82	Income Tax other than tax on agriculture Income	46	Agriculture Income Tax	17A	Forests
83	Customs duty including export duty	51	State Excise Duty on liquor, opium Etc. Omitted	25	Education
84	Duties of excise on the following goods manufactured or produced in India namely (a) Petroleum crude (b) High speed diesel (c) Motor spirit (commonly known as petrol) (d) natural gas (e) aviation turbine fuel and (f) tobacco and tobacco products	52	Tax on Entry of goods into local area for consumption or use or sale (called octroi).		
85	Corporation Taxes	54	Taxes on the sale of ⊃ petroleum crude, ⊃ high speed diesel, ⊃ motor spirit (commonly known as petrol), ⊃ natural gas, ⊃ aviation turbine fuel and ⊃ alcoholic liquor for human consumption, but not including ⊃ sale in the course of inter-State trade or commerce or ⊃ sale in the course of international trade or commerce of such goods.		
92A	Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, sale in the course of inter-State trade CST) Omitted	62	Taxes on entertainments and amusements to the extent levied and collected by a panchayat or a Municipality or a Regional Council or a District Council.		
92C	Tax on service (Yet not used by union)				
97	Any other matter not included in List II & List III (Levy of Service Tax through Finance Act, 1994)				

ARTICLE 269A : LEVY AND COLLECTION OF GOODS AND SERVICES TAX IN COURSE OF INTER-STATE TRADE OR COMMERCE.

(1) Goods and services tax

- ⊃ on supplies in the course of inter-State trade or commerce
- ⊃ shall be levied and collected by the Government of India and
- ⊃ such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Explanation. - For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

ARTICLE 366 : DEFINITIONS OF GST, SERVICE & STATE

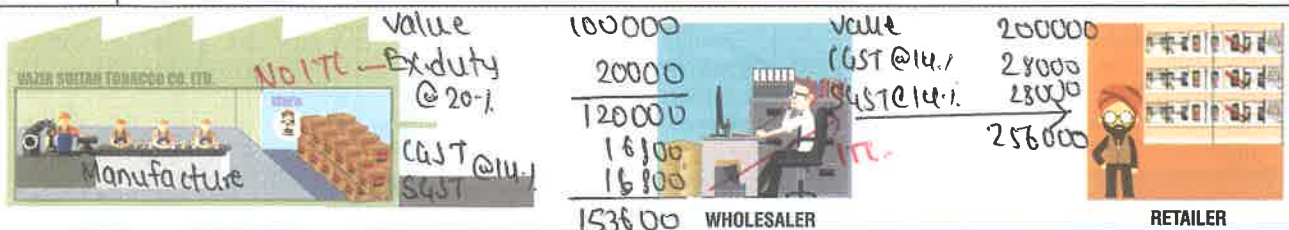
(12A) "Goods and services tax"	means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.
(26A) Services :	"Services" means anything other than goods.
(26B) State :	"State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union Territory with legislature.

Author's Notes:-

- Article 366(12):- Goods includes all materials, commodities, and articles.
- State & UT having their Legislature = 28 States + Delhi + Puducherry + Jammu & Kashmir and
- Union Territories = 5 UTs (Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar haveli, Ladakh Chandigarh).

SPECIAL CASES - TAXES ON GOODS AND SERVICES

TOBACCO & TOBACCO PRODUCT	<ul style="list-style-type: none"> ➤ Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. ➤ However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. ➤ Resultantly, tobacco is subject to GST as well as central excise duty.
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P3:- Vazir Sultan Ltd. a company manufacturing of cigarette sold the goods to B. Ltd for ₹ 2,00,000. B Ltd. further sold the goods to C Ltd for ₹ 3,00,000. Calculate excise & net GST liability of Vazire Sultan Ltd. & B Ltd. if -

- Excise rate on cigarette is 20%
- GST Rate on cigarette is 28% [Supply is Intra-State]

Alcoholic liquor for human consumption	<ul style="list-style-type: none"> ➤ It is outside the realm of GST. ➤ The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.
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P4:- Mr. Vijay Mallya engaged in supply of liquor & also provides Airlines services. Calculate tax liability from following into

- Supply of liquor for month of April- ₹ 20,00,000 [Excise rate 12% & VAT rate 12.5%]
- Supply of airlines services - ₹ 30,00,000 (GST Rate 18%)

Opium, Indian hemp and other narcotic drugs and narcotics:	<ul style="list-style-type: none"> ➤ Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. ➤ However, <u>State Governments</u> have also retained the power to levy excise duties on such products manufactured in India. ➤ Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties. <i>Note: This goods are not sub- to VAT or GST.</i>
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Petroleum crude, diesel, petrol, ATF and natural gas:	<ul style="list-style-type: none"> ➤ At present, Petroleum crude, diesel, petrol, ATF and natural gas are not leviable to GST. ➤ GST will be levied on these products from a date to be notified on the recommendations of the GST Council. ➤ But, there is a levy of:- <ul style="list-style-type: none"> ➤ Central excise duty on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas & ➤ CST/VAT on inter-State/intra-State sale of the same respectively.
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Entertainment Tax.

Entertainment Tax

Levied by state Gov

Subsumed in GST

Levied by local authority

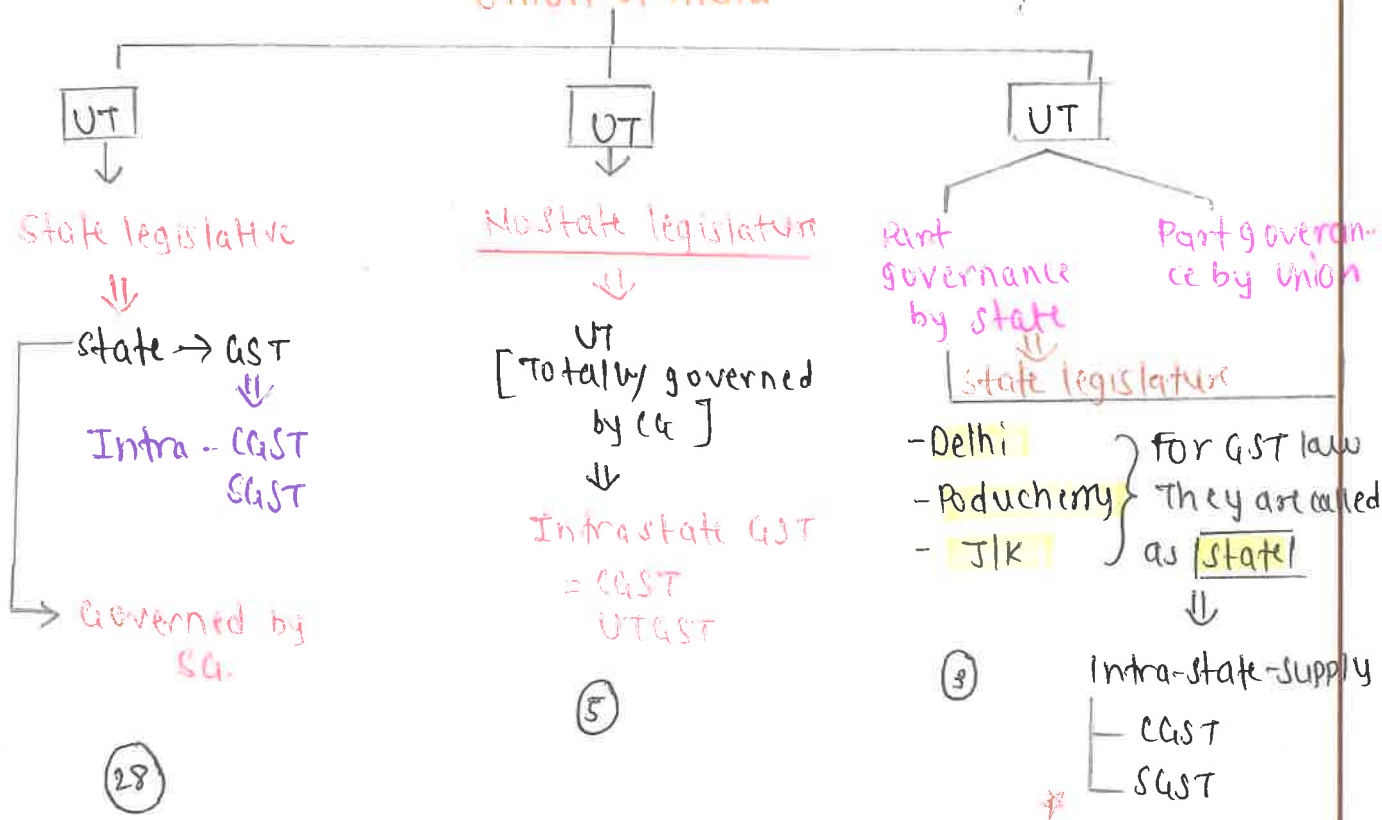
Not subsumed in GST
(i.e. It is payable in addition to GST).

P5: Inox Ltd. is running cinema theater in Pune. Pune Municipal corporation have charged entertainment tax 2% on ticket value. Inox Ltd. have sold ticket of ₹ 1,50,000 in a month of April 20XX. Calculate taxes leviable on entertainment services. [GST rate 18%]

Real Estate

Real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property

Union of India



Taxability on Goods in special cases.

Goods totally out of
levy of GST

[i.e. Goods subject to
excise & VAT / CST]

1) Petroleum Products

- a) Petroleum goods
- b) High speed diesel
- c) Motor spirit
- d) ATF
- e) Natural gas

Manufacture
↳ central
excise duty

Sale
→ Intra - VAT
OR
Inter - CST

2) Alcoholic liquor for human consumption

Manufacture

↳ state excise

Sale

Intra ⇒ VAT

Inter ⇒ CST

Goods subject
to Excise & GST

1) Tobacco & tobacco products

↳ Manufacture
↳ central
& excise

↳ Sale / supply
Intra - CST / SGST
Inter - IGST

Note!

No VAT / CGT

2) Opium, narcotics, etc

↳ Manufacture
↳ state excise

↳ State / supply

Intra - CST / SGST

Inter - IGST

Goods subject
on GST

↓

All other goods
or service are
subject to
GST.

Goods & Services Tax Council (GST Council):-

⇒ **Article 279A** of the Constitution:- It empowers the President to constitute a joint forum of the Centre and States namely, **GST Council**. The provisions relating to GST Council came into force on 12th Sep, 2016. President constituted the GST Council on 15th Sep, 2016.

⇒ **Constitution:-** The GST Council shall consist of the following members, namely:-

- (a) The Union Finance Minister is the Chairman;
- (b) The Union Minister of State in charge of Revenue or Finance is the Member;
- (c) The Minister in charge of Finance or Taxation or any other Minister nominated by each State Government are the Members.

The Members of the GST Council referred to clause (c) above shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

⇒ **Decision:-**

- by a majority $\geq 3/4$ th of weighted votes of members present & voting.
- weightage of centre = $1/3$ rd of total votes cast and for all SGs = together of $2/3$ rd of total votes cast, in that meeting.

RECOMMENDATION OF GST COUNCIL

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

- (a) Taxes to be subsumed in GST
- (b) Exemption in GST
- (c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
- (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
- (e) the rates including floor rates with bands of goods and services tax;
- (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
- (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and → special category state
- (h) any other matter relating to the goods and services tax, as the Council may decide.

find memory technique :

SPECIAL CATEGORY OF STATE

Goods and Services Network (GSTN)

- ➔ Common GST Electronic Portal – www.gst.gov.in – is a website managed by GSTN.
- ➔ It was set to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.
- ➔ It is one single common portal for all GST related services.
- ➔ It acts as a clearing house to verify claims & informs the respective governments to transfer funds.
- ➔ It is accessible over internet by taxpayers & their CAs/ tax advocates and over intranet by Tax Officials, etc.
- ➔ It provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders.
- ➔ The Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in and for uploading/reporting of e-invoices is [Invoice Registration portal](#).

Genesis/ History of GST in India:-

GST was 1st introduced in France in 1954. India adopted GST model from Canada and Brazil and it is applicable to whole of India including J&K.

Year 2000	PM introduced concept of GST & a committee was set up to design GST model for India.
Year 2003	CG formed a task force under Vijay Kelkar.
Year 2004	Kelkar Task Force recommended the need of a fully <u>integrated GST on national basis</u> .
28-02-2006	Union FM announced that GST would be introduced from 1st April, 2010.
March 2011	The Constitution (115th Amendment) Bill, 2011 was introduced in Lok Sabha to give concurrent taxing powers to Union & States but this was subsequently lapsed.
19-12-2014	<u>Constitutional (122nd Amendment) Bill, 2014</u> introduced in Lok Sabha by NDA government on 19th Dec, 2014. This bill was passed on 6th May, 2015 by Lok Sabha and on 3rd Aug, 2016 by Rajya Sabha (with some changes). * MLC
08-09-2016	The Constitutional (122nd Amendment) Bill, 2014 became The Constitution (101st Amendment) Act, 2016 after bill was adopted after ratification by more than 50% of the States which received final assent of the President on 8th Sept, 2016.
12-04-2017	Central GST Legislations- CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017, GST (Compensation to states) Bill, 2017 received assent of President and Bills were enacted. The enactment of the central acts was followed by the enactment of the States GST laws by various State Legislatures.
01-07-2017	Implementation of GST across India. GST is all set to roll out & became applicable from 1st July, 2017 .
08-07-2017	It became applicable to J & K.

CONCEPT OF VALUE ADDED TAX (VAT)

Cascading effect.

Transaction without VAT



SHAILA LTD.

value addition 5000 (Exp + profit)

value
sales tax
@10%

100000
10000
110000

Taxable person



JEET LTD.

sales p
sales tax
@10%

160000
10000
170000



CUSTOMER

DISTRIBUTOR

Value addition = 5000

Transaction with VAT



SHAILA LTD.

value
VAT
@10%

100000
10000
110000



JEET LTD.

sale price
VAT @10%

150000
15000
165000



CUSTOMER

WHOLESALE

value addition = 5000

VAT payment = 5000

Govt

Jeet Ltd Journal

*Part of — Dr 100000
VAT Cr. — Dr 10000
receivable To C/B a/c — 110000*

Net VAT liability

*Output tax 15000
Less: ITC (10000)
Net VAT Payable 5000*

Jeet Ltd J/E

*C/B a/c 165000 -
Totals - 165000
To VAT Payable - 15000*

J/E

*VAT payable — Dr 15000
To VAT rec. a/c — 10000
To C/B a/c — 5000*

GST IS ALSO A VALUE ADDED TAX



MANUFACTURER



DISTRIBUTOR



WHOLESALER



RETAILER

Output Tax: Tax payable on sale of goods.

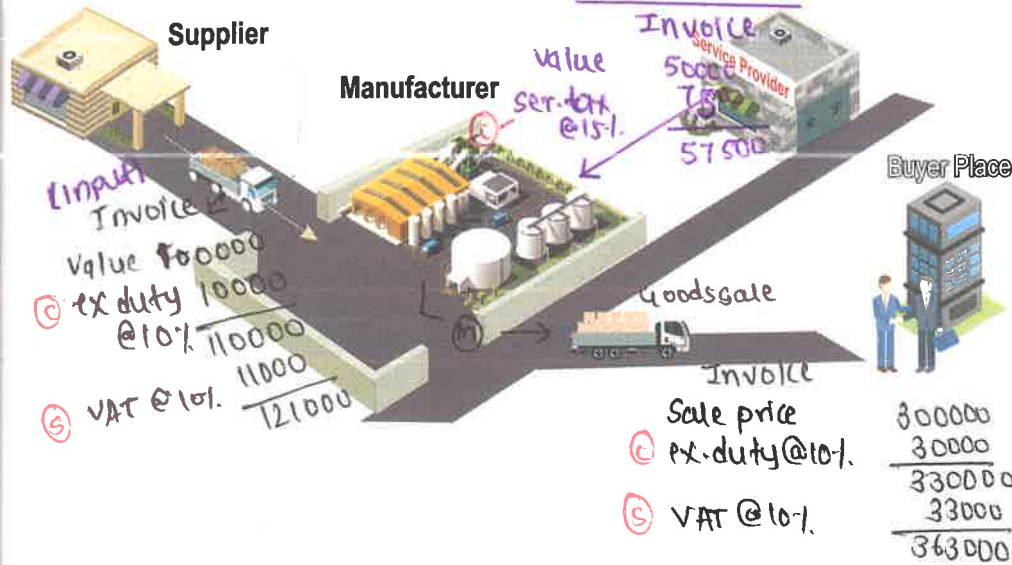
Input Tax: Tax paid on purchases of goods.



CUSTOMER

Problems in Tax Credit System in India before 1st of July 2017

MANUFACTURER



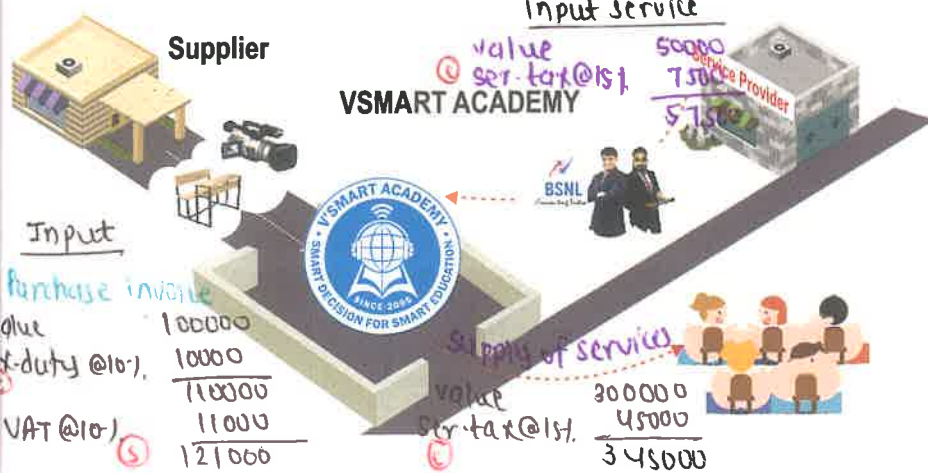
Net Excise (CENVAT) payable

output excise	30000
Less: ITC	
Ex-on Input	(10000)
ser-tax on Input service	(7500)
Net ex-duty payable	12500

NET VAT payable

output tax VAT	33000
Less: ITC	
Input tax VAT	11000
NET VAT payable	22000

COMBINATION OF EXCISE & SERVICE TAX CREDIT FOR SERVICE PROVIDER

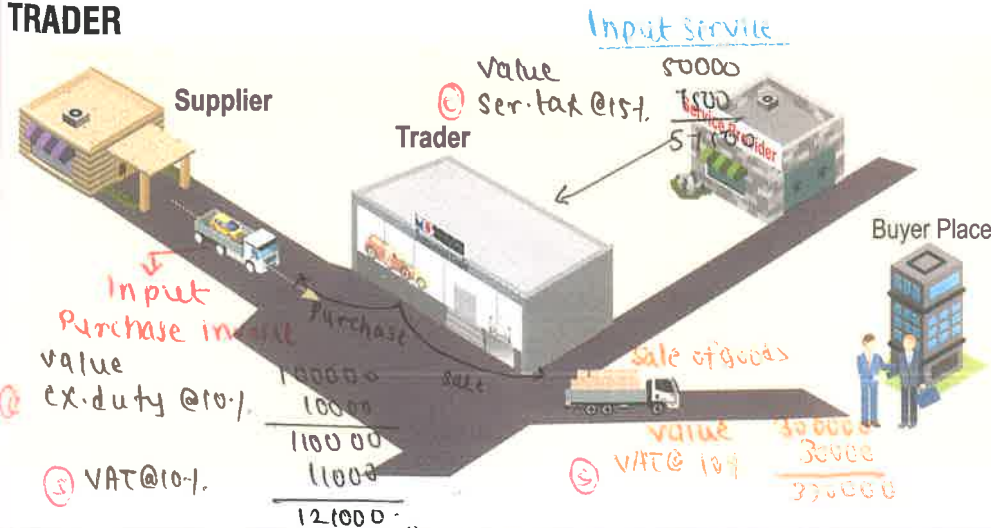


Calc of Net service tax payable

output Ser-tax	45000
less: ITC	
ex-duty on Input	10000
Service tax on Input services	7500
Net	27500

Comment: Before 2017, there was no ITC or setoff of VAT against the payment of service tax. Hence, it was a cost to supplier of services.

TRADER



Net VAT payable

output VAT	30000
Less: ITC	
VAT on Input	11000
NET VAT payable	19000

DEFICIENCIES IN EXISTING VALUE ADDED TAXATION

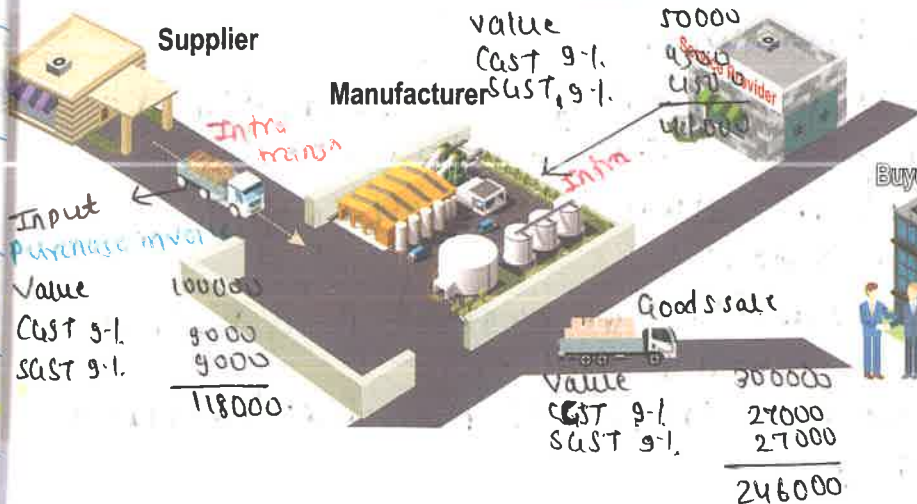
Deficiencies in the erstwhile value added taxation have led to GST in India as a cure for ills of erstwhile indirect tax reform. Such deficiencies are as follows:-

Double taxation	Earlier some items were treated both as goods and Services that led to double taxation. <i>eg- RSNL SIM card / Vicedo cosmetics</i>
No set-off	CENVAT & State level VAT were value added taxes but cross credit of those were not possible as CENVAT was central levy & the other one was a State levy. <i>Manufacturer</i>
Cascading of taxes	CENVAT did not include value addition chain in distributive trade after the stage of production & in the state level VAT also, CENVAT load on goods was not removed.
Several taxes not subsumed in VAT	For a single transaction, multiple taxes in multiple forms were required to be paid as taxes like Luxury Tax, Entertainment Tax, etc.
Non-integration of VAT & Service Tax	VAT on goods was not integrated with service tax at the state level. So, the cascading effect of service tax was not removed.
Cascading nature of CST	CST was non-vatable and an origin based tax which had cascading effect. <i>No credit</i>
High Compliance Cost	Large number of taxes created high compliance cost for the taxpayers in form of more returns, payments, etc.

GST SEAMLESS FLOW OF CREDIT

Credit system after introduction of GST

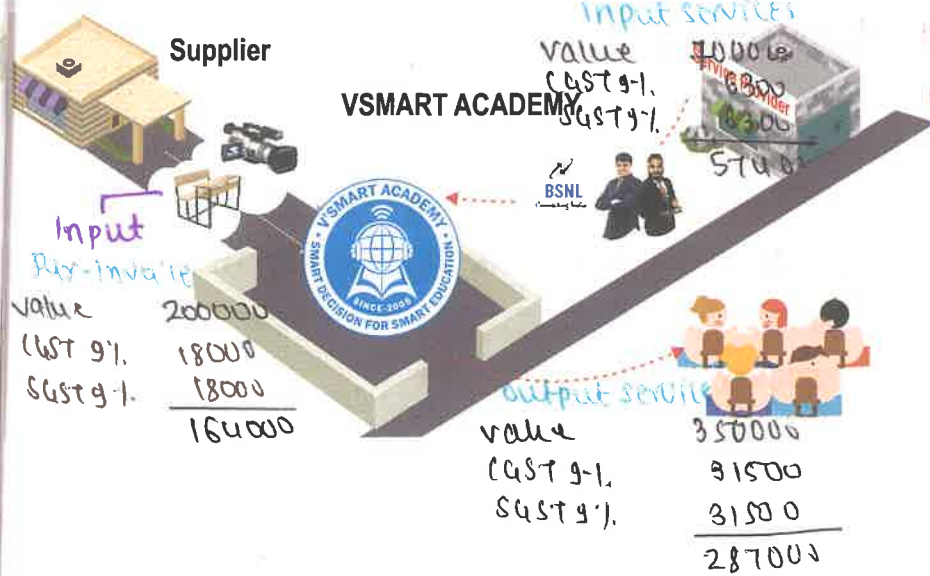
MANUFACTURER



Calculation of Net GST payable

Particulars	CGST	SGST
Output tax	27000	27000
Less: ITC		
Input	9000	9000
Input service	4500	4500
Net GST Payable	13500	13500

COMBINATION OF EXCISE & SERVICE TAX CREDIT FOR SERVICE PROVIDER



Net GST payable

Particulars	CGST	SGST
Output tax	31500	31500
Less: ITC		
Input	18000	18000
Input service	9000	9000
Net GST Payable	7200	7200

TRADER



CONCEPT & PRINCIPAL OF GST

- 1) GST is a Broad-based Value added Tax.
- 2) GST is destination based tax.
- 3) GST is technically paid by supplier but it is actually borne by consumer.
- 4) GST is collected at multiple stages of production & distribution of goods & services in which taxes paid on inputs are allowed as set-off against taxes paid on output.
- 5) GST is a tax on consumption of product from Business sources & not on personal activity.
- 6) Under GST, Input tax credit is provided throughout the value chain.

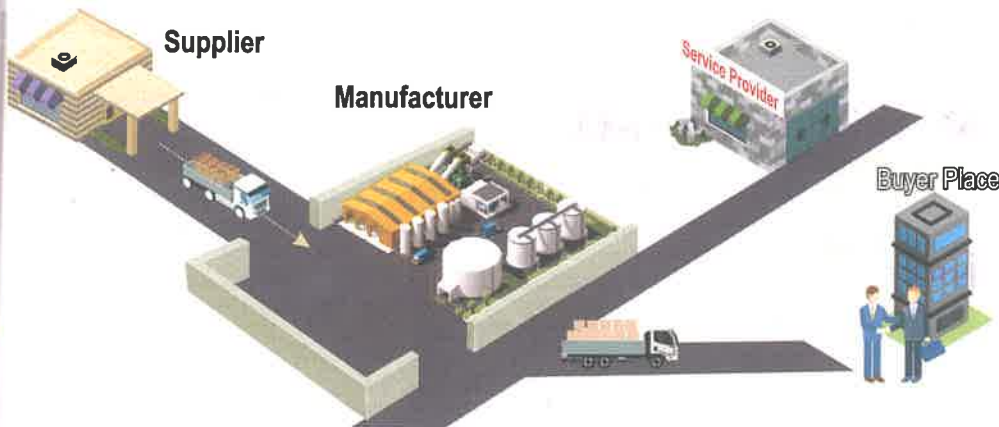
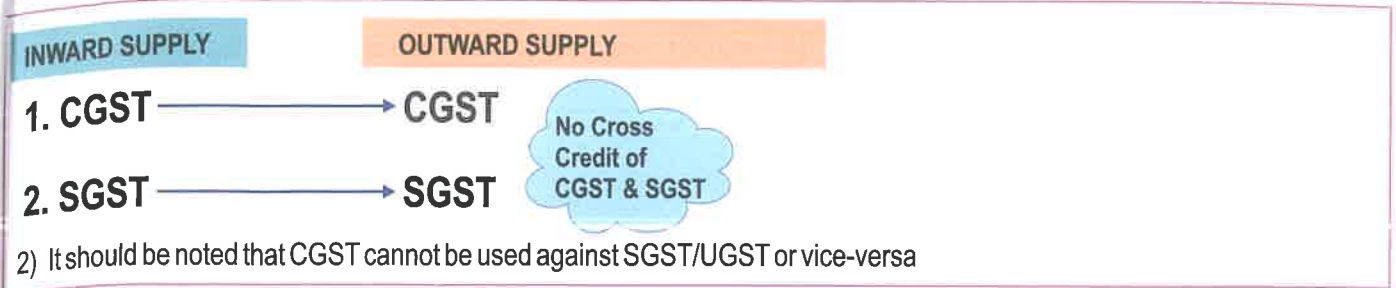
(e) ✳✳✳✳

BENEFITS OF GST

- 1) creation of unified National Market by common tax rates & procedure
- 2) Mitigation of ill effects of cascading by subsuming most of central & state taxes into a single tax with ITC.
- 3) Elimination of multiple taxes & double taxes.
- 4) Boost to "Make in India" initiative by making goods & services produced in India, competitive in National as well as international market.
- 5) Boost to Investments, Exports & employment
- 6) Ease of doing business because of simplified tax structure.
- 7) certainty in Tax administration.
- 8) Automated procedure with greater use of information technology.
- 9) Reduction in compliance cost which removed multiple record keeping in various taxes like excise, VAT, service tax, etc. Thus, lesser manpower in maintaining the record.
- 10) Benefits to small traders & entrepreneurs.

CREDIT SYSTEM IN DUAL MODEL OF GST

Manner of Utilization of ITC ~~XX~~



P 6 : Mr. Mahesh of Patna supplied goods/services for ₹ 24,000 to Mr. Amitabh of Patna. Mr. Mahesh purchased goods/services for ₹ 20,000 on which of CGST ₹ 1800 @ 9% and SGST ₹ 1800 @ 9% is paid on purchase from Mr. Mutthuswami of Patna. Find the following:

- Total price charged by Mr. M for supply of goods/services if GST rate is 18%
- who is liable to pay GST
- Net liability of GST

P6: The below case pertains to the ^{local supply} supply of goods/services. Rate applicable for CGST and SGST @ 9% respectively. Supply of goods/services by Mr. A to Mr. B the value of which is Rs. 10,000.

- Calculate the total price charged by Mr. A from Mr. B. Also state the amount of credit availed by Mr. B.
- Assuming there is a value addition @ 20% on the supply of goods/services by Mr. B to Mr. C. Calculate the price charged by Mr. B.
- On the basis of the working for the above two questions compute the CGST and SGST payable by Mr. B to the Government. *net liability.*
- Prepare statement of revenue earned by Central and State Government.

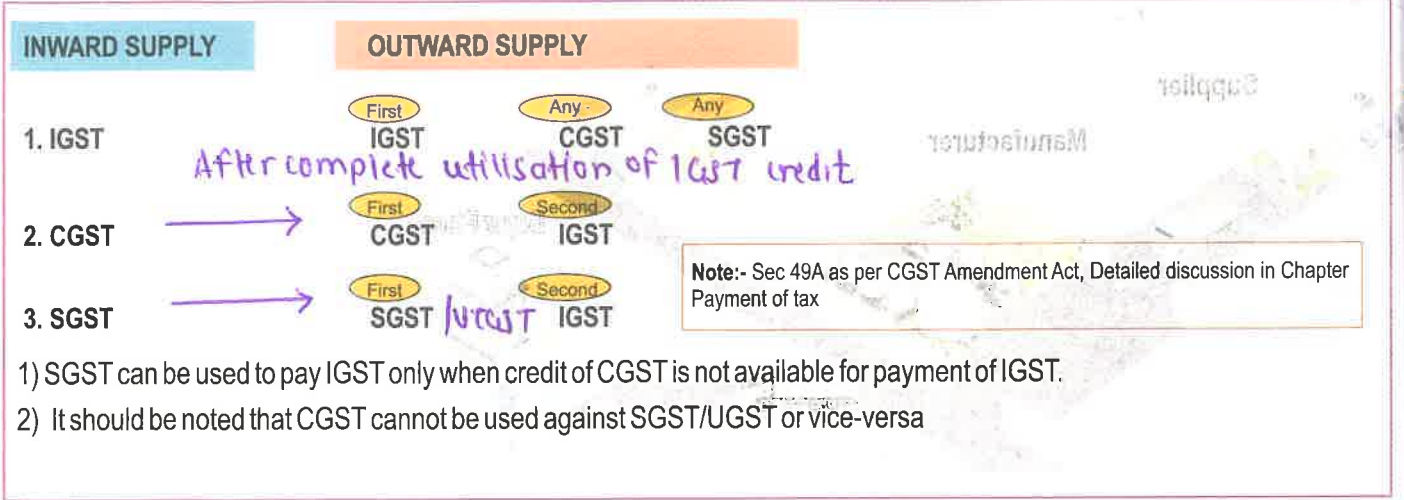
MANNER OF UTILIZATION OF IGST

IGST is unique feature in Indian GST Model. It is levied for seamless flow of credit between states.

Accounts would be settled periodically between the Centre and State to ensure that SGST portion of IGST is transferred to the destination State where the goods or services are eventually consumed.

It is open tax for credit utilization against the payment CGST or SGST. Also credit of CGST or SGST can be utilized for payment of IGST

Manner of Utilization of ITC



- 1) SGST can be used to pay IGST only when credit of CGST is not available for payment of IGST.
- 2) It should be noted that CGST cannot be used against SGST/UGST or vice-versa

P7: Mr. Santa of Jalandhar supplied goods/services for ₹ 20,000 to Mr. Gajani of Hyderabad, SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- (a) Total price charged by Mr. Santa
- (b) who is liable to pay GST?

P8: Mr. Chandul of Surat supplied goods/services for ₹ 35,000 to Mr. Kamlesh of Ahmedabad. Mr. Chandul purchased goods/services for ₹ 20,000 on which of IGST ₹ 1800 @ 18% is paid and purchase from Mr. Shah of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. Find the following:

- (a) Total price charged by Mr. Chandul for supply of goods/services if GST Rate is 18%
- (b) Who is liable to pay GST?
- (c) Net liability of GST.

P9: The below case pertains to inter-state supply of goods/services. Rate applicable for IGST @ 18%, CGST & SGST @ 9% respectively.

- I) Supply of goods/services by Mr. X of Maharashtra to Mr. A of the same state the value of which is Rs. 10,000. Calculate the total price charged by Mr. X. Also state the amount of credit availed by Mr. A.
- II) Assuming there is value addition @ 20% calculate the total price charged for supply of goods/services by Mr. A of Maharashtra to Mr. B of Karnataka.
- III) On the basis of working of the above two questions compute IGST payable to the Government by Mr. A.
- IV) Assuming a further value addition @ 20% on supply of goods/services by Mr. B of Karnataka to Mr. C of the same state, calculate the total price charged by Mr. B.
- V) As per the working above compute GST payable to the Government by Mr. B.

Mr X (MH) — V=10000 — Mr A (MH) — A — B (KA) — V=12000 — C (KA) — 14000

The manner of utilization of balance in electronic credit ledger

P.10:- M/s Alfa Ltd. of Maharashtra purchases goods at intra-state as well as inter-state level and supplies such goods to various dealers at intra-state as well as inter-state level. The details of balance in its electronic credit ledger and electronic liability register are as follows:

Electronic Credit Ledger

Electronic Liability Register

Particulars	Amount
IGST	50000
CGST	25000
SGST	25000

Particulars	Amount
IGST	20000
CGST	25000
SGST	25000

ITC

output tax

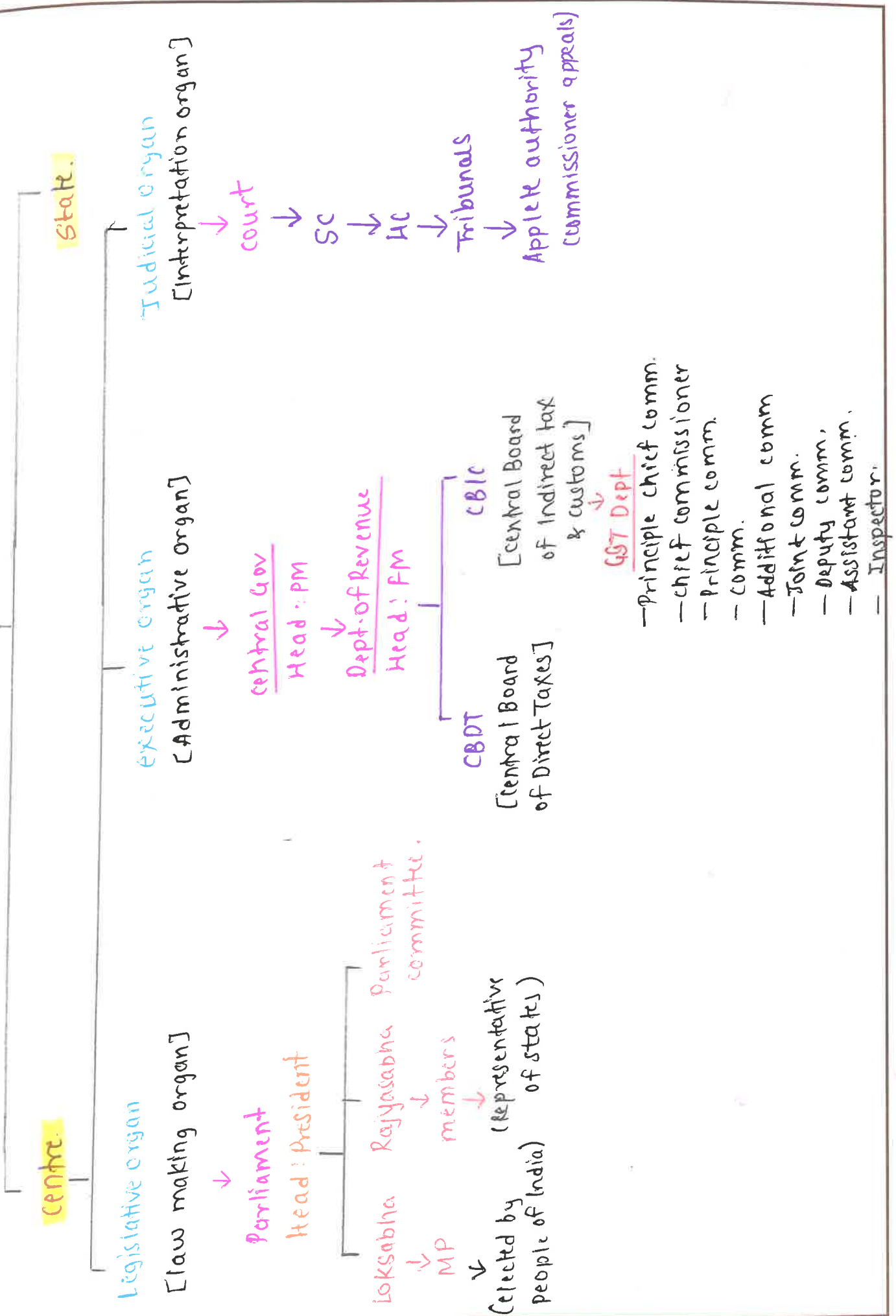
Calculate the amount of ^{tax} ~~duty~~ payable by M/s Alfa Ltd.

Priority (B)

Features of Indirect Taxes

(i)	An important & major source of revenue	In India, indirect taxes contribute > 50% of the total tax revenues of Central and State Governments.
(ii)	Tax on commodities and services	It is levied on commodities at the time of supply, manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.
(iii)	Shifting of burden	GST which is paid by the seller of the goods is recovered from the buyer by including the tax in the cost of the commodity.
(iv)	No perception of direct pinch	Since, 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.
(v)	Inflationary	Tax imposed causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
(vi)	Wider tax base	Majority of the products or services are subject to indirect taxes with low thresholds.
(vii)	Promotes social welfare	High taxes are imposed on the consumption of harmful products/sin goods such as alcoholic products, tobacco products, etc. This not only checks their consumption but also enables the State to collect substantial revenue.
(viii)	Regressive in nature	The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

Administration of India



Important Points to be Remember :-

Particulars	Treatment																
Alcohol	Alcoholic liquor for human consumption is outside GST. State Excise Duty & VAT/CST is payable																
Electricity	Outside GST																
Petroleum product	Crude, Petrol, diesel, natural gas and aviation turbine fuel on GST shall not be levied till date to be notified on the recommendation of the GST Council																
Tobacco and Tobacco products	Liable to GST as well as Central Excise Duty																
Opium, Indian Hemp and other Narcotic Drugs and Narcotics:	Liable to GST as well as State excise duties.																
Entertainment Tax by local Body	Outside GST, (It is taxable in addition to GST)																
Entertainment Tax by State Body	Subsumed in GST																
Property Tax & Stamp Duty	Outside GST. These taxes are separately payable																
SGST Act, 2017	On 28 States + 3 UT having own state legislature (Delhi + Puduchery + Jammu & Kashmir)																
UTGST Act, 2017	5 UT (Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar haveli, Ladakh, Chandigarh)																
Constitutional Amendment	101 st Amendment is made for introduction of GST																
Article 246A	Concurrent power to both parliament and State Legislatures is given to make laws with respect to GST																
Article 269A	Levy and collection of goods and services tax in course of inter-state trade or commerce by government of India & apportionment the tax to the union and state																
Article 279A	<p>Members :-</p> <p>a) the Union Finance Minister..... Chairperson;</p> <p>b) the Union Minister of State of Revenue or Finance Member;</p> <p>c) the Minister of Finance or Taxation or any other Minister nominated by each State Government..... Members.</p>																
Special Category State	Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand;																
Cross Utilization	CGST cannot be used against SGST/UGST or vice-versa																
Manner of Utilization	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr style="background-color: #e91e63; color: white;"> <th style="padding: 5px;">INWARD SUPPLY</th> <th colspan="3" style="padding: 5px;">OUTWARD SUPPLY</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">1. IGST</td> <td style="padding: 5px;">First IGST</td> <td style="padding: 5px;">Any CGST</td> <td style="padding: 5px;">Any SGST</td> </tr> <tr> <td style="padding: 5px;">2. CGST</td> <td style="padding: 5px;">First CGST</td> <td style="padding: 5px;">Second IGST</td> <td></td> </tr> <tr> <td style="padding: 5px;">3. SGST</td> <td style="padding: 5px;">First SGST</td> <td style="padding: 5px;">Second IGST</td> <td></td> </tr> </tbody> </table>	INWARD SUPPLY	OUTWARD SUPPLY			1. IGST	First IGST	Any CGST	Any SGST	2. CGST	First CGST	Second IGST		3. SGST	First SGST	Second IGST	
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2. CGST	First CGST	Second IGST															
3. SGST	First SGST	Second IGST															

Questioner for GST basics (IPC)-MCQ

Q1:- What kind of tax can be transferred from one person to another?

- (a) Direct tax
- (b) Indirect tax
- (c) Both of the above
- (d) None of the above

Ans:- (b)

Q2:- What are the taxes levied on an intra-state supply?

- (a) CGST
- (b) SGST
- (c) CGST & SGST
- (d) IGST

Ans:- (c)

Q3:- Which of the following would attract levy of CGST & SGST?

- (a) Inter-state supplies
- (b) Intra-state supplies
- (c) Any of the above
- (d) None of the above

Ans:- (c)

Q4:- Who will notify the rate of tax to be levied under CGST?

- (a) Central government suo moto
- (b) State government suo moto
- (c) GST council suo moto
- (d) Central government as per recommendations of the GST council

Ans:- (c)

Q5:- What is the difference between a direct & an indirect tax?

- (a) Charge of levy
- (b) Nature of transfer
- (c) Different collection pattern of tax
- (d) All of the above

Ans:- (d)

Q6:- Which of the following constitutional amendment governs GST act?

- (a) 101 st amendment,
- (b) 122 nd amendment,
- (c) 152 nd amendment
- (d) 140 th amendment,

Ans:- (c)

Q7:- What kinds of taxes are subsumed under GST?

- (a) Central excise duty
- (b) State VAT/Sales Tax
- (c) Central Sales Tax
- (d) Service Tax
- (e) All of the above

Ans:- (e)

Q8:- GST is levied on which of the following?

- (a) Sale of goods
- (b) Manufacture of goods
- (c) Provision of services
- (d) Supply of goods/ services

Ans:- (d)

Q9:- When did the GST act come into force?

- (a) Year 2015
- (b) Year 2016
- (c) Year 2017
- (d) None of the above

Ans:- (b)

Q10:- Which of the taxes are out of purview of GST?

- (a) Property tax & stamp duty A & D
- (b) Additional duties of Custom (CVD & SAD)
- (c) Excise duty on Alcohol
- (d) Entertainment tax by local body
- (e) Only (a) (c) & (d)

Ans:- (e)

Q11:- What kind of tax is GST called as..?

- (a) Consumption based tax
- (b) Movement based tax
- (c) Destination based tax
- (d) None of the above

Ans:- (a)

Q12:- Which of the following good will not be covered under the GST act?

- (a) Cooking gas
- (b) Liquor
- (c) Petrol
- (d) All of the above

Ans:- (b)

Q13:- Which of the following is the main motive of the government behind the introduction of the Goods & Service tax act?

- (a) To bring uniformity of taxes in the country
- (b) To increase the government revenue
- (c) To replace all indirect taxes
- (d) All of the above

Ans:-

Q14:- What is Integrated Goods and Services Tax?

- (a) Tax imposed on import or export of goods and services
- (b) Tax imposed on value additions to exports
- (c) Tax imposed on interstate trade
- (d) Tax on international trade

Ans:-

Q15:- Which of the following supplies will be classified as Inter-state supply?

- (a) Supply within same state
- (b) Supply within same union territory
- (c) Supply between two different states/ union territory
- (d) None of the above

Ans:-

Q16:- From the following who will be the members of the GST Council?

1. Union Finance Minister
 2. Union Minister of State in charge of Revenue or Finance
 3. Chief Ministers of States
- (a) 1 & 3
 - (b) 1 & 2
 - (c) 2 & 3
 - (d) All of the above

Ans:-

Q17:- Who amongst the following will be considered as the chairman of GST Council ?

- (a) Union Minister of State
- (b) Union Finance Minister
- (c) Minister of state revenue
- (d) Chief Minister of state

Ans:-

Q18:- Which of the following functions are performed by Goods & Service Network (GSTN)?

- (a) Facilitating registration
- (b) Computation & settlement of IGST
- (c) Matching of tax payment details with banking network
- (d) All of the above

Ans:-

Q19:- What does dual GST concept mean?

- (a) Charging CGST & IGST
- (b) Charging SGST & IGST
- (c) Charging both CGST & SGST
- (d) None of the above

Ans:-

Q20:- ITC of CGST can be utilised for payment of

- (a) Only CGST
- (b) Only SGST
- (c) 1st CGST & then IGST
- (d) 1st SGST & then IGST

Ans:-

Q21:- ITC of SGST can be utilised for payment of

- (a) Only CGST
- (b) Only SGST
- (c) 1st CGST & then IGST
- (d) 1st SGST & then IGST

Ans:-

Q20:- ITC of IGST can be utilised for payment of

- (a) Only CGST
- (b) Only SGST
- (c) Only CGST & SGST
- (d) 1st IGST 2nd CGST & SGST in any order any manner

Ans:-



CHAPTER - 2

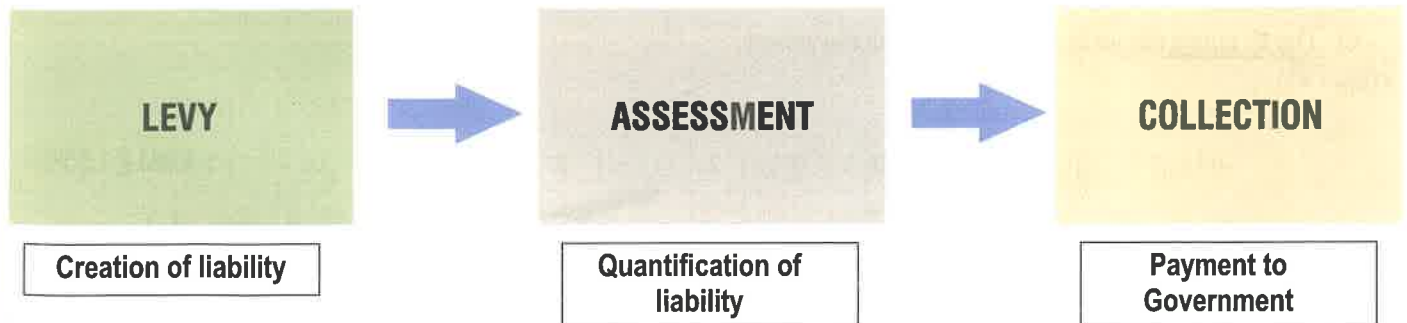
CHARGE OF TAX & APPLICATION OF CGST & IGST LAWS

INDEX

Central Goods and Service Tax Act, 2017	
Sec 9	Levy & collection of CGST

Integrated Goods & Service Tax Act, 2017	
Sec 5	Levy & collection of IGST
Sec 7	Inter State supply
Sec 8	Intra State supply

Three Stages of Tax Collection



Sir What is a Taxable event In a Law?

A taxable event in the law is the event, happening of which triggers applicability of provisions of the law. For e.g. under Income Tax Act, taxable event is earning of income. Thus, earning of income is the trigger and once a person earns any income, he is covered by the provisions of Income Tax Act.

In GST taxable event is supply of goods or services.



CENTRAL GOODS & SERVICES TAX ACT, 2017

Sec 1 : Title, Extent & Commencement

(1) Title

This Act may be called the Central Goods and Services Tax Act, 2017.

(2) Extent

It extends to the whole of India

(3) Commencement

It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint (**This Act is applicable from 1st July 2017**)

SEC 2 (56) "INDIA"

Means

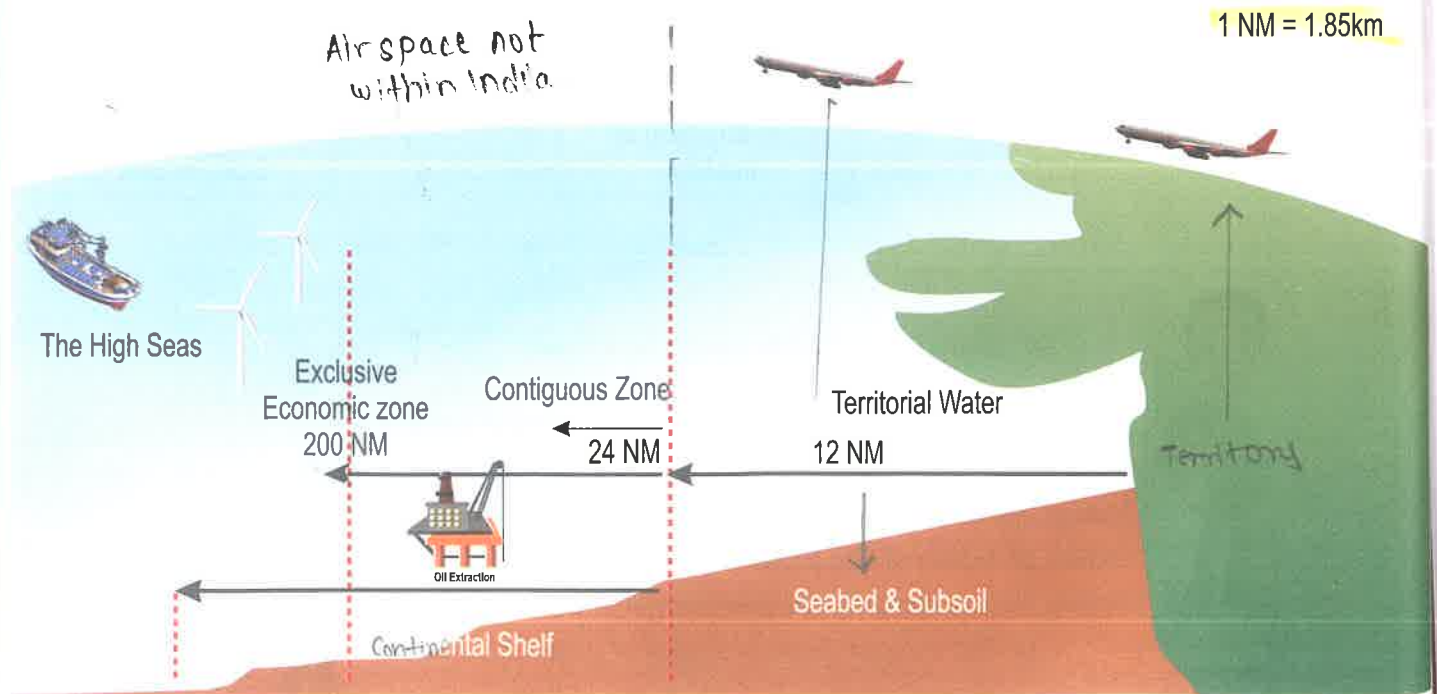
जमीन
a) Territory of India as referred to in article 1 of Constitution (The territory of the Union of India viz., state and the union territories.)

b) Its
पानी

- ➔ Territorial Water,
- ➔ seabed and
- ➔ sub-soil underlying such waters,
- ➔ continental shelf,
- ➔ exclusive economic zone or
- ➔ any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976

c) The air space above its territory and territorial waters

अवकाश



SEC 2(114) "UNION TERRITORY"

Means

the territory of -

- (a) the Andaman and Nicobar Islands
- (b) Lakshadweep
- (c) Daman and Diu and Dadra and Nagar haveli
- (d) Ladakh
- (e) Chandigarh
- (f) and Other territory

Explanation - For the purposes of this Act, each of the territories specified in clauses (a) to (f) shall be considered to be a separate Union territory

Sec 2 : Other relevant definitions are discussed in each chapter

Taxable Territory :

A Territory where GST law is applicable that is India
(As per definition above)

Non taxable Territory :

A Territory where GST law is not applicable, i.e. place
outside India.

Sec 9 : Levy and Collection of CGST [charging section]

(1) Levy of CGST

Subject to the provisions of sub-section (2), there shall be **levied** a tax called the **central goods and services tax**

- ➔ on all **intra-State supplies** of goods or services or both, except on the supply of alcoholic liquor for human consumption,
- ➔ on the value determined under section 15 and
- ➔ at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and

collected in such manner as may be prescribed and **shall be paid** by the taxable person.

(2) Goods out of the scope of CGST

The **central tax** on the supply of

- ➔ petroleum crude,
- ➔ high speed diesel,
- ➔ motor spirit (commonly known as petrol),
- ➔ natural gas and
- ➔ aviation turbine fuel

shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

Analysis

	(Supply) GST	(Production) ED	(Sale)	
			VAT	CST
1. Alcoholic Liquor for Human Consumption	No	State excise	Yes	Yes
2. Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	No	central excise	Yes	Yes
3. Tobacco & Tobacco products	Yes	central excise	No	No
4. Opium, Indian hemp and other narcotic drugs and narcotics:	Yes	State excise	No	No
5. All Others Goods	Yes	No	No	No

(3) Reverse Charge under notified cases

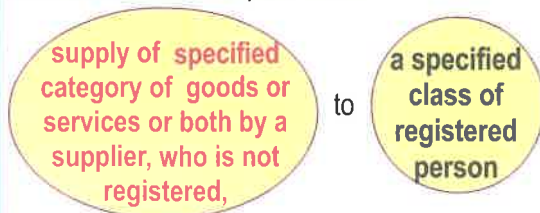
Separately discussed in Chapter No. 4

The Government may, on the recommendations of the Council,

- ➔ by notification, specify categories of supply of goods or services or both,
- ➔ the tax on which shall be **paid on reverse charge basis by the recipient** of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) Reverse Charge - when supply of goods or services by unregistered person to registered person

cn. 4 The central tax in respect of the



shall be paid by such person on reverse charge basis as the recipient of such supply of goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

CGST liability of E-commerce operator

Separately discussed in Chapter No. 4

(5) The Government may, on the recommendations of the Council,

- ➔ by notification, specify **categories of services** → OLA/Uber/OYO/swiggy, etc
- ➔ the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and
- ➔ all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

GST Rates in India

Rate	Goods	Service
0% <i>Nil</i>	50% of the consumer price basket, including foodgrains	Exemption is given in service tax for some services
0.25%	Diamond, precious stones, semi-precious stone, unworked or simply sawn, cleaved or brusted	
3%	Pearls, Gold, Base metals or silver, Platinum, Articles of Jewellery, Intimation Jewellery, Coin	
5%	Mass consumption items like spices and mustard oil	Transport of goods by Rail/Road/ Air/ Ship Transport of passengers Rail / Road / Economy air travel, Tour operator, Print Media, Ads, News Paper Printing
12%	Processed foods	Air travel business class, Non-AC restaurant, Hotel Rooms rent ₹ 1000-2500, Construction of building /complex, Temp transfer of intellectual prop.
18%	Soaps, Oil, toothpaste, refrigerator, smartphones	General Rate on all services except covered in 5%, 12% and 28%
28%	White goods, Cars	Race club, Gambling, Hotel rent more than ₹ 5000/day, Services provided in Five star Hotels, Cinema/ Multiplexes/ IPL/ Casino, Amusement Parks/Sporting events
28% Plus Cess	Luxury cars, pan masala, tobacco, aerated drinks	

Inter & Intra State Supply

Intra State Supply

As a general rule, where the **location of the supplier** and the place of supply of goods or services are **in the same State/Union territory**, it is treated as **intra-State supply** of goods or services respectively.

Inter State Supply

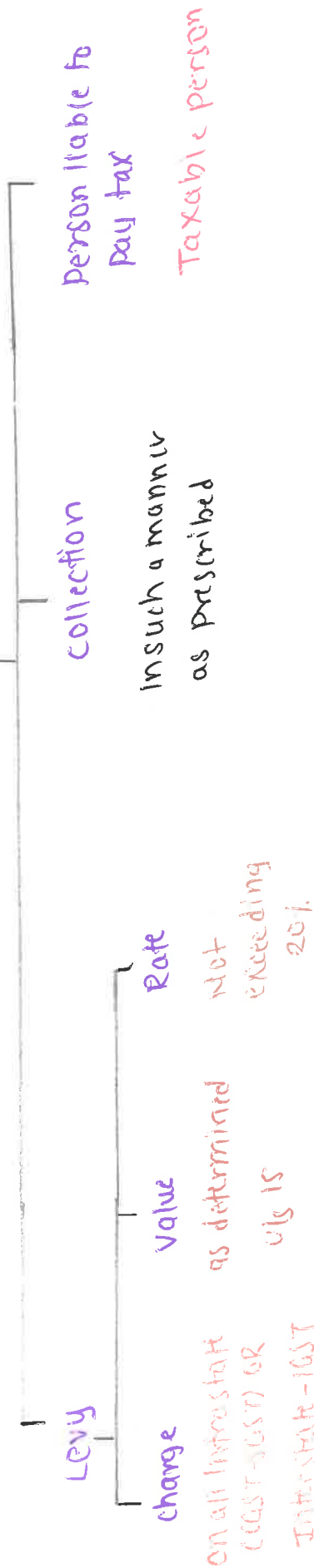
where the **location of the supplier** and the **place of supply** of goods or services are in

- (i) two different States or
- (ii) two different Union Territories or
- (iii) a State and a Union territory,

it is treated as **inter-State supply** of goods or services respectively.

Note: Inter state supply also includes import & export of goods & services

Section 9(i): charging section



supplies of goods or services or both

EXCEPT: Alcoholic liquor for
human consumption

9(i) - on following goods GST is not payable till
recommendation is received from GST councils

- 1) Petroleum crude
- 2) High speed diesel
- 3) Motor spirit
- 4) Natural gas
- 5) Aviation turbine fuel.



CHAPTER - 3

CONCEPT OF SUPPLY

INDEX

CGST Act, 2017

Sec 2 Important definitions

2(52) : Goods	2(31) : Consideration	2(84) : Person	2(108) : Taxable Supply
2(102) : Services	2(17) : Business	2(105) : Supplier	2(78) : Non-Taxable Supply
		2(93) : Recipient	2(47) : Non-Taxable Supply
			2(107) : Taxable Person
			2(98) : Reverse Charge
			2(45) : E-Commerce Operator

CGST Act, 2017

- ★ Sec 7 Meaning of Supply
- ★ Sec 8 Composite & Mixed Supply

Sec 2(84) "Person" - includes



(a) An Individual



(c) A Company



(e) A limited Liability Partnership



(g) Any corporation established by or under any Central Act, State Act or Provincial Act or a Govt. company as defined in clause (45) of section 2 of the Companies Act, 2013



(i) A co-operative society registered under any law relating to co-operative societies



(k) Central Government or a State Government



(m) Trust



(b) A hindu undivided family



(d) A Firm



(f) An association of persons or a body of individuals, whether incorporated or not, in India or outside India



(h) any body corporate incorporated by or under the laws of a country outside India



(j) A local authority



(l) Society as defined under the Societies Registration Act, 1860



(n) Every artificial juridical person, not falling within any of the above

Deemed Distinct Persons : Sec 25 CGST Act

Background History : Before we go through the statutory provisions of 'distinct persons', let us first have an overview of the registration provisions for better understanding of the concept of distinct persons.

Under GST law, a supplier is required to obtain State-wise registration. He has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit.

Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply.

Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates [and makes a taxable supply] under the same PAN. Further, he is normally required to obtain single registration in a State/UT.

However, where he has multiple places of business in a State/UT, he has the option either to get a single registration for said State/UT or to get separate registrations for each place of business in such State/UT.

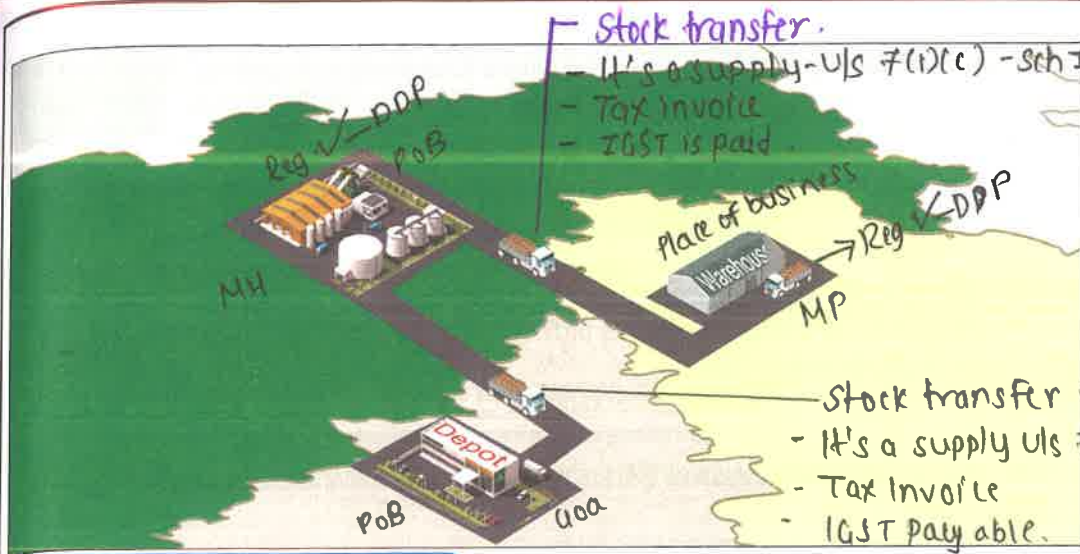
Legal Provision:-

25(4) A person who has obtained or is required to obtain more than one registration.

☞ whether in one State or Union territory or

☞ more than one State or Union territory shall,

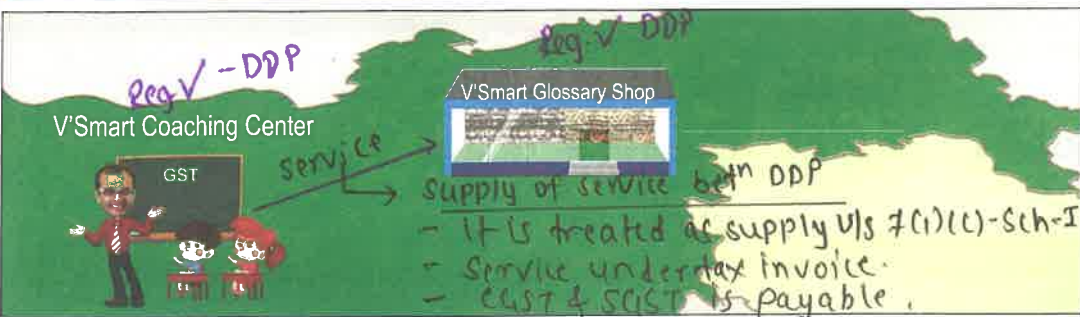
in respect of each such registration, be treated as distinct persons for the purposes of this Act.



Single/ Multiple Registration

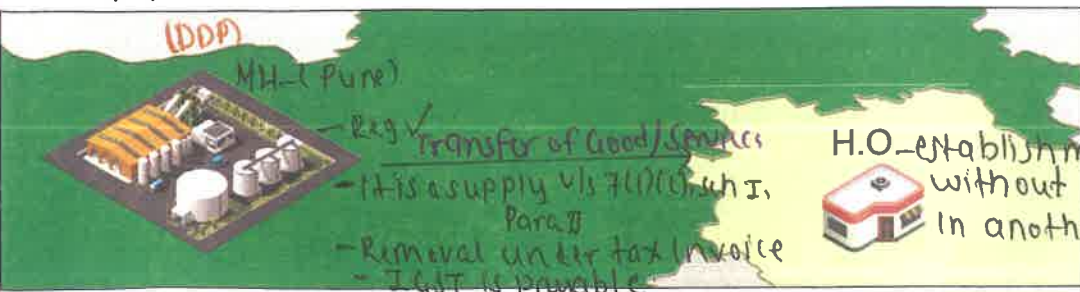


Separate Establishment



Establishment in Different State

25 (5) Where a person who obtained or is required to obtain registration in a State or Union territory in respect of an establishment, **has an establishment in another State or Union territory,** then such establishment shall be treated as establishment of distinct persons for the purposes of this Act.



Para 2
Your notes

Para 2

para II



P1 :- V'SmartAcademy have various branches located in different places in the State of Maharashtra as follows:-

Head Office	Pune
Branch 1	Mumbai
Branch 2	Nagpur
Branch 3	Nashik

- i) State whether V'SmartAcademy is eligible for single registration for all branches in a State.
- ii) If answer to (i) is yes, then state whether goods transferred or services provided by Pune head office to various branches within the same state would be treated as supply & liable to GST?
- iii) Is Vsmart opts for separate registration then, what are the consequence under GST?

P2 :- There are three factories of Samsung Pvt. Ltd. under the same PAN which are located in Maharashtra, Delhi & Madhya Pradesh. Answer the following questions briefly:-

- a) Whether the company is required to obtain separate registration for each factory?
- b) Whether each of the registered factory would be treated as a separate person under GST?
- c) Whether the stock transfer or service provided from one factory to another factory would be treated as supply and liable to GST? Also state the nature of transaction?

P3:- Haldiram is running two outlets with different businesses within the state of Maharashtra as under:-

- 1) Haldiram Sweets &
- 2) Haldiram Footwear

Answer the following questions:-

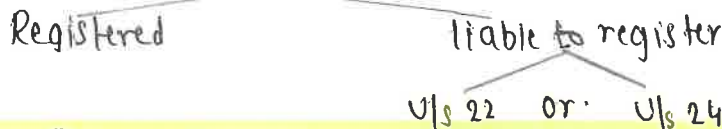
- a) Whether Haldiram can obtain separate registration under GST for each outlet?
- b) Whether the two business verticals are treated as separate persons under GST?
- c) Whether the transfer of goods or provision of services between such business verticals is treated as supply & liable to GST?

P4:- XYZ Ltd. have a factory in Maharashtra (registered under GST) and an unregistered office in Delhi. Whether the two are treated as deemed distinct person under GST? Explain.

Sec 2(107) : Taxable Person

means a person who is registered or liable to be registered under section 22 or section 24

Taxable person - Person who is



Sec 2(94) "Registered person"

"Registered person" means a person -

- ➔ who is registered under section 25
- ➔ but does not include a person having a Unique Identity Number

Sec 2 (105) "Supplier"

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

Sec 2 (93) "Recipient"

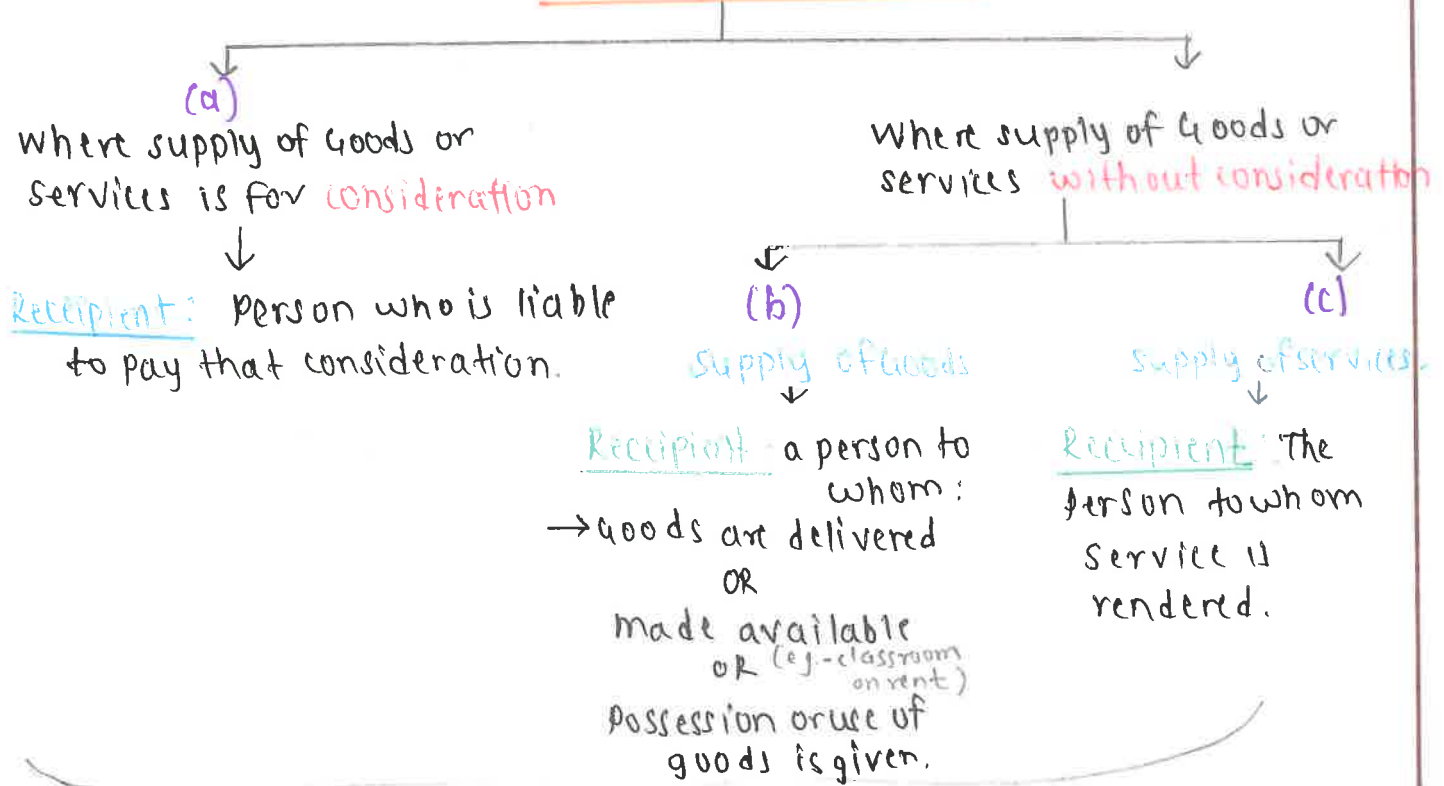
"recipient" of supply of goods or services or both,

means—

- (a) Where a **consideration** is payable for the **supply of goods or services** or both,
the **person who is liable to pay that consideration**;
- (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
- (c) Where **no consideration** is payable for the **supply of a service**,
the **person to whom the service is rendered**,
- and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and

shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied

CHART Sec 2(93) Recipient



Recipient also includes Agent acting on the behalf of recipient

P5: XYZ Ltd., a manufacturer of goods, supplied goods of value ₹ 20,00,000 to Mr. B. Who is the supplier in the given case?

Supplier is the person who supplies the goods
i.e. XYZ Ltd.



P6: Mr. A, from Nagpur, is a consignment agent of Coca-Cola Ltd. as he undertakes to supply Coca-Cola beverage on behalf of Coca-Cola Ltd. Accordingly, Mr. A supplied goods worth ₹ 20,00,000 to Mr. C on behalf of Coca-Cola Ltd. Who is the supplier in this transaction under the GST Act? Explain.

Here supplier is Agent who supplies the goods on the behalf of principal.

P7:- V'Smart Academy have given training in GST to Mr. Aakash who is an Article in a CA Firm, AB & Associates. The invoice for this service is in the name of AB & Associates who also paid the consideration for the same. Who is the recipient in the given case? Explain IF consideration is involved then recipient is a person who is liable to pay that consideration i.e. AB & Associates.

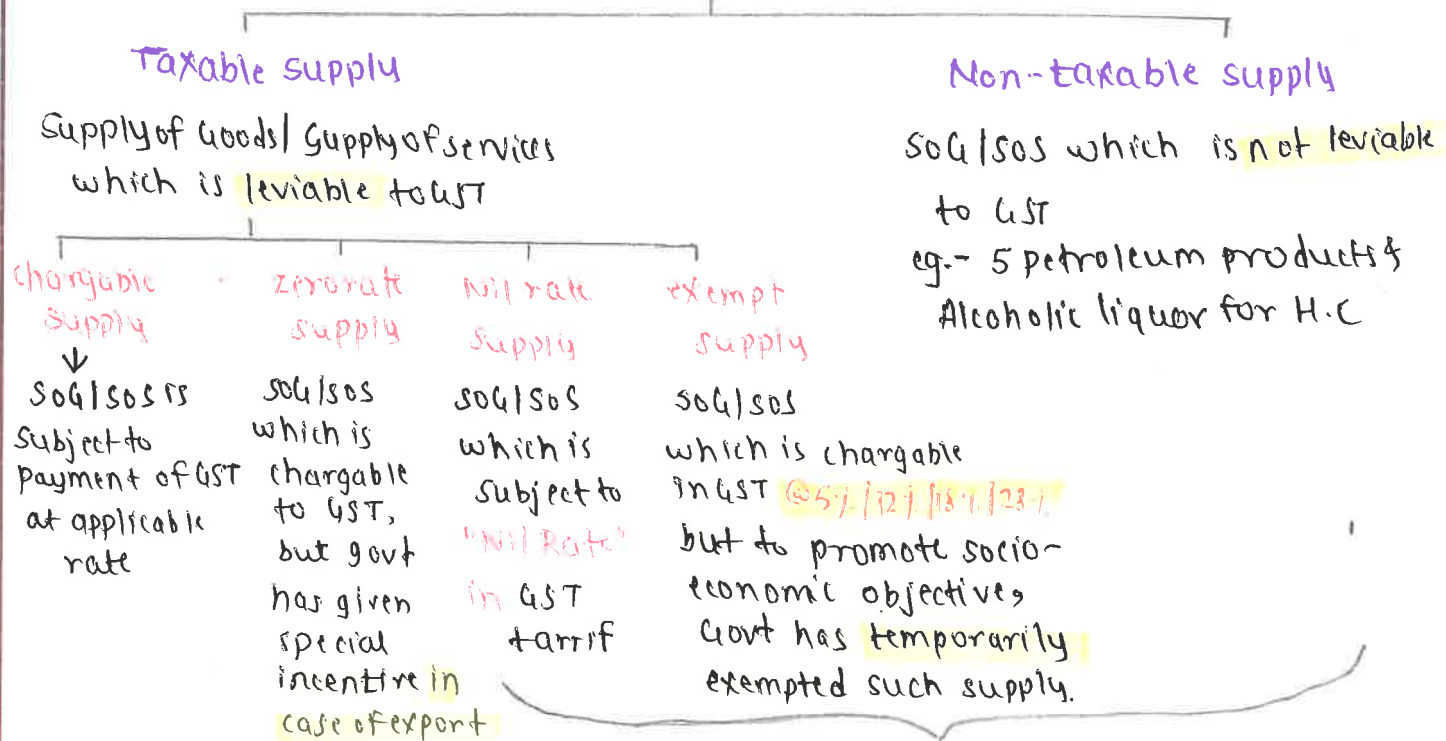
P8:- Samsung Ltd. transferred the stock from factory F1 (Maharashtra) to factory F2 (Gujarat) without any consideration. Accordingly, the goods are delivered to factory F2. Who is the recipient in the given case? Explain.
Transaction is without consideration. Hence recipient is a person to whom goods are delivered i.e. factory F2

Different types of Supply

Other Important Definition

Sec 2(108) : Taxable Supply	means a supply of goods or services or both which is leviable to tax under this Act
Sec 2(78) : Non-Taxable Supply	means a supply of goods or services or both which is not leviable to tax under this Act (i.e. CGST Act) or under the Integrated Goods and Services Tax Act <u>5 petroleum products & alcoholic liquor for H.C.</u>
Sec 2(47) : Exempt Supply	means a 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, and includes non-taxable supply
Sec 16 of IGST : Zero- Rate Supply	means any of the following supplies of goods or services or both, namely:— a) Export of goods or services or both; or b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit .

Supply



As per sec-2(47) : for GST purpose **exempt supply** includes nil rate, wholly exempt & non taxable supply.

Special Discussion on Taxable Person

Once an activity or transaction qualifies as supply, one needs to determine whether the same is leviable to GST or not. For a supply to attract GST, primarily 2 additional conditions need to be satisfied. These are:-

1. Supply must be made by a taxable person:-

- ⇒ Supply between two non-taxable persons does not constitute taxable supply under GST.
- ⇒ The restriction of being a taxable person is only on the supplier whereas the recipient can be either taxable or non-taxable.
- ⇒ A "taxable person" is a person who is registered or liable to be registered under section 22 or section 24 (detailed discussion in chapter- Registration).
- ⇒ Hence, a person who is liable to be registered but does not take a registration and remains an unregistered person shall be construed as a taxable person.
- ⇒ Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

Taxable event - Supply

Section 7 - Meaning and scope of supply

1 Supply includes -

7(1)(a)

- (a) All forms of supply of goods and/ or services or both such as
- ➔ sale transfer, barter, exchange, licence, rental, lease or disposal
 - ➔ made or agreed to be made
 - ➔ for a consideration by a person
 - ➔ in the course or furtherance of business.

7(1)(aa)

- (aa) The activities or transactions,
- ➔ by a person, other than an individual,
 - ➔ to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
- Refer pg. 73.

Newly Inserted by F.A. 2021

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

7(1)(b)

- (b) Importation of services, for a consideration whether or not in the course or furtherance of business and

7(1)(c)

- (c) The activities specified in Schedule I, made or agreed to be made without a consideration.

Sch I.

Where certain activities or transaction constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

pg 74 JA

2 Activities not treated as supply and not liable to GST

Notwithstanding anything contained in sub-section (1)

- (a) activities or transactions specified in Schedule III or
- (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government or the recommendations of the Council, **Shall be treated neither as a supply of goods nor a supply of services.**

Sr. no	Title	Notified Activities/ Transactions
1	Activity in relation to Panchayat/ Municipality functions:- (N/N 14/2017- CT(Rate))	Services by way of any activity in relation to a function entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution are treated neither as a supply of goods nor as a supply of service.
2	Grant of alcoholic liquor licence:- (Newly Inserted by N/N 20/2019 CT (R) 20/09/2019 read with Circular No. 121/40/2019 GST dated 11.10.2019)	Services by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name called by the State Government in which they are engaged as public authorities, shall neither be treated as a supply of goods nor a supply of service." (as an agreement between the Centre and States). Clarification:- Licence fee pe GST nhi aayega <ul style="list-style-type: none"> ➔ In above service, Consideration is in the form of licence fee or application fee or any other name. ➔ If any other licenses and privileges are granted for a fee in other situations, where GST is payable, then above notification is NOT APPLICABLE there.

Retrospectively applicable from the 1st day of July 2017 amended by F.A. 2022

Services provided by the Govt. to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. **Tax is required to be paid by the business entities on such services under reverse charge.**

Not relevant.

3

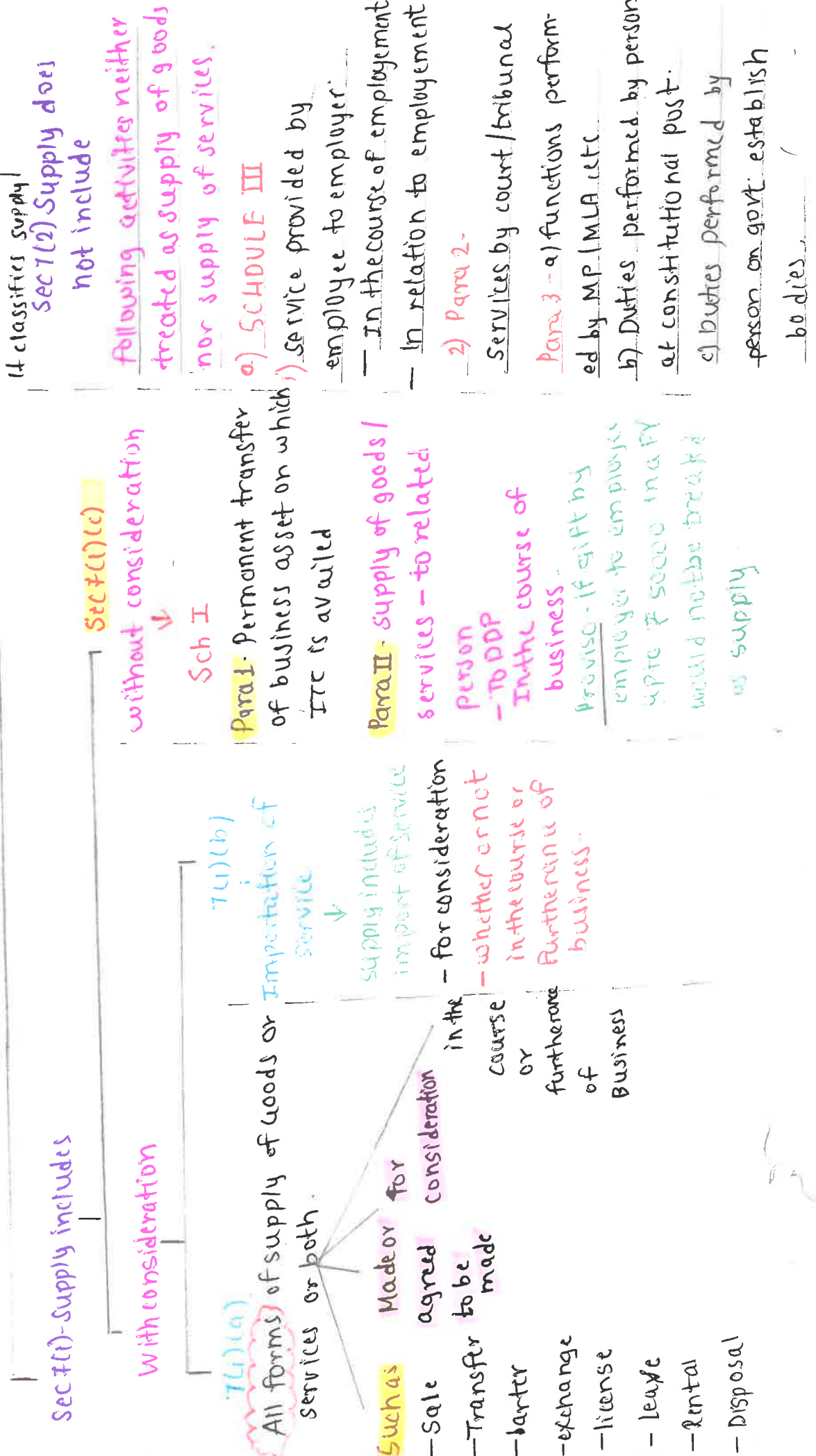
Subject to sub-sections (1), (1A) & (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as

- (a) A supply of goods and not as a supply of services or
- (b) A supply of services and not as a supply of goods.

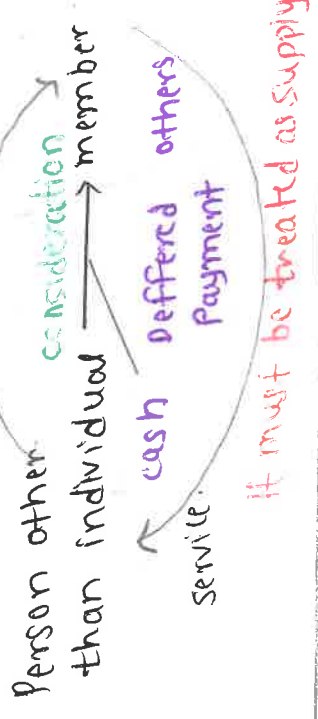
Your notes 

CHART

Sec 7 Supply.



Sec-7(C)(a)



Sec-7(A) where certain activities or transactions constitute a supply in accordance with sec-7(1)(a)/(b)/(c) (as above) They shall be treated as supply of goods or supply of services as referred in

SCHEDULE II

- Para 1** - Transfer of Goods
 - SOG** - 1) Tr of title
 - 2) Tr of title on future date
 - SOS** - 1) Tr of rights in goods
 - 2) Tr of undivided shares in goods.
- Para 2** - Land & Building
 - SOS** 1) Lease, Tenancy, Easement, license to occupy land
 - 2) Lease or letting out building.
- Para 3** - Job work
 - SOS** Any Any treatment or process which is applied to another's goods.
- Para 4** - Transfer of B. Asset
 - SOG** - Permanent Tr. of B. Asset
 - SOS** - Temporary Tr. of B. Asset for private use or other than business use.
- Clause C** - ceases to be T.P. then all goods in assets seemed to be supplied except - Business tr. as going concern or continued by person representative.

Para 3 - supply of goods to -

- a) by principal to agent who makes the further supply
- b) By agent to principal who receives the goods on behalf of principal.

CBIC clarification:

Para 3 is applicable only if agent issues his own invoice.

Para 4: Import of service from -

- a) Related person
- b) own establishment - outside India in the course of business.

Para 5

contract always treated as **SOS**

- Renting of immovable property
- Const of building or complex intended for sale.
- except - consideration recd after completion certificate
- After first occupation whichever earlier.

Para 6

composite supply

- 1) works contract
- 2) catering, restaurants, eating joints where food or drink is involved.

Para 4 - Services of funeral, Burial, crematorium, mortuary including transportation.

Para 5 - sale of land & Building

Para 6 - Actionable claim other than lottery

betting & gambling.

b) Notified Activities of CGSQ/Local authority

1) Activities

mentioned in Article 243 G (Panchayat) or Article 243 W (Municipality) of constitution of India

@ Alcoholic liquor

licence fee paid to the govt.

FORMS OF SUPPLY

Various forms of supply contemplated in section 7(1)(a) are sale, transfer, barter, exchange, licence, rental, lease or disposal. These forms of supply are only illustrative and not exhaustive. However, none of these terms have been defined under the Act. In order to understand their meaning, we have taken recourse to their dictionary meaning or otherwise and have explained them as follows:

Sale and Transfer: The dictionary meaning of term 'sale' is the act of selling; specifically: the transfer of ownership of and title to property from one person to another for a price. As per the Sale of Goods Act, 1930, a contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.

Further, the term 'transfer' has been defined in the Black's Law dictionary as to convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically, to make over the possession or control of.

Example A shopkeeper sells a pen for ₹ 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.

Example 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.

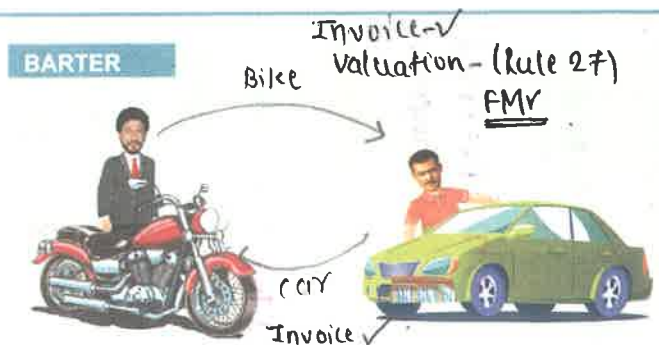


Barter and Exchange: The dictionary meaning of term 'barter' is to exchange goods or services for other goods or services instead of using money. Black's Law dictionary defines the term 'exchange' as an act of giving or taking one thing for another. While barter deals with a transaction which only includes an exchange of goods/services, exchange may cover a situation where the goods are paid for partly in goods and partly in money. When there is a barter of goods or services, same activity constitutes supply as well as consideration.

money element not involved - Barter
money element involved - Exchange.

Example When a new car worth ₹ 5,00,000 is purchased in exchange of an old car alongwith the monetary consideration of ₹ 4,00,000 paid for the said purchase.

Example A doctor got his hair cut from a barber and provides him medical consultancy in return. In this transaction, the doctor provided the medical consultancy services to the barber for which consideration was in the form of hair cutting services provided by the barber. Similarly, the barber provided hair cutting services to the doctor for which consideration was in the form of medical consultancy services provided by the doctor.



Licence, Lease, Rental etc. : Licenses, leases and rentals of goods are presently treated as services where the goods are transferred without effective possession and control and treated as sales where the goods are transferred with effective possession and control. Under the GST regime, such licenses, leases and rentals of goods with or without transfer of right to use would be covered under the supply of service as per Schedule II to the CGST Act.

Disposal : Disposal normally considered as selling of assets when the organization is about to close down and various assets are required to be disposed of. Such transactions will also be considered as supply of liable to tax under GST Law.

Any kind of goods / movable property.

Definition of Goods and Service under GST

As per Sec 7 supply includes three events

- Wholly supply of Goods
- Wholly supply of services
- Supply of both (Goods and services)



Sir What is the Supply of Goods?

Beta, to understand the supply of goods, we have to first understand definition of goods given under CGST Act.



Sec 2(52): Goods

- Means** every kind of movable property
- Other than** money and securities
- But includes** actionable claim, - Lottery, betting, gambling
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

	Examples
Transaction in Money	<ul style="list-style-type: none"> ✓ 1. Deposit or withdrawal of Money from Bank ✓ 2. Borrowing or repayment of loan ✓ 3. Conversion of Currency ✓ 4. Conversion of Rupees in to Coin
Securities	Transaction of Securities does not attract GST example sale or purchase of Stock, Shares, Derivatives etc.
Actionable claim	<ul style="list-style-type: none"> i) Transfer of unsecured debts (promissory note) ii) Right to participate in the draw to be held in a lottery. iii) Right to arrears rent is actionable claim iv) Insurance claim

Actionable claims covered in the definition of goods but only lottery, betting & gambling are taxable under GST. Other actionable claims are excluded from the scope of supply.

Tutorial Notes

Actionable claims: under the GST laws, actionable claims would be reckoned as goods. But Actionable claim, other than lottery, betting and gambling will not be treated as supply of goods or services by virtue of Schedule III (Activities or transactions which shall be treated neither as a supply of goods nor a supply of services).



Sir What is the Supply of Service?

Beta, to understand the supply of Service, we have to first understand definition of Service given under CGST Act.



Sec 2(102): Services

- 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 from currency or denomination for which a separate consideration is charged.
- Explanation** For removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

Tutorial Notes

The word "anything" could be read as "everything". i.e. services means everything that is not goods, and is not specifically excluded (such as money, securities, transactions specified in schedule III, etc.)
Schedule II of the CGST Act list down matters which shall be regarded as a supply of goods, or supply of services.
The GST law empowers the Government to require to require treatment of supply of notified goods as supply of services, and vice versa.

Activity relating to use or conversion of Money

Though money is not service, but activities relating to use of money (Ex : Lending) and activities relating to conversion of money (Ex: Demand Draft making, money changing) will constitute 'Service'. Thus such transaction will attract GST.



Activity in Money		Transaction in Money
1. Deposit or Withdrawal of Money from Bank 2. Borrowing or repayment of loan.		
Activity in Relation to Money		Transaction in Money
3. Interest on loans or deposits		
4. Processing fees		It is a Supply of Service (separate consideration in relation to use of money)

Interest

Interest charged on loan / advances / deposits [i.e. for use of money]



It is treated as service as per above definition



But govt have exempted this interest from payment of GST

Interest charged for delay payment from debtors to whom goods or services are supplied



It is liable for GST.



Conversion of Currency	Transaction in Money
Commission	It is a Supply of Service (separate consideration in relation to conversion of money)



Conversion of Rupees in to Coins	Transaction in Money
Commission	It is a Supply of Service (separate consideration in relation to conversion of money)

Meaning of Money

- ⇒ the Indian legal tender of 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 recognised by the Reserve Bank of India when use as a consideration to settle an obligation or exchange with Indian legal tender of another denomination

* Bitcoin is not recognised as money. hence tran of bitcoin is liable to GST

★ ⇒ but shall not include any currency that is held for its numismatic value.

[Numismatic means "collection and study of money (and coins in particular). For example, a coin in force in ancient times and having denomination of a rupee shall not be regarded as 'money', as it is not held as a rupee, but, for its numismatic value.]

Meaning of Securities

- ⇒ Shares, Scripts, stocks, bonds, debentures, debenture stock or other marketable securities of a company
- ⇒ derivative, options, futures, swaps, forward agreements, etc.
- ⇒ security receipt,
- ⇒ units of mutual fund
- ⇒ any certificate or instrument in case of asset/debt-securitisation; government securities;
- ⇒ rights or interest in securities

Sec 2(52) Goods

↓
Means

Every kind of movable property

↓
Includes

- 1) Actionable claim
- 2) Growing crops or grass, etc.

Exclude

- 1) Money
- 2) securities

Sec 2(102) services

↓
Means

Anything other than goods

↓
Includes

- Separate consideration is charged for:
- Use of money [Interest]
 - conversion of money [commission]
 - To facilitate or arranging the transactions in securities [Brokerage]

P9:- S Bank executed the following transactions in F.Y. 20XX-XY. Calculate the GST liability, if the rate of GST applicable is 18% (i.e., 9% each CGST & SGST). Also, assume all the transactions to be intra-state.



S.No.	Transactions	₹ in lakhs
1.	Term loan given	200
2.	Interest earned on term loan	25
3.	Interest earned on OD/CC	40
4.	Interest earned on Credit Card - (exemption)	10
5.	Bank charges on various activities undertaken	10
6.	Commission earned on conversion of foreign currency	5
7.	Sale of government bond	100

P10:- XYZ Ltd. is manufacturing shirts. It has purchased fabric of 5000 meters for ₹10 lakhs. XYZ Ltd. manufactured 2000 shirts by using 4000 meters of fabric. 1000 meters of fabric is still lying in the stock. The company found that 500 meters of fabric is in excess and decided to sell it to Mr. B in the form of waste generated in manufacturing process called as 'Chindi'.

Determine the GST liability of XYZ Ltd. on the basis of following information:-

- 1500 shirts are sold @2000 per shirt & applicable rate of GST is 18%. 540000
- Waste chindi sold for ₹2,00,000 & applicable rate of GST is 5%. 36000
- 500 meters of fabric is sold for ₹300 per meter & applicable rate of GST is 5%. 7500
- 300 shirts are transferred to another registered branch located in different state. Such stock transfer is valued at ₹2000 per shirt and applicable GST rate is 18%. 108000
- 100 shirts are transferred to another branch within the same state which is not separately registered under GST.

P11:- Mr. A sold his building for ₹80L to Mr. B. For such sale, he had appointed a broker Mr. C to whom brokerage of ₹2,00,000 was paid. Determine the GST liability of Mr. A & Mr. C, if any.

Supply made or agreed to be made



Sir, if I received any advance against supply of goods or services, whether I need to pay GST on that ?



Beta, as per sec 7(1)(a) supply includes sale, transfer etc. made or agreed to be made for consideration in the course of business.

Hence advance receipt also liable to GST as explain below.

No	Particulars	Explanation	Examples of Goods	Examples of Services
1	Made	Goods are already delivered or Service is already provided to the recipient & Payment is received after that	Mr A a trader who is in the business of selling electronic items has made the delivery of a TV to the customer location	Mr X who is a CMA has provided the service of Statutory Cost Audit for his client XYZ pvt ltd
2	Agreed to be Made	This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service	Mr M a trader in imitation jewellery has taken an advance from his customer Miss Y to be supplied at a later date	Mr B an Architect has entered into a contract with Mr C, his client, to design Mr C's house

GST Liability on Advanced Amount Received

Eventhough as per the term "Agreed to be made" GST is leviable on advance received by supplier of goods or services but following are the amendments made by government by notification in official gazette

Notification No. 66/2017 dated 15th Nov.,2017

Supply of Goods	GST is payable only on Invoice basis Author Note: Payment of GST on Advance basis is suspended [N/N 66/2017]	Detailed discussion in Chapter Time of Supply
Supply of Service	GST is payable on advance or Invoice whichever is earlier	

Supply of Goods

17.

P12: Mr. Suresh of Rajasthan supplied goods and issue the invoice in the month of December, 20XX for ₹ 20,000 to Mr. Ramesh of Rajasthan. Mr Suresh has received advance of ₹ 10,000 in the month of Sept. 20XX. SGST and CGST rate on supply of goods is 9% each. IGST rate is 18%. Determine when GST is payable.



Supply of Services

P13: Mr. Gajana of Rajasthan supplied Services and issue the invoice in the month of December, 20XX for ₹ 20,000 to Mr. Birju of Rajasthan. Mr Gajanan has received advance of ₹ 10,000 in the month of Sept. 20XX. SGST and CGST rate on supply of Services is 9% each. IGST rate is 18%. Determine when GST is payable.

Supply for Consideration



Sir, whether GST is payable if any supply is made without consideration?

Beta, GST is business Tax and there should be something in return against supply for taxability of GST.

Hence consideration is necessary for supply. There are certain exceptions in Schedule I where supply is taxable even though consideration is not received.



Supply made or agreed to be made for consideration

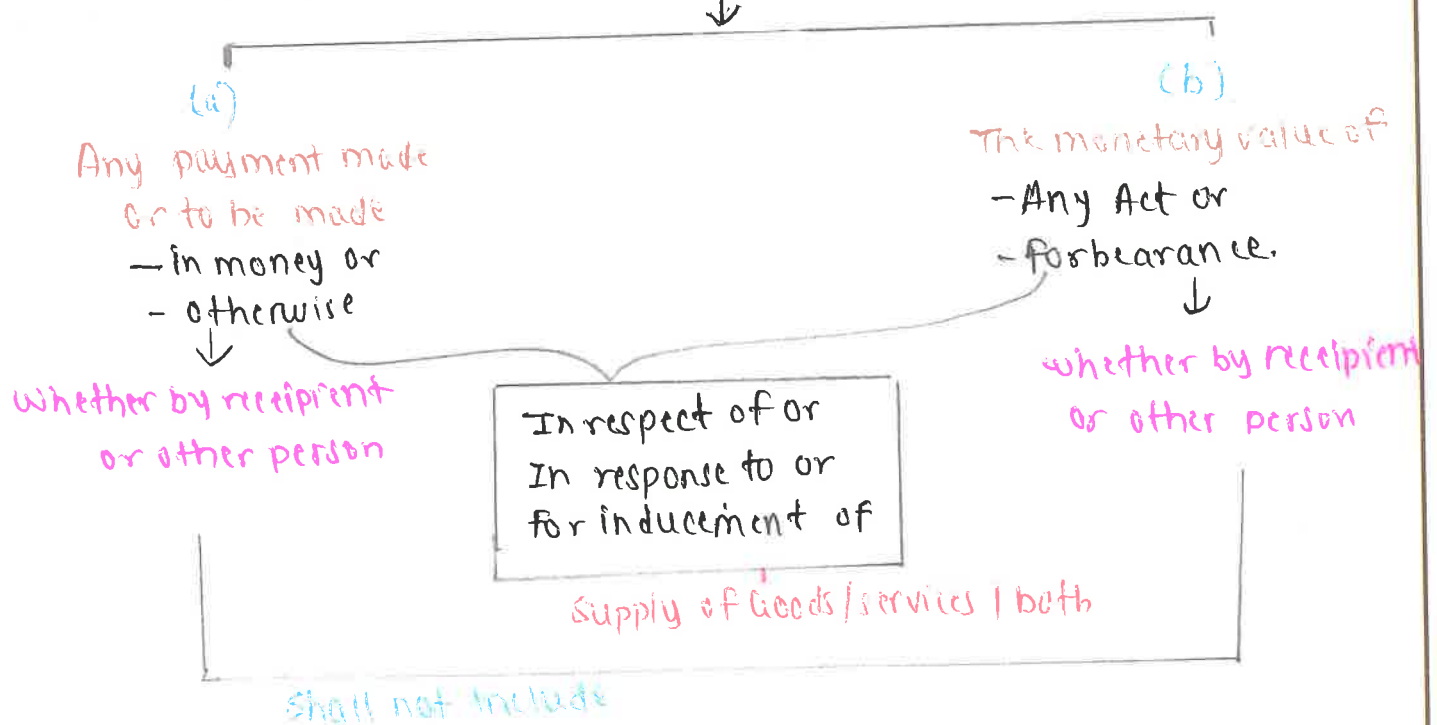
As per section 2(31) of CGST act: **Consideration** in relation to the supply of goods or services or both includes

- | | |
|----|--|
| a) | Any payment made or to be made, whether in <u>money or otherwise</u> in respect of, in response to, or for the inducement of, the supply of goods or services or both, <u>whether by the recipient or by any other person</u> but shall not include any subsidy given by the Central Government or a State Government; |
| 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, whether by the recipient or by any other person but shall not include any <u>subsidy given by the Central Government or a State Government</u> : |

PROVIDED that 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 the deposit as consideration for the said supply;

sec 2(31) consideration

In relation to the Sale of goods / services includes



a) subsidy by CG/SG

b) deposit for payment of supply.

↳ unless → The supplier applies the deposits as a consideration for said supply.

Meaning of Term inducement of

Inducement means to give something to a person so that he will do something else in return

Illustration 1 : A restaurateur offered 'free' meals to drivers of buses carrying passengers as an inducement to bring potential customers to his business premise. Since the meals were not given to drivers of empty buses, there is a direct link between the act of bringing passengers to the food outlet and the provision of the free meals. The consideration here is the free meals provided.

Illustration 2 : A football player is offered a branded car as an inducement for him to join the club. In this case, the car offered is the consideration that induces the player to join the club to provide his football skills. There is a direct link between the act of joining the club and the provision of the car.

Supply without Consideration is not subject to levy of GST

Supply without Consideration	Free supply of goods or Services are not subject to GST unless it is specifically covered in Schedule I or Sec 7. → Access to free TV channels → Tourism information free of charge. → Large number of governmental activities for citizens.
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TREATMENT OF DEPOSITS

Deposit shall not be treated as consideration unless it is appropriated by the supplier towards supply of goods and/ or services.

Illustration 1 : MTNL telecom service provider, receives security deposits from subscriber in connection with supply of telecom services. This Security deposit is refundable. This security deposit is not consideration for supply of service and hence, shall not be taxable. However, if in future, if it is adjusted towards value of services supplied, then this security deposit shall be treated as consideration.

P14:- Mr. A supplied advertising services to V'SmartAcademy for which V'SmartAcademy paid the following:-
a) Payment in cash ₹ 20,000,
b) Payment by cheque ₹ 30,000,
c) Payment by DD ₹ 30,000 &
d) Transfer of BOE ₹ 20,000.
State the amount that shall be considered as consideration for the supply of said service under GST?



P15:- An architect has provided architectural services to Kumar Properties who is a builder. For the supply of this service, architect has retained one flat in the building of Kumar Properties. Whether this transaction is treated as supply of service under GST?

P16:- Kumar Properties have launched a commercial project in the name of 'Kumar prestige point' in Pune. Under this project, it is constructing 3rd & 4th floor in a building. But the prestige point society raised an objection against such construction. So, Kumar Properties supplied the services of painting & repairing of existing property to the society & in return, the society has withdrawn its objection. State whether the painting & repairing of existing building without any charges is liable to GST?

P17:- ABC fertilizers Ltd. is manufacturing a fertilizer to be used in agriculture by many farmers. It has declared the price at ₹100 per packet of 1kg. Government has also announced to give subsidy of 30% on sale of fertilizers by its manufacturer. Company sold 1000 packets of fertilizer to many farmers for which the consideration is received in cash ₹ 70,000 and ₹30,000 is also received from government as a subsidy.
a) Compute the taxable value & GST payable thereon by ABC fertilizers Ltd., if applicable GST rate is 18%?
b) Would your answer differ, if subsidy is received from a charitable trust instead of Government? Give reason for the same.

P18:- ABC Ltd. is a manufacturer of readymade Garments. It had started its factory in the year 20XX-XY. The company removed its first consignment of 10,000 shirts as a donation to Balaji Trust. Explain whether the given transaction would be treated as supply & liable to GST?

Clarification on Applicability of GST on incentive paid by Ministry of Electronics and Information Technology (MeitY) to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions (Circular No. 190/02/2023-GST Dt. 13/01/2023):-

Explanation	<ul style="list-style-type: none"> ➤ Under Incentive scheme for promotion of RuPay Debit Cards & low value BHIM-UPI transactions, Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to Rs.2000/-. ➤ Under this scheme, consideration for such services is paid by CG in the form of incentive instead of being paid by the merchant or the user of the card. ➤ However, it is not a consideration paid by CG for any service supplied by the acquiring bank to CG. ➤ The incentive is in nature of a subsidy directly linked to the price of service & it does not form part of taxable value of the transaction as per provisions of section 2(31) & section 15 of CGST Act, 2017.
Clarification	It is clarified that such incentives paid by MeitY to acquiring banks are in the nature of subsidy & thus not taxable

Clarifications :-

Sr. No.	Issue	Clarification
1.	Donations received by charitable institutions from individual donors, without quid pro quo (Circular No. 116/35/2019 GST dated 11.10.2019):-	<ul style="list-style-type: none"> ➤ Such donations are treated as consideration only if there is quid pro quo (something for something), i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service). ➤ When the name of the donor is displayed in recipient institution's premises to express gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity/advertisement to the donor:- <ul style="list-style-type: none"> ➤ Then there is no supply of service for a consideration i.e. no obligation (quid pro quo) on part of recipient to do anything (supply a service). ➤ So, GST is not leviable where all the following 3 conditions are satisfied namely:- <ul style="list-style-type: none"> ➤ Gift or donation is made to charitable organization, ➤ Payment has the character of gift or donation & ➤ Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement.
2.	Art works sent by artists to galleries for exhibition (Circular No. 22/22/2017 GST dated 21.12.2017):-	<ul style="list-style-type: none"> ➤ 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. ➤ 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.

CBIC Clarification and Press Release (supply without consideration)

Issue	Clarification
Equipment and instruments sent to manufactures factory for repairs and calibration within India on a returnable basis	It is not a supply as removal of goods without consideration. It is sufficient to issue a challan for movement of goods without supply.
Spare part freely Supplied to replace during warranty period.	It is not supply as removal of spares without consideration. GST is not chargeable
free food supplied in anna kshetras run by religious institutions.	GST is not chargeable as food is supplied without consideration
Sale of Prasadam by religious places i.e. (like temples, mosques, churches, gurudwaras, dargahs, etc.)	GST is not chargeable as supply of prasadam or like not in the course of furtherance of business.
Free distribution of goods by a charitable institution	It is not a supply under GST. GST is not chargeable

Business



Supply must be in the course or furtherance of business.

Sir what do you mean by Business?

Normally every supply is liable to GST only if it is made in the course or furtherance of business. (subject to certain exceptions)

Let's understand what the term business means under CGST Act



Sec 2(17) "Business" includes-

- (a) ⇒ any trade, commerce, manufacture, profession, vocation,
⇒ adventure, wager (a place of bet)
or
⇒ any other similar activity,

whether or not it is for a pecuniary benefit (it means intention to earn the profit is not a criterion in determining the states of business.)

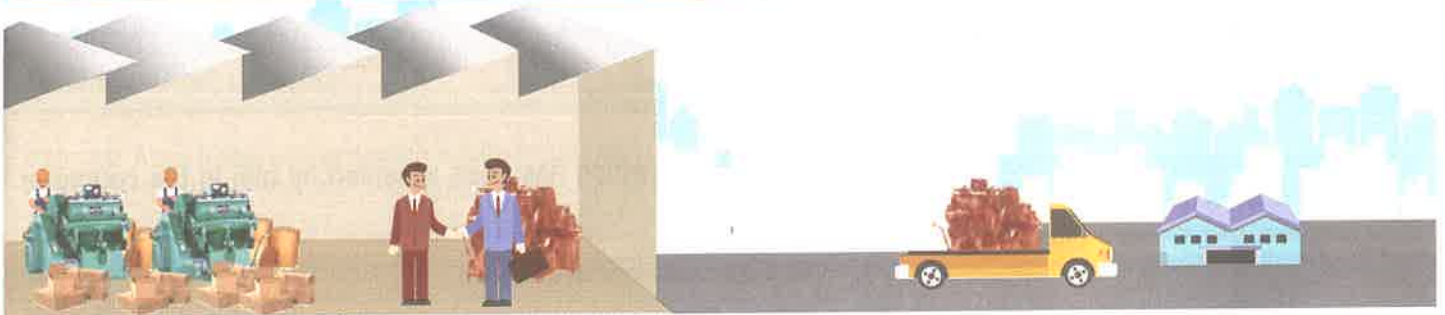
(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a)

Examples :

- i) Sale of old furniture or scrap by a trader of mobile shop.
- ii) Sale of old machinery by manufacturer.

Trading side - cr side } All connected to business.
P/L side - cr side }
Movable assets }

Sale of Scrap



(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction

Examples : Even occasional transactions are also subject to GST e.g. Trader of computer also providing consultancy for "how to set up Computer Shop" to his friend for consideration.

Consultancy on Computer Shop



(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business

Examples : If covers purchase of capital asset or material before commencement of business or sale of stock or fixed asset at the closure of business.

Commencement of business



Closure of business



- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members

Examples : Facilities or benefits provided by club etc. are i) Sports facilities like swimming pool, table tennis, cricket etc. ii) Restaurant facility iii) banquet hall or open ground iv) Accommodation facility (rooms) v) Library vi) Conference room etc.

Services by Club



- (f) admission, for a consideration, of persons to any premises

Examples : Entry tickets to amusement park, diwali mela, cinema theater etc.

- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation

Examples : i) An advocate get appointed as member of the Arbitration Tribunal.
ii) CA in practice provides CFO or independent director services, he would be covered

- (h) Activities of a race club including by way of totalisator or a licence to book maker or activities of a licensed book maker in such club and *Race club ki saari activities aap ke scope mein aayegi.*

he in the course of business.
Totalisator : A device showing the number and amount of bets staked on a race, to facilitate the division of the total among those backing the winner.

Example

Sun Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Sun 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.

Wager



- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

Notes : This clause makes it clear that even the supplies of goods or services or both undertaken by the Central Government, a State Government or any local authority shall also get covered in the definition of business.

Sec 2(17) Business

General Activities

- a) Trade, commerce, manufacture, profession or vocation, etc with profit motive or not.
- b) Activities incidental or ancillary or connect to above clause (a)
- c) Activities in the nature of clause (a) whether in volume or not
- d) (i) Acquisition of goods, capital goods & services in connection with commencement of business or - (ii) - supply of goods, capital goods/services after closure of business

Special Activities

- e) provision of facilities or benefits by club/association, society or any such body to its members for a subscription or any other consideration.
- f) Admission for any consideration to any member
- g) service supplied by a person as the holder of an office in the course of trade/profession.
- h) All Activities of Race club.
- h) Activity or transaction by govt/local authority or a public authority

P19:- PQR Ltd., a manufacturer of Garments, sold its old machinery for ₹ 2,00,000 to Mr. X. Is this transaction a business activity under GST?



P20:- Mr. A is a trader who is dealing in sale & purchase of computers. Mr. B wants to start the same business and hence, he obtains consultancy from Mr. A regarding the same. Is it true that Mr. A has conducted a business activity by giving such consultancy to Mr. B? Give reason for the same.

P21:- KY Ltd. purchased various goods & machineries to set up a factory. These purchases were made before the commencement of factory. State whether the purchases of goods including capital goods are done in the course of business?

P22:- XYZ Ltd. had closed its factory in the year 20XX. Some machines, furniture & stock remained unsold in the factory at the time of its closure. After 2 years, he got one buyer to purchase machinery, furniture and stock that remained unsold before. XYZ Ltd. is seeking your advice whether this sale after 2 years of closure of factory will be treated as business activity or not, even though the main business is already closed?

P23:- At the prestige point, a group of students have formed a Prestige Point Students Association for the welfare of students. This association made 1000 members. It is providing various facilities & services like drinking water, study centres, food, PG, etc. only to its members. This association is charging subscription fees of ₹ 100 for every member and minimum charges for various facilities. Whether the services provided by association to its members is treated as business for the levy of GST?

P24:- Prestige Point Student Association arranged a dance event and called Shahrukh Khan to perform in this event. Entry fee charged was ₹ 1000 per person to attend this event. Is this treated as business under GST?

P25:- State Government is providing various public services like public hospitals, road maintenance, cleaning etc., & they are charging some amount to public for the same. State whether the State Government is treated as a person under GST Act & also state whether it is doing business by providing public services?

IN THE COURSE OF FURTHERANCE OF BUSINESS

Supply of goods or services must be in the course of or furtherance of business. If any supply not in the course of or in furtherance of business even though for consideration then it shall not be treated as supply as per Sec 7(1)(a)

Comment

Thus, In the course or furtherance of business includes all such activities which are being carried out by any person during the course of running of business and also activities which would further the interest of business.

Furtherance of business : Every business person use to think how to develop his business or carrying out new activities. Such activities called as furtherance of business.

Supply to be in course of business of supplier and not of recipient

The term 'supply' is from the point of view of person who is supplying and not person who is receiving the supply. Thus, if supplier is not in the business of supplying the goods or services, GST is not applicable (and consequently, the recipient will not be liable to pay tax under reverse charge).

Really, even otherwise, GST cannot apply as the individual selling his old goods is not it is in the course of business (as selling of old goods is not the business of an individual).

Activity not treated as in course or furtherance of business

Question : An individual buys a car for personal use and after a year sells it to a car dealer. Will the transaction be a supply in terms of CGST/SGST Act? Give reasons for the answer. (FAQ-CBIC Q.10, Ch.4)

Answer : No because supply is not made by the individual in the course of furtherance of business. Further, no input tax credit was admissible on such car at the time of its acquisition as it was meant for non-business use.



Test yourself

Sale of old Jewellery



Example

Aarti sold her old gold bangles and earrings to 'Ranka Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual

Your

Note:-

IMPORT OF SERVICE

As per Sec 7(1)(b) Supply includes "Import of Service" for consideration whether or not in the course or furtherance of business.

अर्थात् India mein kai services import krta hai for consideration whether or not in course of business → GST ✓



Tutorial Notes

1. If services are imported without consideration then the same shall not fall within the scope of the term "Supply". (except the circumstances as provided in Schedule I)
2. The scope of importation of service in this sub-section is very wide as such supply even if received in personal capacity and not in the course or furtherance of business shall also get covered in this sub-section. The aforesaid proposition can be understood better with the help of following examples.

P 26: Mr. Vishal has taken software consultancy service from XYZ Ltd., USA, for the purpose of his business & also paid a consideration of \$10,000 for the same. Answer the following questions:-



- a) Whether this transaction is treated as supply under GST? Give reason for the same.
- b) If answer to (a) is yes, then state the nature of transaction & also compute the GST liability given that the GST rate is 18%.
- c) State the person liable to pay GST under this situation?
- d) If Mr. Vishal has taken this service for a purpose other than business & paid the consideration of \$10000, will this transaction still be treated as supply under GST?

P 27: Mr. A has taken service from Mr. B of USA who is an interior decorator. Being a friend of Mr. A, Mr. B did not charge any amount from him for this service. State with reason whether the given transaction is treated as supply under GST & person liable to pay the same?

Important Note

Import of goods is governed by customs Act, 1962 where additional custom duty (ACD) = IGT is payable on their importation

Exemption: If any individual has imported the service for the purpose other than business (i.e. for personal purpose) then such service is exempted from tax. It's a supply vis 7(1)(b) but exempted by the govt. (This exemption is not applicable for CA Inter, It's just for reference).

Para I

Activities to be treated as supply even if made without consideration

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

Your sch I, para I is applicable only if ITC is taken on business asset which is permanently transferred without consideration. If no ITC is taken then such free supply is not liable to GST.

B/s

Permanent transfer or disposal of business assets

Liabilities	(₹)	Assets	(₹)	ITC taken	Remark
		land & building (Immovable)			Land & building is a immovable property & not liable to GST.
		Plant & machinery (Movable)		Yes.	a) Transfer with consideration: It's a supply U/s 7(1)(a). b) Transfer without consideration: It's a supply U/s 7(1)(c)-sch I, para I.
		Furniture & fixtures (Movable)		Yes	Same as above.
		Vehicles (NO ITC available) & hence not taken		NO.	a) If transfer with consideration: It's a supply U/s 7(1)(a). b) Transfer without consideration: Above Para I is not applicable & it'd not be treated as supply.
		Closing stock		Yes	Stock is also a business asset if it is distributed as free sample to customer then above para is applicable & it would be treated as



P28: Vsmart Pvt. Ltd. had purchase new projectors. The existing old projectors are donated to Trust on which ITC was taken at the time of purchase. Whether it treated as supply and liable to GST? ✓

P29: Vsmart Pvt. Ltd. had permanently transfer existing Television for personal use of directors on which ITC was taken at the time of purchase. Whether it treated as supply and liable to GST? ✓

P30: Vsmart Pvt. Ltd. purchased a car for Business use and after 2 years transferred car for personal consumption to use at home. No ITC is taken on car. Will the transaction be a supply in terms of GST Act? ✗

P31: Bata Ltd. being a trader in foot wear permanently transfers 50% of its stock to Charitable Trust free of cost. ITC is taken on foot ware. Will the transaction be a supply in terms of GST Act? ✓

2. Supply of goods or services or both - without consideration.

- between related persons or
- between distinct person as specified in section 25, (DDP) when made in the course or furtherance of business.

Proviso: Provided that gift not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Difference betⁿ Related person & DDP

Related person

It is separate entity having different PAN but related as per following explanation:

DDP (DDP is 25)

It is different branch or place of business under same PAN but separately registered.

If value of gift given to employee by the employer exceeds ₹50000 (assume 80000) then GST is payable on entire value i.e. 80000.

Related Person (as per explanation to Sec 15) of CGST Act

(i) such persons are officers or directors of one another's business

Examples: VSmart Pvt. Ltd. and VSmart Publication Ltd. having common director Mr. Vishal Bhattad. VSmart Pvt. Ltd. and VSmart Publication Ltd. are treated as related person.

(ii) such persons are legally recognised partners in business

Examples: VSmart Pvt. Ltd. and VSmart Publication Ltd. have running partnership firm jointly VSmart Study Center. VSmart Pvt. Ltd. and VSmart Publication Ltd. are treated as related person.

(iii) such person are employer and employee

Examples: Impact of employer-employee relationship is discussed later.

(iv) an person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them. Supplier & recipient

Examples: If Mr. X owns 25% shares in X Ltd. and 30% shares in Y Ltd., then, both the companies X Ltd. and Y Ltd. are related.

(v) one of them directly or indirectly controls the other Holding & subsidiary.

Examples: If X Ltd. owns 51% shares in Y Ltd., then, both the companies X Ltd. and Y Ltd. are related. If Y Ltd. holds 70% shares in Z Ltd., then X and Z are also related and Y and Z are also related.

(vi) both of them are directly or indirectly controlled by a third person

Examples: If X Ltd. owns 51% shares in Y Ltd and 70% shares in Z Ltd. then, Y and Z are also related.

(vii) together they directly or indirectly control a third person;

Examples : If X Ltd. owns 50% shares in Y Ltd and Z owns balance 50% shares in Y Ltd., then, X and Z are related by virtue of this clause.

(viii) they are members of the same family

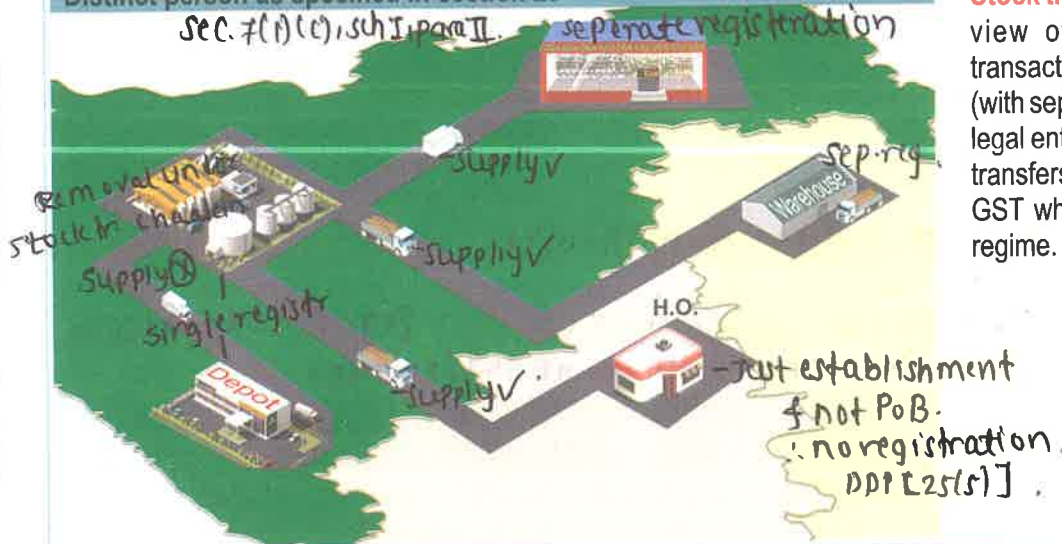
Family [Section 2(49)] : "Family" means,-

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

Explanation 1 : The term "person" also includes legal persons.

Explanation 2 : Sole distributors are deemed to be related : Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Distinct person as specified in section 25



Stock transfers or branch transfers : In view of the aforesaid discussion, transactions between different locations (with separate GST registrations) of same legal entity (e.g. stock transfers or branch transfers) will qualify as 'supply' under GST which is in contrast to the existing regime.

Gift by employer to employee

By virtue of aforesaid definition of related person, employer and employee are related persons. However, services provided by an employee to the employer in the course of or in relation to his employment shall not be treated as supply of services [Schedule III (discussed in subsequent paras)]

Further, Schedule I provides that gifts not exceeding ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

However, gifts of value more than ₹ 50,000 made without consideration are subject to GST, when made in the course or furtherance of business.



Tutorial Notes

The term 'gift' has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

As already mentioned that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services).

P32 :- V'SmartAcademy distributed gifts to its employees in Diwali as follows:-

25.



Employees	Gift	Value (₹)
A	Bike	₹ 40,000
B	Car	₹ 3,00,000
C	Jewellery	₹ 80,000
D	Cash	₹ 70,000
E	Flat for Residence Use	₹ 90,000

State which of the above distribution of gifts to the employees are liable to be taxed under GST & accordingly, compute the taxable value & GST payable thereon by the employer.

(Assume all the above transactions are intra-state & the applicable GST rate is 18%)

3. **Supply of goods -** (selling agent)
- (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal (buying agent) - (eg. interior decorator)

Important Definitions

Sec 2(88) Principal	means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both
Sec 2(5) Agent	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 the business of supply or receipt of goods or services or both on behalf of another.

Analysis :-

Covers only supply of goods, not services Only supply of goods is covered. supply of goods between principal and agent without consideration is also supply. However, supply of service is not covered in Schedule I and thus, it is taxable only if it is made for consideration

Registration

1) If Agent issuing own invoice - compulsory registration u/s 24 in GST.

2) If Agent not issuing own invoice - Reg. is after crossing threshold limit of 10 L/20 L/40 L.

Principal - Agent [Para 3 of Schedule I] [CBIC clarification]

In order to determine whether a particular principal agent relationship falls within the ambit of the Para 3 of Schedule I as discussed above or not, the deciding factor is whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not?

In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

Sl. No	Situations	Stock transfer	Applicability of Para 3
1.	Where the invoice for further supply is being issued by the agent in his name then,	Supplier (P) → Stock Transfer (Free) → Agent (XYZ)	any provision of goods from the principal to the agent would fall within the fold of Para 3 above. & treated as supply. GST = 9000 ITC = (7200) Net = 1800 undertakes further supply Invoice (In the name of Agent). XYZ Agent Mob 5000 GST 9000 @ 18% value = 40000 (By rules) GST @ 18% = 7200
2.	where the invoice is issued by the agent to the customer in the name of the principal,	Supplier (P) → Stock Transfer (Free) → Agent (XYZ) → Customer	such agent shall not fall within the ambit of Para 3 above. stock tr. by principal to agent not treated as supply. GST = 9000 Not treated as supply No GST is payable Removal under stock fr. challan. Invoice in the name of Principal. PGR Mob 5000 GST 9000 @ 18%

(buying agent)

3. where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent	then further provision of the said goods by the agent to the principal would be covered by Para 3 above & tr. of goods by agent to principle would be treated as supply.
---	--

The above clarification can be understood with the help of following scenario based examples:

Example 1	Avaneesh appoints Ramu to procure certain goods from the market. Ramu identifies various suppliers who can provide the goods as desired by Avaneesh and asks the supplier (Golu) to send the goods and to issue the invoice directly to Avaneesh. In this scenario, Ramu is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Ramu is not an agent of Avaneesh for supply of goods in terms of Para 3 of Schedule I. Thus stock transfer from Ramu to Avaneesh is not treated as supply.
Example 2	Yes Bank, a banking company, appoints Maan (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 Yes Bank. The invoice for the supply of the goods is issued by Yes Bank to the successful bidder. In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Maan is not an agent of Yes Bank for the supply of goods in terms of Para 3 of Schedule I.
Example 3	Tushar, an artist, appoints Aarav (auctioneer) to auction his painting. Aarav arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by Aarav on the behalf of Tushar but in his own name and the painting is delivered to the successful bidder. In this scenario, Aarav is not merely providing auctioneering services, but is also supplying the painting on behalf of Tushar to the bidder, and has the authority to transfer the title of the painting on behalf of Tushar. This scenario is covered under Para 3 of Schedule I. It is treated as supply & GST is payable on stock tr. from Tushar to Aarav.
Example 4	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 C&F commission agent is an agent of the principal for the supply of goods in terms of Para 3 of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.
Example 5	Vipul sells agricultural produce by utilizing the services of Kartik who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Kartik identifies the buyers and sells the agricultural produce on behalf of Vipul for which he charges a commission from Vipul. [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, by way of remuneration, a commission or percentage upon the amount involved in such transaction. buyers and sells the agricultural produce on behalf of Vipul for which he charges a commission from Vipul.] 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, by way of remuneration, a commission or percentage upon the amount involved in such transaction. commission agent is an agent of the principal for the supply of goods in terms of Para 3 of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations. In cases where the invoice is issued by Kartik to the buyer, the former is an agent covered under Para 3 of Schedule I. However, in cases where the invoice is issued directly by Vipul to the buyer, the commission agent (Kartik) doesn't fall under the category of agent covered under Para 3.

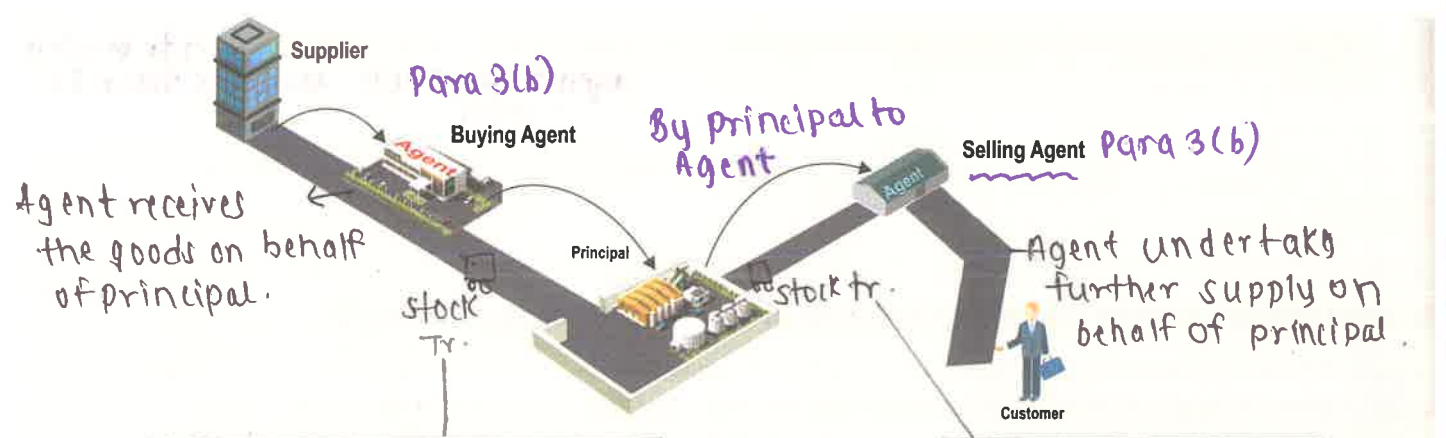
P-33:- XYZ Ltd. is a manufacturer of mobile phones in Nagpur (Maharashtra) & also registered under GST in Maharashtra. It is selling its products directly from its own depot & also through various distributors & consignment agents. Company manufactured 5000 units of mobiles in the month of April & provides the following information:-



1	1000 mobiles are directly sold from its depot to various customers for ₹3000 each (intra-state). Inter state (10.57)
2	1000 mobiles are sold to distributor A of Delhi at ₹2800 each. Inter state
3	500 mobiles are sent to a consignment agent of Gujarat for further sale. The open market value for each mobile is ₹3000. Note that the agent is issuing invoice in his own name.
4	300 mobiles are transferred to its own depot in Nagpur which is not separately registered under GST for further sale.
5	1000 mobiles are transferred to its warehouse in Rajasthan for storage. The open market value for each mobile is ₹3000. 10.57

Determine the taxable value & GST liability of XYZ Ltd. for April, if the applicable rate of GST is 18%.

C&F Agen- clearing & forwarding Agent.



If Agent procured the goods & invoice in the form of agent.

If Agent procured the goods & invoice in the name of principal.

If agent issues his own invoice for further supply

If Agent issues Principal's invoice for further supply

- 1) Stock transfer from Agent to principal is treated as supply as per Para 3.
- 2) GST is payable on stock transfer.

- 1) Stock transfer from agent to principal not treated as supply & Para 3 not applicable
- 2) NO GST is payable on stock transfer.

- 1) Stock transfer from principal to agent is treated as supply as per Para 3
- 2) GST is payable as per by principal as well as agent

- Stock tr. from principal to agent not treated as supply as per Para 3.
- 2) NO GST is payable on stock tr.
- 3) GST is payable by Principal when Agent will sale such goods.

4. Import of Service without consideration

Import of services by a person

- ⇒ from a related person outside India or
- ⇒ from any of his other establishments outside India, in the course or furtherance of business.

Example (related person)

John Ltd, USA is the holding company of VB Ltd., India. VB Ltd. imports Business Consultancy Service from John Ltd. in September, 20XX in the course of furtherance of business. The aforesaid importation of services shall fall within the ambit of term "supply" and VB Ltd. shall be liable to pay integrated tax under IGST Act, 20XX.

Example (other establishment)

ABC Associate received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since ABC Associates and the branch office are related persons, services received by ABC Associates will qualify as supply even though the head office has not charged anything from it.

Analysis

<p>Sec 7(1)(b)</p> <p>Import of services</p> <ul style="list-style-type: none"> ⇒ for a consideration ⇒ whether or not in the course or furtherance of business 	<p>Schedule I - Entry 4</p> <p>import of services by a person</p> <ul style="list-style-type: none"> ⇒ from a related person outside India or ⇒ from any of his other establishments outside India, in the course or furtherance of business.
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Lets try to understand Taxability of import of service with the help of Chart

1) Agar koi service import hoti hai from any person (Related/ Unrelated) for consideration whether or not in the course or furtherance of business then it would be treated as supply v/s 7(1)(b) & liable to IGST.

Thus, hum ye keh skte hai ki free import service pe GST nhi aayega

2) Lekin agar service, freely import kiya jaye (without consideration) from related person or own establishment outside India toh supply bola jayega or GST aayega.

4) Pr ye khyaal rkha jaye ki ye service imported business ke liye use kijaye. ntrto agr service import hoti hai for personal purpose toh supply nhi mana jayega.

P 34:- Mr. VB has taken architectural service from Mr. John (USA). State with reason whether the following independent transactions are treated as supply under GST & liable to tax.

- a) Mr. John is a related person to whom a consideration of \$10,000 is paid for the service by Mr. VB. 7(1)(b)
- b) Mr. John is an unrelated person to whom a consideration of \$10,000 is paid for the service by Mr. VB but the service is taken for personal purpose.
- c) Mr. John is an unrelated person who provided the service without any consideration.
- d) Mr. John is a related person who provided the service without any consideration.



SPECIAL DISCUSSION

Sec 7(1)(aa) :- Transactions Between J.V / Club / Association with their members & Vice versa

The activities or transactions,

- ➔ by a person, other than an individual,
- ➔ to its members or constituents or vice-versa for cash, deferred payment or other valuable consideration.

Explanation:- For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority,

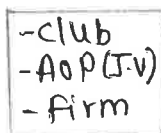
the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another

Supply by members to club

[Supply by club to member]



member 1
for consideration
supply v/s 7(1)(aa)



so4/so5

for consideration



member 2

Supply v/s 7(1)(aa)

Note : Free supply of goods / services betn club etc, & members are not liable to GST.

SCHEDULE- II [Sec 7(1A)]

Activities or transactions to be treated as Supply of Goods or Supply of Services

Sec 7 is amended by Central GST (Amendment) Act, 2018

Section 7 - Meaning and scope of supply

1	Supply includes -
(a)	All forms of supply of goods and/ or services or both such as ➤ sale transfer, barter, exchange, licence, rental, lease or disposal ➤ made or agreed to be made ➤ for a consideration by a person ➤ in the course or furtherance of business.
(aa)	The activities or transactions, ➤ by a person, other than an individual, ➤ to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
	Explanation:- For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another
(b)	Importation of services , for a consideration <i>whether or not in the course or furtherance of business</i> and
(c)	The activities specified in Schedule I, made or agreed to be made without a consideration.
1A	<i>Where certain activities or transaction constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.</i>

Newly Inserted
by F.A. 2021

IMPORTANCE OF SCHEDULE II

Schedule II plays an important role in the bifurcation of specific activities. Point to be noted here is that even though activities such as sale, transfer, barter, exchange, license, rental, lease or disposal have been stated in Section 7 (1) (a) Schedule II provides an insight on whether the same should be classified under the category of supply of goods or supply of services.

Activities or Transactions to be treated as Supply of Goods or Supply of Services

1. Transfer

Supply of Goods	Supply of Service
<p>(a) Any transfer of the <u>title in goods</u> is a supply of goods.</p> <p>Example Furniture House sold furniture to Mr. Ganesh. This will be treated as supply of goods, because on sale, the title of the furniture is transferred to Mr. Ganesh.</p> <p><small>Tutorial Notes</small> It already covered under Sec 7(1)(a). Here, it is repeated just to classify as a supply of goods.</p> <p>(c) Any transfer of <u>title in goods</u> under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.</p> <p>Example Furniture House supplied furniture to Mr. Ramesh in an agreement to receive payments in 6 instalments. This amounts supply of goods, because the title of the furniture will pass on to Mr. Ramesh on completing the payment of 6 instalments.</p> <p><small>Tutorial Notes</small></p> <ul style="list-style-type: none"> Typically, it will cover 'hire purchases transaction' and 'installment purchase transaction' Entire consideration for such transaction shall constitute supply of goods. 	<p>(b) Any transfer of right <u>renting / hiring</u></p> <ul style="list-style-type: none"> in goods or of undivided share in goods <p><u>without the transfer of title therefore, is a supply of services.</u></p> <p>Example Mr. A shall transfers right to use of a JCB Machine for a period of two months for an agreed consideration to Mr. B in August, 20XX.</p> <p>The foregoing transfer of JCB Machine without transfer of title in JCB Machine shall be treated as a supply of service.</p> <p>Example Mr. X and Mr. Y are joint-owner/co-owner of a movable property. Mr. X sells his share in movable property (goods) to another person. It would be treated as transfer of undivided shares in goods.</p>

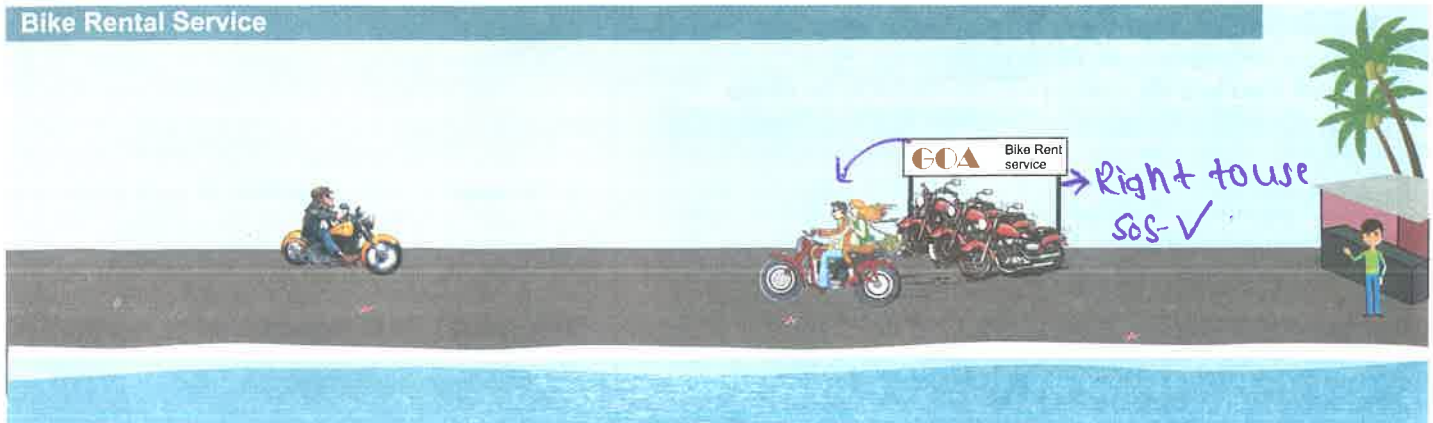
SALE



Hire Purchase Sale



Bike Rental Service




2. Land and building

Supply of Service

(a) Any lease, tenancy, easement, licence to occupy **land** is a supply of services

Example Mr. Suresh lets out land on lease to Furniture House. The letting out of land on lease is considered as supply of services.

 Basically, it covers Lease, tenancy, easement, license to occupy land.

Tutorial Notes

(b) Any lease or letting out of the building including

- a commercial,
- industrial or
- residential complex

for business or commerce, either wholly or partly, is a supply of service.



Residential House Rented for Residential Use




3. Treatment of process

Supply of Service

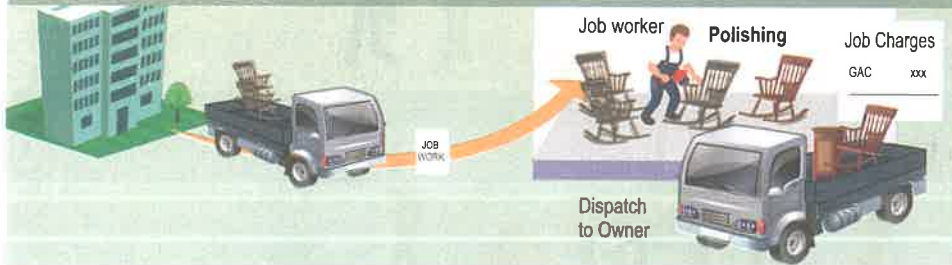
(a) Any **treatment or process** which is applied to another person's **goods** is a supply of services.

Example 1 XYZ Tools sent their tools to Mercury for heat treatment to harden them. The heat treatment done by Mercury is a supply of services.

 A careful perusal of this entry reveals that any job-work carried out by a job-worker on another person's goods shall be treated as a supply of services. Further, it shall be immaterial, whether the job-work is carried out by a job-worker with or without any material.

Tutorial Notes

Process of Job worker



eg - Repairing Services.

4. Transfer of business assets

Supply of Goods

(a) where goods forming part of the **assets of a business** are
 → transferred or disposed of
 → by or under the directions of the person carrying on the business
 so as no longer to form part of those assets,
such transfer or disposal is a supply of goods by the person

Example 1 With consideration

An insurance company disposes its used computer for ₹ 500 (its book value is more than ₹ 500) by giving it to a charitable organisation. The disposal of the computer is a supply of goods and subject to GST.

Example 2 Without consideration

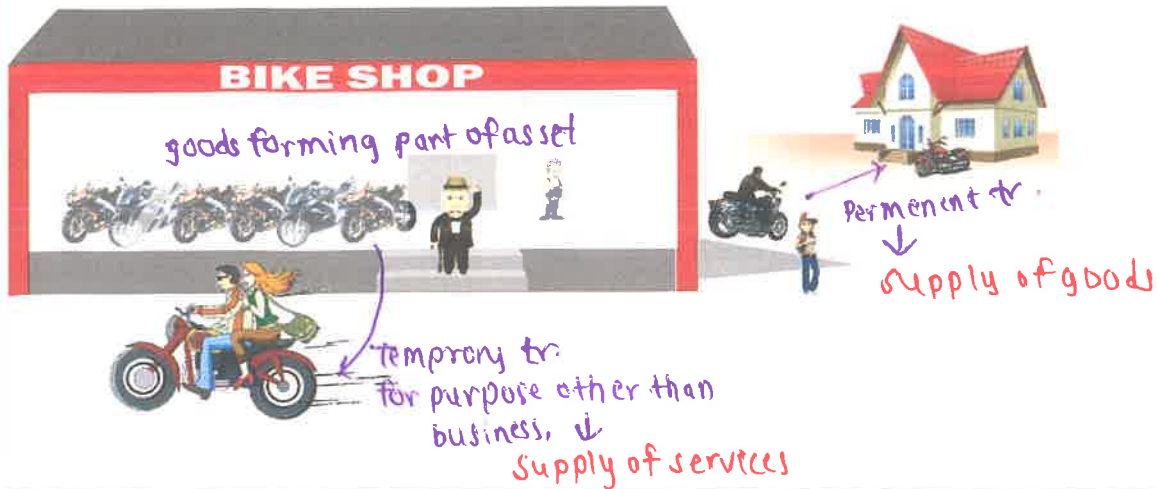
GST registered retailer is in the business of supplying mineral water. His family is consuming 100 bottles of mineral water regularly every month. The disposal of the mineral water for his family's consumption is a supply of goods and subject to GST.

Supply of Service

(b) where,
 → by or under the direction of a person carrying on a business,
 → **goods held or used for the purposes of the business**
 are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business,

the usage or making available of such goods is a supply of services temporary transfer other than business

Example 1 Ramesh Enterprise is a supplier of tents for its business. The company lends a few tents to its manager for his son's wedding. The private usage of the tents by the manager (with or without a consideration) is deemed as a supply of services by the company to him.



- (c) where any **person ceases to be a taxable person**, ^{deregistration} **any goods forming part of the assets of any business carried on by him** 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, **unless— exception:**
- the business is transferred as a going concern to another person; or
 - the business is carried on by a personal representative who is deemed to be a taxable person.

P 35:- V'Smart Academy transferred 2 Televisions out of its business assets on which ITC is taken to its students as follows:-



- Permanently transferred 1 Television to student A for his personal use. $₹ 50,000$
- Temporarily transferred another Television to Student B for his personal use. $₹ 50,000$

Determine whether the above transactions would be treated as supply under GST & also classify such transactions as supply of goods or supply of services.

P 36:- V'Smart Academy Pvt. Ltd. is a professional coaching institute which is supplying training & coaching services. The directors of the company declared the business to be closed and to get de-registered under GST as it ceases to be a taxable person. Following are the goods forming part of its business assets at the time of closure of business:-

S.No.	Assets	Value (₹ in Lakhs)
1	Land & Building	80
2	Furniture	40
3	Camera & Television	20
4	Benches	10
5	Other movable goods	15

32

- Determine whether the GST is payable under the given situation, if the business is not transferred as a going concern to another person. If yes, compute the taxable value on which GST shall be paid.
- What will be your answer, if business is continued by another person or a representative of V'Smart Academy pvt. Ltd.

5. Supply of services

The following shall be treated as supply of service, namely:—

(a) renting of immovable property.

Tutorial Notes

1. Immovable property includes land, building for anything permanently fastened attached to earth.
2. Lease, tenancy or letting out of the land and building is already covered in entry 2 of Schedule II. In this entry it seems that government want cover renting of other immovable property

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received

- ➔ after issuance of completion certificate, where required, by the competent authority or
- ➔ after its first occupation, whichever is earlier.

Explanation

For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

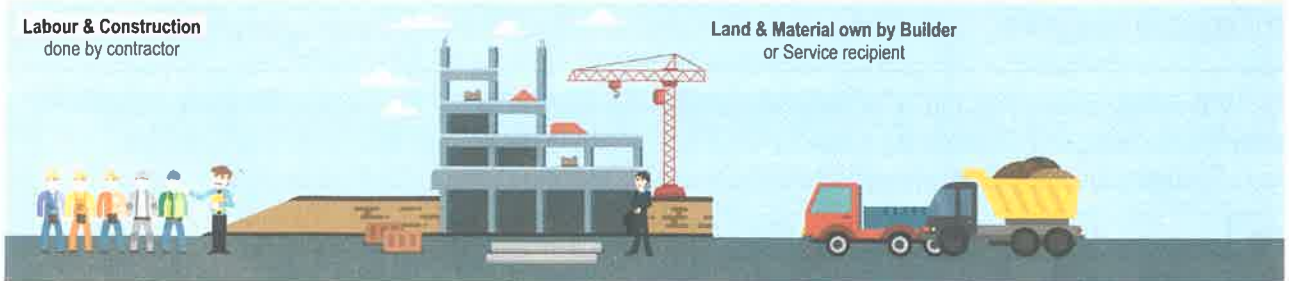
- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
- (ii) a chartered engineer registered with the Institution of Engineers (India); or
- (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure.

Tutorial Notes

1. Construction contract where only labour is involved and material is provided by client.
2. Services supplied by builder or developers for construction of building where advances (consideration) received before completion certificate or first occupancy

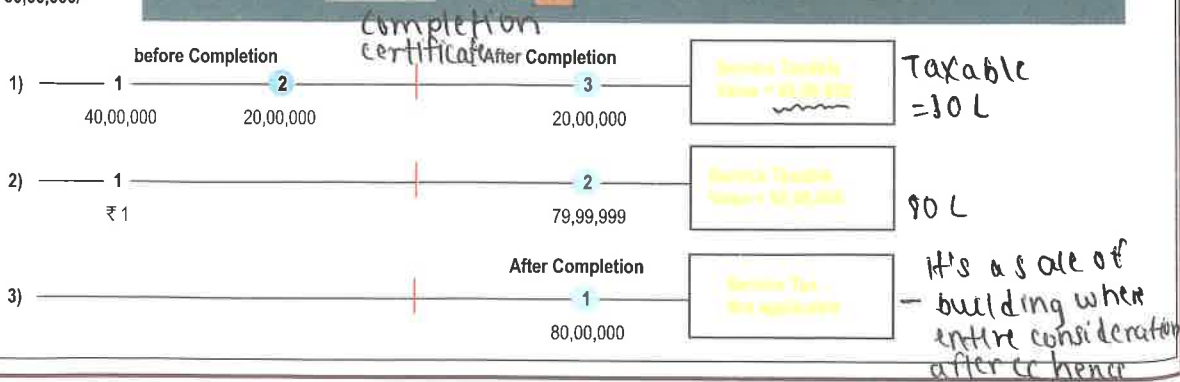
Construction Service by Contractor



Construction of Service intended for sale before completion



SITE OFFICE
Flat Value 80,00,000/-



P37:- Kumar Builders has launched a residential house scheme of 100 flats in the month of April. 32



Give answer to the following independent cases:-

- Mr. A booked a flat in this scheme for ₹80,00,000. The 1st instalment of ₹20,00,000 is paid at the time of booking itself and the remaining instalments are paid as per the stages of completion of construction. Determine whether the Kumar Builders is liable to charge GST to Mr. A & also mention the taxable value in the given case.
- Will your answer differ, if only Rs 1 is paid as 1st instalment & entire remaining amount of ₹ 79,99,999 is paid after the issuance of completion certificate? Explain.
- Kumar Builders sold 50 flats before the issuance of completion certificate and remaining 50 flats after the issuance of completion certificate. The value of each flat is ₹70,00,000. Calculate the GST payable by Kumar Builders, if the applicable rate of GST is 5%.

P38:- Virat Builders has launched a scheme of commercial complex to be named as Kumar Prestige Point. It has committed to complete the scheme within 2 years from the date of booking. Mr. Rahul booked one shop in this Scheme for ₹60,00,000. The builder has not completed the scheme within the committed time. Instead, it started giving occupancy to the customers before the issuance of completion certificate. Analyse the given situation with regard to its taxability under the provisions of GST law & give answer to the following situations:- 33

- Mr. Rahul received occupancy of his shop on 01.05.20XX whereas the completion certificate is received from the Municipal Corporation on 15.05.20XX. HW
- If entire consideration of ₹60,00,000 is paid by Mr. Rahul on 10.05.20XX, is he is liable to pay GST? HW

(c) **Temporary transfer or permitting the use or enjoyment of any intellectual property right**



Tutorial Notes

1) Intellectual property right in common trade parlance includes the following:

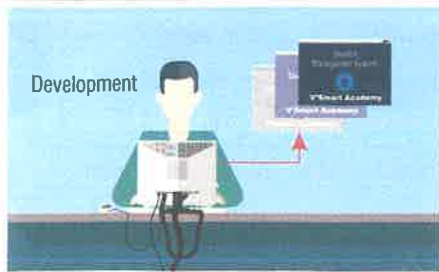
- Copyright
- Patents
- Trademarks
- Designs
- Any other similar right to an intangible property

2) IPR normally treated as movable property i.e. goods hence following analysis you must have to keep in mind

Supply of Goods	Supply of Service
Sale /permanent transfer of IPR shall be treated as supply of goods under sec 7(1A) read with Schedule II (Para 5(c))	Temporary transfer or permitting the use or enjoyment of any intellectual property right shall be treated as supply of service under Sec 7(1A) read with Schedule II(Para 5(c))

(d)

- Development,
 - design,
 - programming,
 - customization,
 - adaptation,
 - upgradation,
 - enhancement,
 - implementation
- of information technology software"
- Supply of Service.*



Customized Software

- 1) If is tailor made software made as per requirement of customer.
- 2) These contract involved
 - provision of service &
 - transfer of property in goods [HDD/CD]
- 3) Pre-dominant nature of transaction is supply of service

@18%

Supply of Service



Pre-packed / canned / Shrink-Wrapped Software

- 1) There software treated as goods when put on any media [Tata Consultancy Service 2002]

Sale of Pre-packed software

License to use prepacked Software

Supply of goods

Supply of Service

@12%

P39:- Infotech Ltd. is a software company which is provided the following information:-



S.No.	Particulars	₹ in Lakhs
1	Sale of pre-packed software	80
2	Developing & designing of software for various clients	40
3	Enhancement, adaptation & upgradation of existing software of clients	20
4	License given to use pre-packed software	10

Answer the following questions:-

- 1) Classify each of the above transactions as either supply of service or supply of goods.
- 2) Compute the GST Liability, if applicable GST rate on software supplied as goods is 12% and on software supplied as services is 18%.

Also refer clarification on pg 13

(e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act,

After referring to the aforementioned definition the said clause can be broken in to three parts which read as follows:

(i) **Obligation to refrain from an act:** Means any act, which binds a person, of not to do or not doing a particular thing in a particular manner in a given circumstances.

For example: Non-compete fees for not doing a particular business or not to practice a particular profession.

(ii) **Obligation to tolerate an act or a situation:** Means to accept the occurrence or existence of an act or a particular thing, which is imposed by a condition or circumstances, in a contract, agreement or any other document which is legally enforceable by law.

For Example:

- a) Penalty on early termination of rental or lease agreement.
- b) Prepayment charges on early payment of loan installment.
- c) Demurrage charges paid to the port authorities for not clearing the goods within a specified period of time.

(iii) **Obligation to do an Act:** Means to perform or to do something, necessarily prescribed in an agreement, contract or any other document which is required under any law for the time being in force.

For Example : Non compete Agreements

By virtue of a non-compete agreements, one party agrees, for a consideration, not to compete with one other in any specified manner. Such action on the part of one person is an activity for consideration and will be covered by declared services.

(f) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

It means supply of goods + services (combine contract)

The following composite supplies shall be treated as a supply of services, namely:

(a) **Works Contract** as defined in clause (119) of section 2; and

Tutorial Notes

Sec 2(119) "works contract" means *Defn not imp.*

- a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning
- of any immovable property
- wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Note : Under GST regime work contract only in relation to immovable property is covered and no concept of works contract exist in relation to movable goods.

Works Contract of immovable property = Supply of Service Entry 6(a) Schedule II

Labour + Material = Works Contract (construction)



Labour + Material = Works Contract (Erection/Installation)



Labour + Material = Works Contract (Tiling & Painting)



P 40:- Mr. Akshay has entered into a contract with Amit Builders to do electrical fittings. This contract includes supply of electrical materials for ₹90,00,00 & supply of labour for ₹30,00,000. The profit margin in this contract is ₹30,00,000 & the total project cost is ₹1,50,00,000. Give answer to the following:-



- State the nature of contract for the levy of GST & also classify the same under Schedule II.
- Can Mr. Akshay pay GST for providing goods & services separately?

(b) **supply,**

eg- Hotel mess, shaba

- by way of or as part of any service or
- in any other manner whatsoever,

of **goods**, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.



Koi bhi aisi service kame drink diya jaye (except which includes alcohol) will be deemed service & not goods.

SCHEDULE- III [Sec 7(2)(a)]

Negative list of supply.

Activities or Transactions Which shall be treated neither as a supply of goods nor a supply of Services

1

Services by an employee to the employer in the course of or in relation to his employment.

eg- Perk, gratuity, pension, VRS, Leave encashment.

Analysis - Departmental Clarification

a) **Amounts received by an employee from employer on premature termination of contract of employment** - Not supply, as it arises in course of employment:

Such amounts paid by the employer to the employee for premature termination of a contract of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment. Hence, amounts so paid would not be chargeable to GST.

b) **Non-compete fees - Taxable:** However, any amount paid for not joining a competing business would be taxable, as it is paid for providing the service of forbearance to act.

vishal sir gave his employee ₹ 50000 to not join competitor for making notes.

Perquisites by employer to employee :- [Circular No. 172/04/2022-GST Dated the 6th July, 2022]

Issue:- whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

Legal provision :- Schedule III to the CGST Act provides that "services by employee to the employer in the course of or in relation to his employment" will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment.

Clarification:- Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment.

It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.

Perquisites

Your

Note:-

If perquisites (i.e. free goods/services) are given by employer to employee in terms of employment contract



As per para 1-sch III - It would not be treated as supply & no GST is payable.

If perquisites are not forming a part of contract i.e. given as a gift



As per proviso to para 2 of sch I, if value upto ₹ 50000 in a FY then it would not be treated as supply. But if its value exceed 50000 then GST is payable on entire amount.

2

3

(a)

(b)

(c)

4

5



P 41:- Mr. Sarang is an employee of V'Smart Academy providing his services in the course of his employment since last 5 years. He is receiving a salary of ₹20,000 p.m. 31

Answer the following questions:-

- Whether such salary is liable to GST?
- Will your answer differ, if Mr. Sarang is appointed on casual basis with delay wages?
- V'Smart Academy offered ₹500000 to Mr. Sarang for not joining any other Academy for minimum period of 10 years as he is the best employee & V'Smart do not want to lose him. State whether the amount of ₹500000 paid by V'Smart Academy is liable to GST.

P42:- Mr. A is appointed as an employee in Infotech Ltd., a BPO. His monthly salary is ₹2,00,000. As per the terms of employment, if Mr. A is terminated by the company from his service before the agreed period of 3 years, then the company will pay him salary for 3 months as a compensation for pre-mature termination of contract. The company terminated Mr. A after 18 months of joining and paid compensation of ₹60,00,000 to him. Whether this compensation paid is treated as supply under GST & liable to tax? Give reason. HVV

It is in relation to employment - Hence not a supply.

2 Services by any court or Tribunal established under any law for the time being in force.

Explanation For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

3 (a) The functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities Supply X

(b) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity Supply - X

Example Diplomats, Governors of the States, C&AG of India, Attorney General of India (AGI) etc.

(c) The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause. Supply - X

Example
 1. Finance Commission is a body established by President of India (under Article 280 of Constitution of India). Chairman/Member/Directors (who are not employees) of these bodies shall be out of GST.
 2. Telecom Regulatory Authority of India (TRAI) is also a body established by CG. Chairman/Member/Directors (Who are not employees) of these bodies shall be out of GST

4 Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

GST - X



5 Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building

Land & Building

Sale of Land & building
 It would not be treated as supply as per para 5 of sch III

Leasing, licencing, renting or any other contract of land & Building - It would be treated as supply of service

Construction of building intended for sale as per clause (b) of para 5 of sch II
 It would be treated as

Clarifications regarding applicable GST rates & exemptions on certain services [Circular No. 177/09/2022-GST]

Issue	Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST
Clarification	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. It is clarified that sale of such developed land is also sale of land and accordingly does not attract GST.

6 Actionable claims, other than lottery, betting and gambling.

Actionable claims [covered in the definition of goods]

Lottery, betting, gambling
- this actionable claims
would be treated as supply
of goods & liable to GST

Any other actionable claim
eg. - Bill of exchange, promissory note
It would not be treated as
supply as per para 6 - Sch II

Your i) Employee - employer ka zagda hua.

Note:- ii) Dono court mein gye

iii) MP - MLA ki shifaris li but unho ne kaha ye
constitutional post hai, hum kuch nhi kr skte

iv) court ka result aane se pehle chal bse.

v) Ptachla zagda, land & building ka tha

vi) Jo land & building Lottery, betting, gambling
mein jeeti gyi thi.

COMPOSITE & MIXED SUPPLY

Introduction

As we look in market today, we notice that very often, two or more goods or a combination of goods and services, are supplied together. This could be due to either of the following reasons:

- ⇒ **A sales strategy** – to attract more customers
- ⇒ **The nature or type of goods or services**, which requires them to be bundled or supplied together

GST is payable on individual goods or services or both at the notified rates. The application of rates poses no problem if the supply is of individual goods or individual services, which is clearly identifiable and such goods or services are subject to a particular rate of tax.

Under the GST law, supplies which are bundled with two or more supplies of goods or services or combination of goods and services are classified, with distinct characteristics, as Composite supply or Mixed supply. This is a new concept introduced in GST which will cover supplies made together whether the supplies are related or not.

Need of Classification of Bundle supplies

- ⇒ In many cases, the transactions that fall within the scope of GST may consist of more than one element. These elements may be a mix of goods, or services, or both.
- ⇒ Sometimes these elements, if supplied separately, may have different GST liabilities depending upon the rates.
applicability of time of supply and place of supply provisions.
- ⇒ To avoid disputes about whether the supplier is making a single supply with one liability, or multiple supplies with different liabilities, it has to be determined whether the supply is one of goods, or of services, or it is a supply constituted of both goods and services (composite supplies/mixed supplies).

Sec 8 : Composite and Mixed Supply

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:
- | | |
|-----|--|
| (a) | a composite supply comprising ^{Goods + Goods / GTS / S+S} two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply ; and |
| (b) | a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax . |

Definition, Concept and Classification of Composite supply

Definition

Composite Supply as per Sec 2 (30) : means a supply made by a taxable person to a recipient consisting of

- ➔ two or more taxable supplies of goods or services or both or any combination thereof
- ➔ which are **naturally bundled** and
- ➔ **supplied in conjunction with each other in ordinary course of business one of which is a principal supply**



Illustration.— (Goods + Service) Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Definition:

Sec 2(90) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

Concept Not to learn.

How to determine whether the supply are naturally bundled in the ordinary course of business?

No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined below

1. Large number of recipient reasonably expect such supply to be provided as a package

Example : (i) Breakfast with hotel room booking,

2. Majority of Supplier in a particular area or business provide such supply in bundle

Example : (i) Television Set with warranty and servicing
(ii) Printer with Scanner

3. Nature of various supply of goods or services in a bundle

Example : (i) Stay in a Hotel with Laundering Free
(ii) Mobile with Charger

4. Elements are normally advertised as a package

Example : (i) Dosa pan with wooden spoon

5. The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

Example : (i) Spectacles with glass and frame

Classification

As we have seen as per Sec 8 (a) Composite Supply shall be treated as a supply of such principal supply.

Example : When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.

Definition, Concept and Classification of Mixed supply

Definition

Mixed Supply as per Sec 2 (74) : means

- Two or more individual supplies of goods or services or any combination thereof
- Made in conjunction with each other by a taxable person for a **single price**
- Where such supply does not constitute a composite supply

(Not naturally bundled)



Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately

Concept

How to determine if a particular supply is a mixed supply?

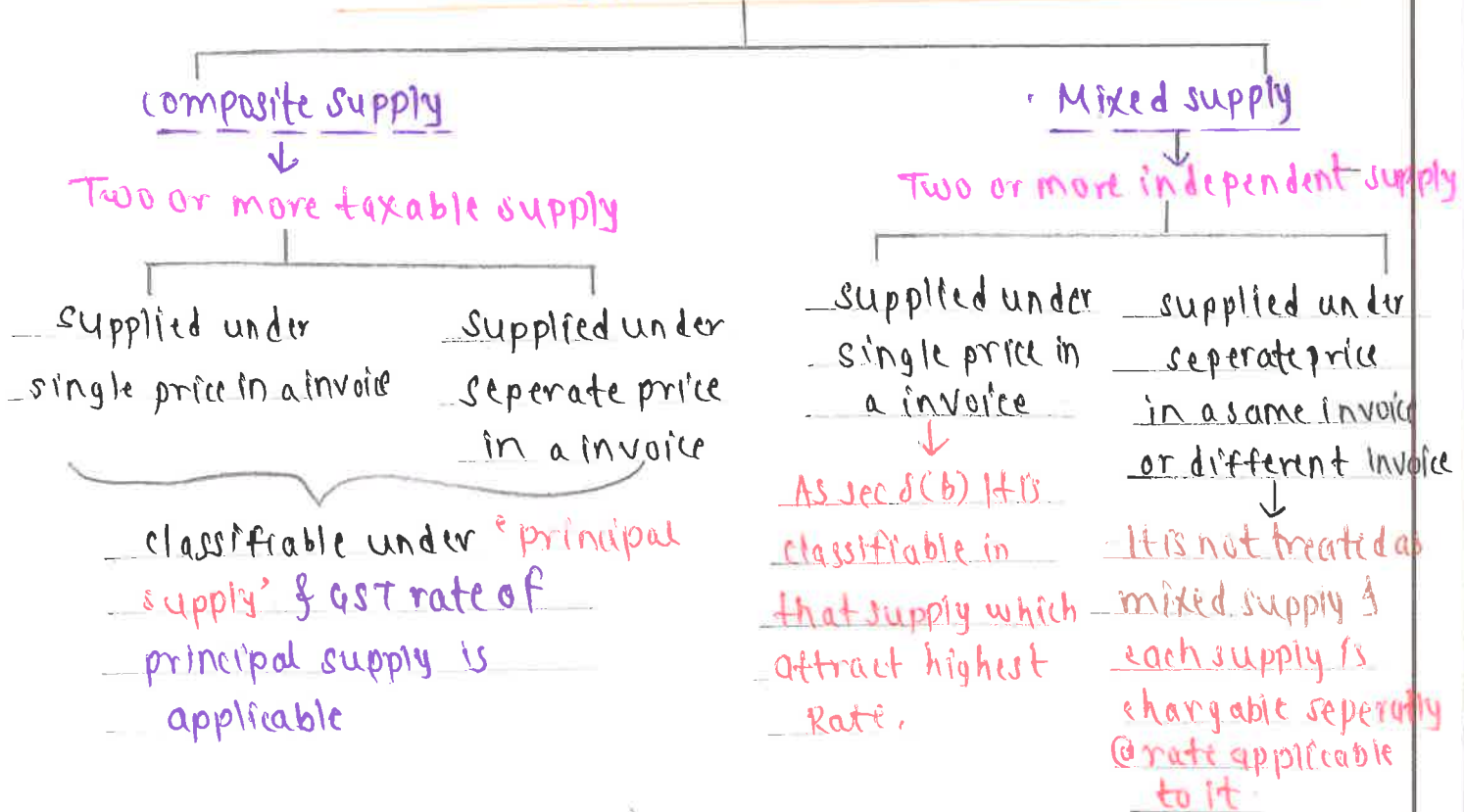
In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a mixed supply.

Classification

As we have seen as per Sec 8 Clause (b) Mixed Supply shall be treated as a supply of that particular supply that attracts highest rate of tax

Example : A Shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

Classification of supply & Applicable GST Rate



Classification of Supply (Goods + Goods)- Examples

Situations	Classification	Composite or Mixed Supply	Applicable Rate
Supply of Laptop with Bag and Power Cable	Laptop Rate 18%	Composite Supply	18% rate is applicable
A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. All can be sold separately.	Aerated waters, containing added sugar or other sweetening matter or flavoured is taxed at 28% with 12% Compensation Cess. Dry Fruits is taxed at the rate of 12%. Cake is taxed at the rate of 18%.	Mixed Supply	Aerated drinks will be treated as principal supply. Hence rate of aerated drinks will be considered i.e. 28%
Consider a kit which contains a tie, a watch, a wallet, and a pen, as a combo, for Rs. 4,500. Tie, watch, wallet, and pen are bundled as a kit. The supply of a tie does not naturally necessitate the supply of other elements (watch, wallet, pen) and vice versa. The kit is supplied for a single price.	Watch is taxed at 28%. Wallet is taxed at 28%. Pens are taxed at the rate of 12%.	Mixed Supply	Hence rate applicable will be 28%

Classification of Supply (Service + Service)- Examples

Situations	Classification	Composite or Mixed Supply	Applicable Rate
A 5-star hotel in Mumbai provides a 4 days/3 nights package, with breakfast. This is a composite supply as the package of accommodation facilities and breakfast is natural combination in the ordinary course of business for a hotel.	Supply of food/drinks in 5-star hotel is taxed at the rate of 28%. Accommodation in a 5 star hotel where rate is Rs 5000 and above per night is taxed at the rate of 18%.	Composite Supply	In this case, the hotel accommodation is the principal supply, and breakfast is ancillary to the hotel accommodation. Hence applicable rate is 18%
A 5-star hotel in Mumbai provides a 4 day/3 nights package with the breakfast and one day Mumbai Darshan. The inclusion of Mumbai Darshan in this package is not a natural requisite to accommodation in the hotel.	Accommodation in a 5-star hotel where rate is Rs 7500 and above is taxed at the rate of 28% . Supply of services of Tour Operator is taxed at 5%. The rate applicable will be 28%. (The hotel would hire an operator for sight seeing purpose)	Mixed Supply	Highest rate 28% is applicable

Classification of Supply (Goods + Service)- Examples

Situations	Classification	Composite or Mixed Supply	Applicable Rate
Mr C buys a car from a car dealer. The contract for the purchase of the car is inclusive of its delivery. In this case, the principal supply is the goods (the car) and the incidental supply is the services (its delivery).	Transportation of Goods is taxed at the rate of 5%. Motor Cars are taxed at the rate of 28%.	Composite Supply	Hence rate applicable will be 28%
A car repair workshop supplies both repair services and car batteries to its customers. When it charges a customer for supply of repair services and a car battery at a single inclusive price.	Batteries are taxed at the rate of 28%. Service of Repair (others) is at 18%.	Mixed Supply	Hence it will be taxed at 28%

CBIC Clarifications

Deemed Supply

Circular No 1/1/2017- IGST Act, Dated 7/7/2017

Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance

Issue: Whether inter-state movement of various modes of conveyance carrying goods or passengers or both, or for repairs and maintenance, between distinct persons as specified in section 25(4) of the CGST Act [except in cases where such movement is for further supply of the same conveyance], is leviable to IGST?

Clarification:-

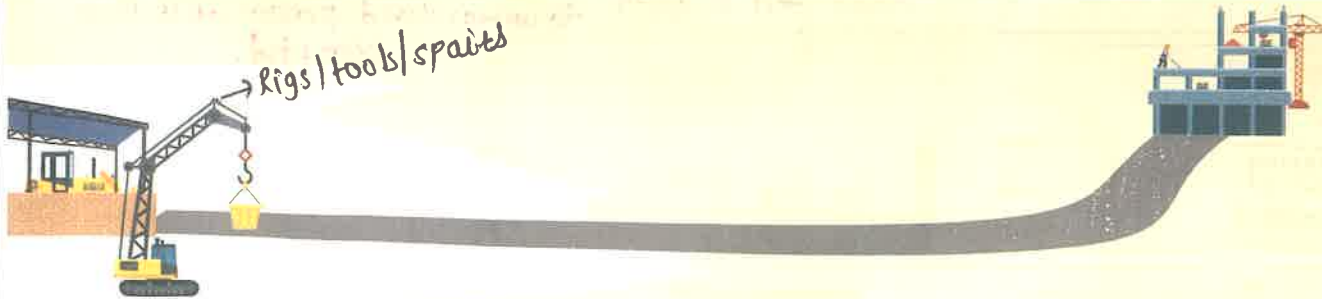
Inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including

- i. Trains, ii. Buses, iii. Trucks, iv. Tankers, v. Trailers, vi. Vessels, vii. Containers, viii. Aircrafts



S.No.	Situations	Facts	Clarification/Taxability
1	Interstate movement of conveyances Carrying Goods or passenger or both	Between deemed distinct person u/s 25(4)	shall be Treated neither as supply of goods or services & no IGST to be levied
2	Interstate movement of conveyances for Repairs & Maintenance	Between deemed distinct person u/s 25(4)	1) Tax liability on interstate movement on conveyance :- shall be treated neither as supply of goods or services & no IGST to be levied 2) Tax Liability on repairs & maintenance service supplied by DDP:-On repairs & maintenance charges done for such conveyances GST shall be payable
3	Interstate movement of conveyances for its further supply	Between deemed distinct person u/s 25(4)	Treated as supply of goods or services & IGST to be levied

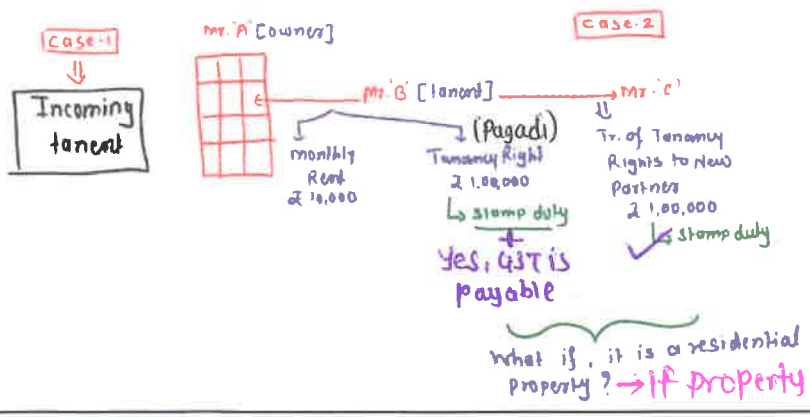
Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]- [Circular no. 21/21/2017 dt 22/11/2017]



S.No	Situations	Facts	Clarification & Taxability
1	Interstate movement of rigs, tools and spares, and all goods on wheels like cranes	Between deemed distinct person u/s 25(4)	shall be Treated neither as supply of goods or services & no IGST to be levied

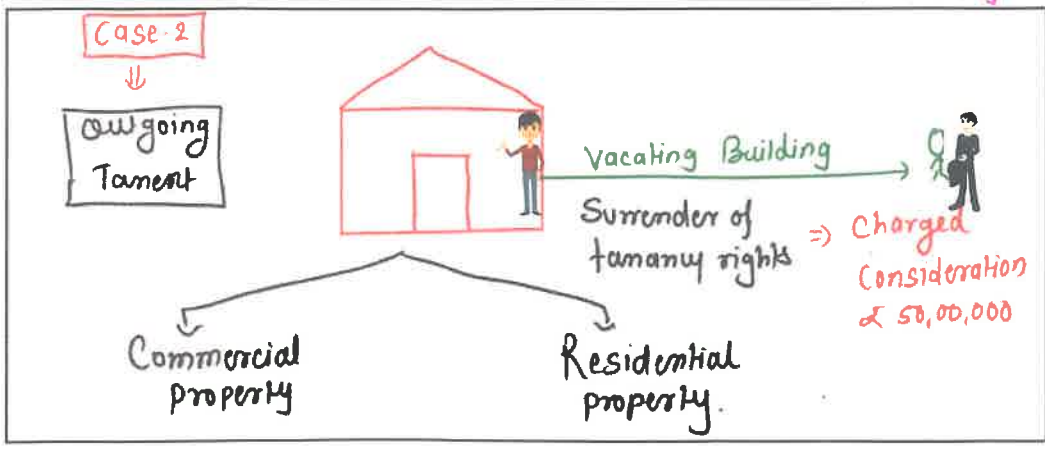
Issue related to taxability of 'tenancy rights' under GST Circular no 44/2018 – CT dt 02/05/2018

<p>Facts</p>	<p>In "Pagadi system" the tenant acquires, tenancy rights in the property against payment of tenancy premium (Pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement. Also, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.</p>
<p>Issue:-</p>	<p>(i) Whether transfer of tenancy rights to an incoming tenant for a consideration in form of tenancy premium shall attract GST even when stamp duty and registration charges is levied on the said premium? (ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?</p>
<p>Legal Provision:-</p>	<ul style="list-style-type: none"> As per para 2 of Schedule II, any lease, tenancy, easement, licence to occupy land is classified under supply of service and here, transfer of tenancy rights is a form of lease or renting of property. The transfer of tenancy rights cannot be treated as sale of land/ building in para 5 of Schedule III. Thus, it is not a negative list activity (discussed later). However, renting of residential dwelling for use as a residence is exempt (discussed in exemption chapter).
<p>Clarification</p>	<ul style="list-style-type: none"> It has been clarified that the activity of transfer of tenancy right to new tenant against consideration [i.e. tenancy premium] is squarely covered under supply of service & such tenancy premium is liable to GST. Merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST. Hence, Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. But, the 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.



Tenancy Rights pe GST aata hai!

is rented for residential purpose to unregistered person then it is exempted.



Composite & Mixed Supply

Circular No. 11/11/2017 GST dated 20.10.2017 Clarification on taxability of printing contracts



Issue :

Whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 or supply of services falling under heading 9989 of the scheme of classification of services annexed to Notification No. 11/2017CT(R)?

Clarification:

Whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

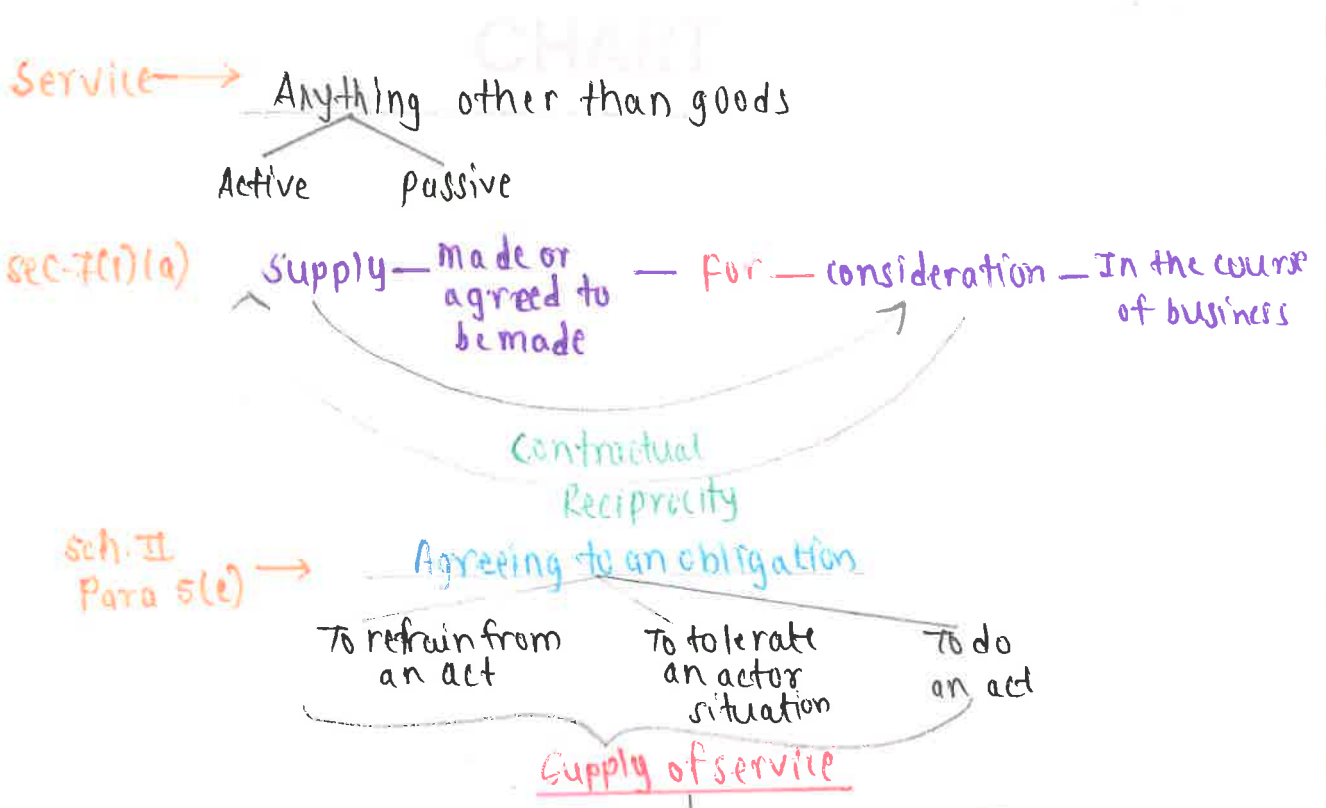
Principal supply has been defined in section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

Cases	Situations	Facts	Clarification on Classification of supply
1	<p>In the case of printing of books, pamphlets, brochures, annual reports, and the like</p> 	<p>where original 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>	<p>Classification: Supply of Service Reason: supply of printing on the content supplied by the recipient of supply (another person) is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services Note: Eventhough printer is using his physical inputs including paper used for printing, but main supply is job work on the content of another's Person.</p>
2	<p>In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc</p> 	<p>If supplied by the recipient of goods but made using physical inputs including paper belonging to the printer,</p>	<p>Classification: Supply of Goods Predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.</p>

GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law [Circular No. 178/10/2022-GST dt 03/08/2022]

- ➔ Supply made or agreed to be made for consideration in the course or furtherance of business. Thus **"The activity for a consideration"** involves an element of contractual relationship between supplier and recipient.
- ➔ **Para 5(e) of Schedule II** to CGST Act, 2017, Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act has been specifically declared to be a supply of service.
- ➔ Three sets of activities (i.e. obligation to refrain from an act, or to tolerate an act or a situation, or to do an act) must be under an agreement or a contract, whether express or implied.
- ➔ Consideration must flow in return from the other/second party to the contract/agreement to the first party for such refraining or tolerating or doing.
- ➔ Unless there is an express or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid, it cannot be assumed that such payment was for doing an act or for refraining from an act or for tolerating an act or situation.
- ➔ there must be contractual arrangement can take the form of a stand-alone contract or may form part of another contract, it must be an independent arrangement in its own right - payment needs to have been made for an independent activity of tolerating an act under an independent arrangement entered into for such activity of tolerating an act, to attract GST.

If the payment is merely an event in the course of the performance of an agreement and it does not represent the 'object', as such, of the contract then it cannot be considered 'consideration'.



When treated as soS

- ➔ Consideration must flow from other party
- ➔ There is an expressed / implied promise from supplier **for above 3 activities** in return of money - **It cannot be assumed.**
- ➔ **It must be independent arrangement or activities**

When not treated as soS

- ➔ **If payment merely an event** in the course of performance of agreement &
- ➔ **It does not represent the object.**

Based on above parameters, CBIC has provided clarification on taxability of associated transactions which are described below:

<p>Liquidated Damages</p>	<ul style="list-style-type: none"> ⇒ Breach/non-performance of contract by one party results in loss and damages to other party. ⇒ Liquidated damages are amounts paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract. ⇒ 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. ⇒ <i>liquidated damages are a mere flow of money. These payments do not constitute consideration for a supply and are not taxable.</i> <table border="1" data-bbox="311 526 1460 817"> <thead> <tr> <th data-bbox="311 526 853 571">Not Liable to GST</th> <th data-bbox="861 526 1460 571">Liable to GST</th> </tr> </thead> <tbody> <tr> <td data-bbox="311 571 853 817"> <p>Example:-</p> <ul style="list-style-type: none"> ➤ damages resulting from damage to property, ➤ negligence, ➤ piracy, ➤ unauthorized use of trade name, ➤ copyright, </td> <td data-bbox="861 571 1460 817"> <p>Example:-</p> <ul style="list-style-type: none"> ➤ amounts paid for acceptance of late payment, ➤ early termination of lease or ➤ for pre-payment of loan or ➤ the amounts forfeited on cancellation of service by the customer </td> </tr> </tbody> </table>	Not Liable to GST	Liable to GST	<p>Example:-</p> <ul style="list-style-type: none"> ➤ damages resulting from damage to property, ➤ negligence, ➤ piracy, ➤ unauthorized use of trade name, ➤ copyright, 	<p>Example:-</p> <ul style="list-style-type: none"> ➤ amounts paid for acceptance of late payment, ➤ early termination of lease or ➤ for pre-payment of loan or ➤ the amounts forfeited on cancellation of service by the customer
Not Liable to GST	Liable to GST				
<p>Example:-</p> <ul style="list-style-type: none"> ➤ damages resulting from damage to property, ➤ negligence, ➤ piracy, ➤ unauthorized use of trade name, ➤ copyright, 	<p>Example:-</p> <ul style="list-style-type: none"> ➤ amounts paid for acceptance of late payment, ➤ early termination of lease or ➤ for pre-payment of loan or ➤ the amounts forfeited on cancellation of service by the customer 				
<p>Compensation for cancellation of coal blocks</p>	<ul style="list-style-type: none"> ⇒ There was no agreement between the prior allottees of coal blocks and the Government that the previous allottees shall agree to or tolerate cancellation of the coal blocks allocated to them if the Government pays compensation. ⇒ No such promise or offer was made by the prior allottees to the Government. ⇒ The allottees had no option but to accept the cancellation. ⇒ The compensation was given to them for such cancellation, not under a contract between the allottees and the Government, but under the provisions of the statute and in pursuance of the Supreme Court Order. ⇒ <i>Therefore, the compensation paid for cancellation of coal blocks pursuant to the order of the Supreme Court in the above case was not taxable.</i> 				
<p>Cheque dishonour fine/ penalty</p>	<ul style="list-style-type: none"> ⇒ Receipt of cheques which are dishonored entails extra administrative cost to supplier and disruption of his routine activities and cash flow. ⇒ The promise made by any supplier is to make supply against payment within an agreed time through a valid instrument. There is never an implied or express offer on part of the supplier that he would tolerate deposit of an invalid instrument of payment against consideration. ⇒ The fine or penalty imposed for dishonor of a cheque, is a penalty imposed for discouraging such an act or situation. ⇒ <i>Therefore, cheque dishonor fine or penalty is not a consideration for any service and hence not taxable.</i> 				
<p>Penalty imposed for violation of Law</p>	<ul style="list-style-type: none"> ⇒ There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty. ⇒ Accordingly, penalty imposed for violation of laws are not consideration for any supply received and are not taxable. 				

Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period

- Forfeiture of salary or recovery of bond amount in the event of employee leaving the employment before the minimum agreed period are incorporated to discourage non-serious candidates from taking up employment.
- The said amounts are not recovered by the employer as a consideration for tolerating the act of such premature quitting of employment.
- **Therefore, such amounts recovered are not taxable.**

Compensation for not collecting toll charges

- During demonetization, National Highway Authority of India (NHAI) directed toll operators to allow free access of toll roads to the users for which the loss of toll charge was compensated by NHAI as per the instructions of Ministry of Road Transportation and Highways.
- It had been clarified that service that is provided by toll operators is that of access to a road or bridge and merely because consideration came from a person other than the actual user of service does not mean that the service has changed.
- **Accordingly, compensation received would be treated on par with original supply.**

Late payment surcharge or fee

- The 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.
- 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.**

Fixed Capacity charges for Power

- The minimum fixed charges have to be paid by the SEBs/DISCOMS/individual customers irrespective of the quantity of electricity scheduled or purchased by them during a month.
- They take care of the fixed cost of generating/ supplying electricity.
- The variable charges are charged per unit of electricity purchased and increase or decrease every month depending on the quantity of electricity consumed.
- Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity
- **this is not taxable as electricity is exempt from GST.**

Cancellation charges

- It is a common business practice for suppliers of services such as hotel accommodation, tour and travel, transportation etc., to provide the facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee.
- Cancellation fee can be considered as the charges for the costs involved in making arrangements for the intended supply and the costs involved in cancellation of the supply.
- Therefore, allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit should be assessed as the principal supply.
- **Accordingly, such cancellation fees should be assessed at the same rate as applicable to the service contract.**



Central Goods and Services Tax Act, 2017

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Extra Supporting Material Demo videos, Digital Books & PDFs

Questionnaire



Questioner Discussion



Questioner Digital Smart Book



MCQ PDF

Amendments



Amendment Discussion



Amendment PDF

Correction pages



Correction Pages

GST Chapter Wise Revision



Chapterwise Chart Revision Discssion Video



Wall Chart Marathon Revision



Chapterwise Chart Revision Smart Book

Instagram Channel



CA_VISHAL_BHATTAD



VSMARTACADEMY

Telegram Channel





CHAPTER - 4

CHARGE OF GST

(Normal Charge & Reverse Charge)

Normally under GST supplier of Goods or services is liable to pay Tax to the Government and he recover such tax from the recipient of goods and services. It is called as normal charge.

In some cases (notified by the Government under sec 9(3)/ 9(4)/ 9(5)) Payment of GST to the Government is not by supplier but by recipient of goods or services (Reverse Charge) or any other person as notified.



Sir, What is reverse charge and whether it cast extra liability of Tax on recipient?

Beta, reverse charge means tax is payable to the Government directly by recipient of goods of services.

It is important to note that GST being an indirect tax, burden of the tax has to be passed on to the recipient. Normally supplier pay the GST to the Govt. and pass on the burden to the recipient.

Under reverse charge also, the burden to pay GST is on the recipient where recipient directly pay the tax to the Govt. on his inward supply of goods or services and supplier don't pay and charged the tax to the recipient. However, the compliance requirements, i.e. to obtain registration under GST, deposit tax, filing returns with the Government, etc. has been shifted from supplier to recipient.

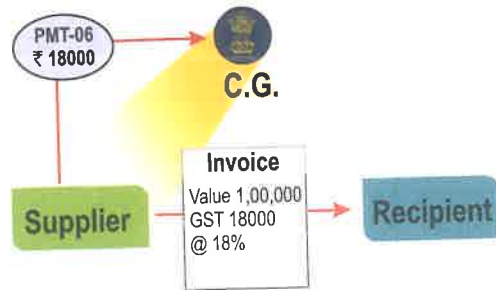
Hence, there is no extra burden of GST on the recipient, only compliance requirement get increased.



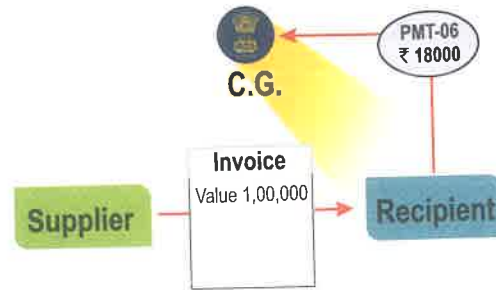
Sec 2(98) : Reverse Charge

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) or 9(4), or under section 5(3) or 5(4) of the Integrated Goods and Services Tax Act.

Normal Charge



Reverse Charge



Assessment	Supplier has to assess the tax & transfer to Recipient	Recipient has to assess the tax and Supplier will not charge GST in invoice.
Payment to C.G.	Supplier is liable to make payment to Govt.	Recipient is liable to make payment to Govt.
Registration	Supplier has to register under GST	Recipient has to register under GST <i>[compulsory registration]</i>
Due date of Payment	Monthly [In some cases quarterly]	Monthly [In some cases quarterly]
Time of Supply	Goods- Sec 12(2) of CGST Service - Sec 13(2) of CGST	Goods- Sec 12(3) of CGST Service - Sec 13(3) of CGST
Mode of Payment	by using - Electronic credit ledger - Electronic Cash ledger	By using electronic cash ledger Recipient cannot use his electronic credit ledger for payment of GST on such supply, but after payment of GST under RCM, he can take input tax credit as per the provision of ITC.

Analysis :-

No reverse charge in case of exempted/nil rated supply : If supply itself is exempt, there cannot be any tax thereon and if there is not tax, there cannot be any tax under charge. reverse charge calculates tax that would have been payable by the supplier, if there was no reverse charge.

Person liable to pay tax is recipient : In notified cases, the system of reverse charge would apply and GST would be payable by the recipient of supply.

All provisions apply to recipient under RCM :- For payment of tax, reverse charge person is deemed to be person liable to pay tax. He is liable to take registration, file return and issue tax invoices, raise payment vouchers, etc. Thus, compliance burden is shifted to recipient. for recipient liable to reverse charge tax, time of supply of goods and service is given u/s 12(3) and 13(3).

Payment of tax in cash & eligible for credit after payment :- Tax is payable by recipient under reverse charge in cash [i.e. credit cannot be used to pay it]. Secondly, tax so paid is eligible for input tax credit, as per law.

Cases of Reverse Charge

CGST shall be paid by the recipient of goods or services or both, on reverse charge basis, in the following cases :

- ⇒ Supply of goods or services or both, notified by the Government on the recommendations of the GST Council. (Sec 9(3))
- ⇒ Supply of taxable goods or services or both by an unregistered supplier to a registered person. (Sec 9(4)) Final.

All the provisions of the CGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Note : Reverse Charge also applicable in above cases under IGST and SGST act.

Legal Provision

Sec 9(3) : Reverse Charge under notified cases

The Government may, on the recommendations of the Council,

- ⇒ by notification, specify categories of supply of goods or services or both,
- ⇒ the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

RCM Notified Goods

N/N 4/2017-CT (Rate)
N/N 13/2017-UTT (Rate)
N/N 10/2017-IT (Rate)

Dated 28th June, 2017

Liability under RCM for Supply of Goods (N/N 4/2017 Central Tax(Rate)) dated 28 June 17

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply (Liable to Pay Tax)
(1)	(2)	(3)	(4)	(5)
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi Wrapper leaves (tendu)	Agriculturist	Any registered person

Other Examples:- Supplies of goods taxable under reverse charge, i.e. supply of the goods where tax is payable by the recipient:

Goods like tobacco leaves and raw cotton (when supplied by an agriculturist to any registered person), supply of lottery (when supplied by State Government, Union Territory or any local authority to lottery distributor or selling agent), silk yarn (when supplied by manufacturer of silk yarn to any registered person), used vehicles, seized and confiscated goods, old and used goods, waste and scrap (when supplied by Central Government, State Government, Union Territory or any local authority to any registered person), etc. are taxable under reverse charge

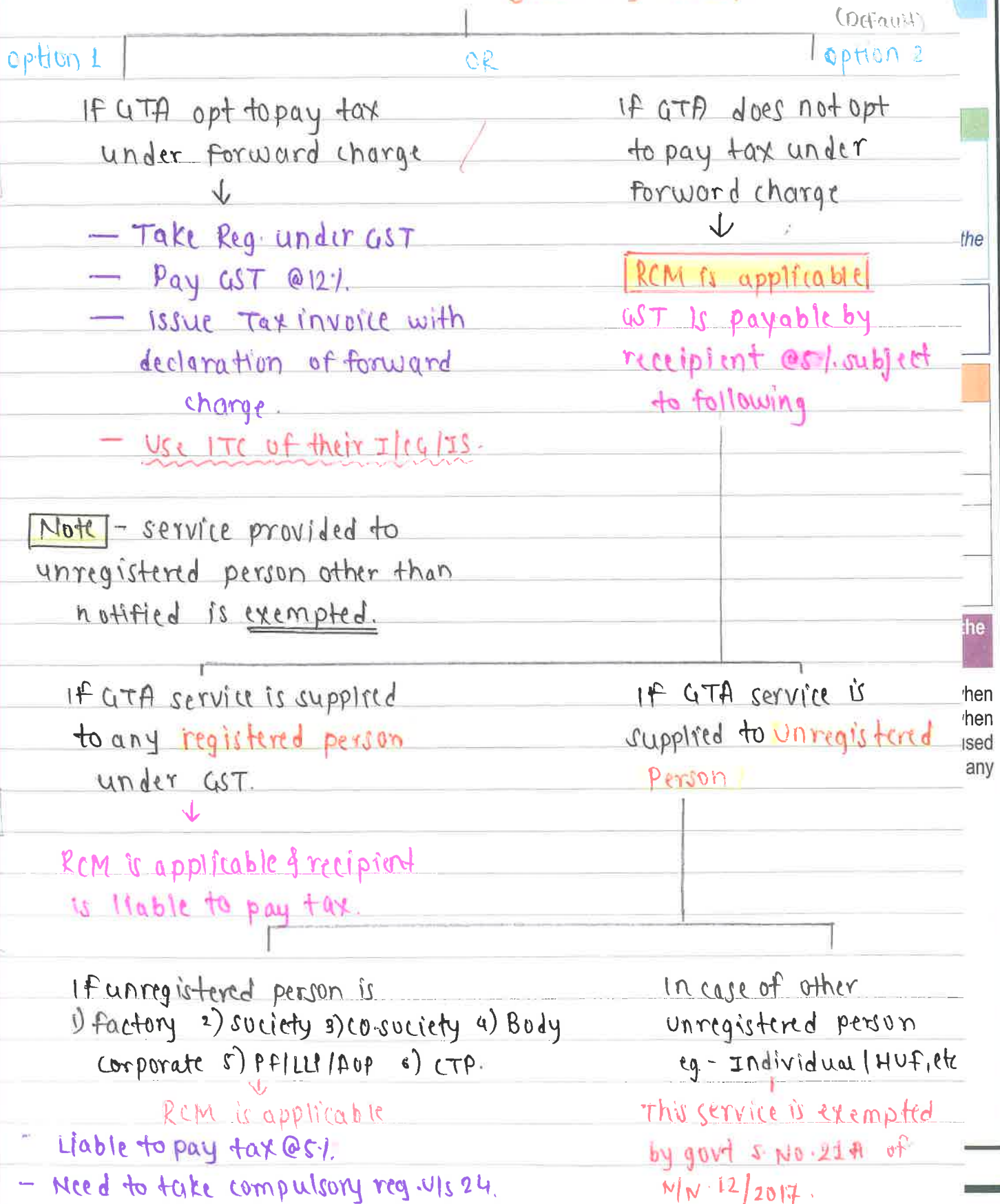
Imp Note - At Inter level, institute is not going to examine on reverse charge of goods - Hence, above discussion is not applicable for exam.

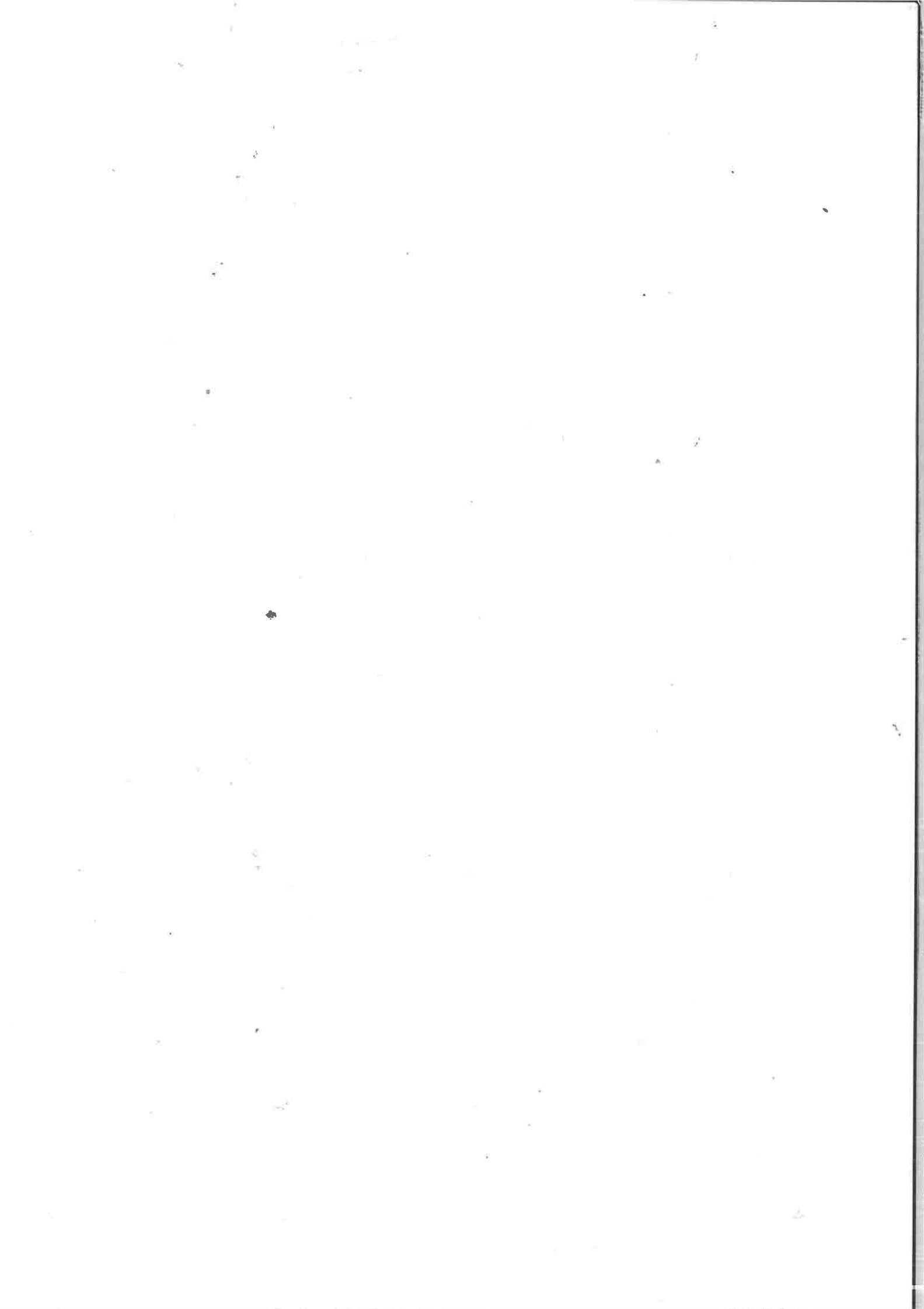
Cases of Reverse Charge

CGST shall be paid by the recipient of goods or services or both, on reverse charge basis, in the following cases:

- Supply of goods or services or both, notified by the Government on the recommendations of the GST Council. (Sec 9(3))

GTA service (Transportation of goods by Road)





Important Explanations

- (a) The person who pays or is liable to pay freight for the transportation of goods by road (GTA) in goods carriage, located in the taxable territory shall be treated as **the person who receives the service for the purpose of this notifications.**
- (b) "Body Corporate" has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.
- (c) A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
- (d) Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament and State Legislatures, State Legislatures, Courts and Tribunals.

N/No. 02/2023-CT (Rate)
Dt. 28/02/2023

Services

100% liability

1 Supply of Services in relation to transportation of goods by road

By
Goods Transport Agency
who has not paid central tax at the rate of 6%

Omitted by
N/N 5/2022 CT (R)
dt 13/07/2022



Goods Transport Agency (GTA)

any person who provides service in relation to transport of goods by road AND issues Consignment Note, by whatever name called.

To

Where a person liable to pay freight is

- Any factory registered under or governed by factories Act, 1948
- Any society registered under Societies Registration Act, 1860 or under any other law for time being in force in any part of India
- Any co-operative society established by or under any;
- Any person registered under CGST Act, under IGST Act, under SGST Act or UTGST Act
- Any body corporate established, by or under any law; or
- Any partnership firm (Including LLP) whether registered or not under any law including association of persons
- Any Casual Taxable Person (CTP)

to RCM not applicable

Provided further that nothing contained in this entry shall apply where, -
i) the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and
ii) the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him.

Person Mentioned in (a) to (g) i.e.

- ✓ factory
- ✓ Society registered
- ✓ co-operative Society
- ✓ Any person registered under CGST Act, under IGST Act, under SGST Act or UTGST Act
- ✓ Body Corporate
- ✓ Partnership Firm or AOP
- ✓ Casual Taxable Person
- Located in taxable territory

Newly inserted by
N/N 5/2022 CT (R) dt 13/07/2022

Analysis :-

Goods Transport Agency (GTA) :- Defined in para 2(ze) of N/N 12/2017 means any person who provides service in relation to transport of goods by road AND issues Consignment Note (also called 'bilty'), by whatever name called.

CBIC Clarification :

- ➔ If such a consignment note is not issued by the transporter, the supplier will not come within the ambit of GTA.
- ➔ Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA - Supply of transportation service by them stands exempted under N/N 12/2017

N/N 11/2017 - CT (rate) - applicable rate

Services of GTA in relation to transportation of goods (including used household goods for personal use)	CGST	SGST	IGST
GTA service with ITC (forward charge)	6%	6%	12%
GTA service without ITC (Reverse charge)	2.5%	2.5%	5%

Q1:- ABC Ltd. is the manufacturer of various goods. Company wants to deliver the goods to their various customers and for such purpose, ABC Ltd availed a service from GTA. GTA has issued a freight note of ₹20,000 in the name of ABC Ltd. Determine who is liable to pay tax on transportation service & also explain whether ABC Ltd. can take ITC of such service.



P2:-

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Mr. A who is a registered person under GST in Maharashtra. He has sold the goods to Mr. B in Gujarat on Ex-factory or Ex-shop basis. Mr. B appointed a GTA of Maharashtra for transportation of goods from Maharashtra to Gujarat. GTA has issued the freight note in the name of Mr. B. Explain

- Who is liable to pay GST if Mr. B is registered under GST
 - Nature of supply for levy of GST
- Would your answer differ, if Mr. B is not a registered person?

Special Discussion for GTA

Exemption

Sl.No. 21A
of notification

Service provided by GTA to an unregistered person
(Heading 9965 or 9967)

Exemption is available for Services provided by a **goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: - (exemption is not available)**

- any **factory** registered under or governed by the Factories Act, 1948
- any **Society** registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India
- any **Co-operative Society** established by or under any law for the time being in force
- any **body corporate** established, by or under any law for the time being in force
- any **partnership firm** whether registered or not under any law including association of persons
- any **casual taxable person** registered under the GST Act.



2 Service Supplied

By

"Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly."

To

to any business entity located in the taxable territory

Person liable to pay tax :
Any business entity located in the taxable territory.

Explanation.- "legal service" 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."

1) "Senior advocate" [para 2(zzd)N/N 12/2017] has the meaning assigned to it in section 16 of the Advocates Act, 1961".

As per Section 16 of the Advocates Act, 1961 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.

2) "Advocate" [para 2(b)N/N 12/2017] shall have same meaning as assigned to it u/s 2(1)(a) of Advocates Act, 1961.

3) "Business Entity" [para 2(n)N/N 12/2017] means any person carrying out business.

4) "LLP" [explanation (e)N/N 22/2017 C.T. (Rate)] A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.

Clarification on levy of GST on legal services - [Circular no. 27/01/2018 dt 04/01/2018]

Issue

Whether legal services other than representational services provided by an individual advocate or a senior advocate to a business entity are liable for GST under reverse charge mechanism?

Clarification

Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, i.e. the business entity.

Representation By Senior Advocate



Under REM, vsmart is liable to pay tax.



[Recipient]

P3:- V Smart Academy has taken legal service from individual advocate Mr. A of ₹1,00,000. Specify who is liable to pay GST in this case. Would your answer differ if,

- Legal service is taken from partnership firm of advocates.
- Legal service is taken from Advocate company.
- V Smart Academy is located in Dubai

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P4:- Devdas & Associates, a partnership firm of advocates providing various services as follows.

- Legal service to Kalidas Ltd. ₹ 1,00,000
- Representational service in a court to V smart Academy ₹2,00,000
- Advice on divorce as per law to Mr. Akash ₹ 50,000
- Renting of immovable property ₹ 4,00,000
- Actuary Service to Insurance co. ₹3,00,000

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Determine the GST liability of Devdas & Associates, if GST rate is 18%.

3 In respect of services provided to agreed to be provided

Person liable to pay tax : Business entity in Taxable territory is liable

By

Arbitral Tribunal

To

Business entity in taxable territory

Note :

- 1) Arbitral Tribunal is a private tribunal constituted by parties in disputes where one or more person (Arbitrator) are referred by the parties to resolve the dispute in themselves and by who's decision they agreed to bound
- 2) Definition of SERVICE as given u/s 65-B (44) excludes fees taken in any court or tribunal established under any law. That exclusion will not cover fees paid to ARBITRAL TRIBUNAL.

Reliance Energy
Reliance Infocomm
Reliance Capital



ARBITRATOR



Reliance Industries
IPCL

P5:- Mohandas Ltd. & Lakhandas Ltd. are the builders who entered into a joint venture for construction of residential house for a particular project. They have appointed Mr. Vishal Bhattad as a arbitrator to resolve any dispute which may cause in their business. Mr. Vishal Bhattad as an arbitrator gave service to Mohandas Ltd. State who is liable to pay GST?
Under RCM - Mohandas Ltd.

Analysis

i) Advocate Service

RCM if all condition are fulfilled	F-C if any of the condition is not fulfilled	Exemption if any -
1) service is provided by Individual advocate or senior advocate or firm of advocate.	1) If service is provided by a person other than advocate eg: CA/CS/CMA	—
2) It should be legal service	2) If any other service provided by advocate then F-C is applicable.	—
3) Recipient is a business entity	—	If services are legal by advocate to non-business entity then it is exempted. (Refer exemption)
4) Business entity in a taxable territory	4) If B-E is not in taxable territory	Supplier can claim zero rate benefit (for export service).

4 In relation to Sponsorship Service

Person liable to pay tax : Body Corporate or partnership firm in taxable territory is liable

By

Any person

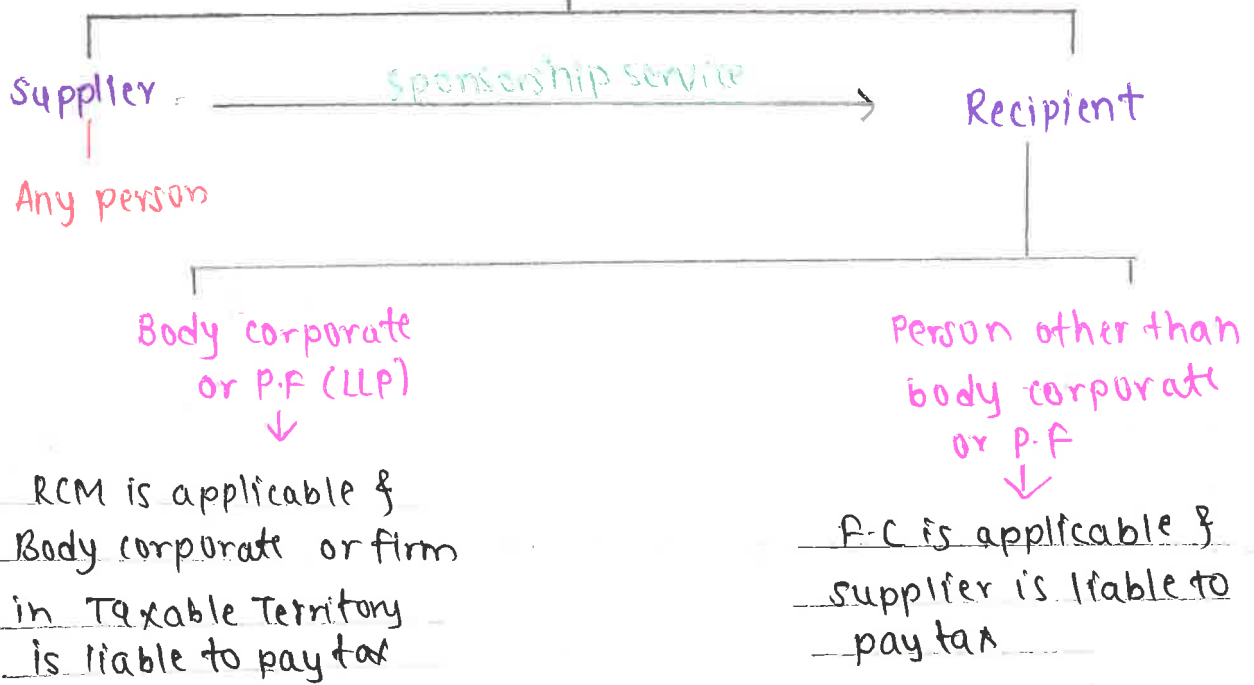
To

Any body corporate or partnership firm located in taxable territory

“LLP” [explanation (e)N/N 22/2017 C.T. (Rate)] A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.



Sponsorship Service.



Note: If B.C/firm is in Non-taxable territory then FC is applicable.

Determination of Taxability for Sponcership Services

S.No.	Supplier of Services	Recipient of Services	Forward/Reverse Charge	Who will pay tax to govt.
1	XYZ. Ltd. in India	PQR Ltd. in India	Reverse	PQR Ltd
2	Mr. X [Individual]	ZQ [partnership firm in India]	Reverse	ZQ (P.F)
3	XYZ Ltd.	Mr. X [Individual]	Forward	XYZ Ltd
4	XYZ Ltd	ABC Ltd. [USA]	forward	XYZ Ltd

5 Services supplied by

- By**
- Central Govt.
 - State Govt.
 - Union Territory
 - Local authority

To
Business entity in taxable territory

except following services are sub to C & Govt/LA is liable to tax.

- (a) Renting of immovable property, and
- (b) (i) Services by the department of post by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government State Government or Union Territory or local authority.
- (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

Omitted by N/N 5/2022 CT (R) dt 13/07/2022

Person liable to pay tax : Business entity in Taxable territory is liable

In following cases government or local authority is liable

- (a) renting of immovable property, and
- (b) (i) Services by the department of post by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government State Government or Union Territory or local authority.
- (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

5A Services supplied by

- By**
- Central Govt.
 - State Govt.
 - Union Territory
 - Local authority
- by way of Renting of immovable property,

To
Any registered person under CGST Act read with clause (v) of Section 20 of IGST Act, 2017

Person liable to pay tax : Any registered person in taxable territory

Supply of service by Govt / LA [entry 5 & 5A]

Part I (entry 5)

All services (other than services covered in part II & III) supplied to business entity in taxable territory

↓
RCM is applicable & business entity in taxable territory is liable to pay tax.

(exception to Part II entries)

following services supplied by Govt/LA:

- 1) Dept of post
- 2) services in relation to aircraft / vessel inside or outside the port
- 3) Transport of goods or passenger

↓
forward charge is applicable & Govt/LA liable to pay tax.

Part III

Renting of immovable property

if service is supplied to registered person

↓
RCM is applicable & R-P is liable to pay tax

service is supplied to unregistered person who is B-B

forward ch. is applicable & Govt/LA is liable to pay tax.

Flat / House, villa

5AA Services supplied by way of Renting of residential dwelling ,

Person liable to pay tax : Any registered person

By

To

Any person

a registered person

ye RCM exemption ke sath padhna hai.

Newly inserted by N/N 5/2022 CT (R) dt 13/07/2022

Renting Service.



Renting of R.D to Registered P.

Renting of R.D to Unregistered person

for residence Purpose

for commercial Purpose (eg.- office, hotel)

exempt (Pg-237)

Taxable under F.C.

Renting of (shop, warehouse)-commercial property.

This service is taxable. exemption is available only for residential dwelling. Tax is payable under forward charge as RCM is applicable only for residential dwelling

if R.P is using R.D for residence but for business (eg.- guest house by director or employee of the company).

exemption (given on pg. 237) is not applicable & taxable under Reverse charge.

if R.P (tenant) is a proprietor using R.D in his personal capacity for use of his own residence not for proprietorship concern

As per explanation (newly inserted) It is exempt. (Pg. 237).

Analysis:-

Sl. No	Property	Used for	Recipient	Now
1	Residential	Residence	Unregistered	Exempt
2			Registered	Taxable under Reverse Charge
3	Residential	Commercial	Registered	Taxable under Reverse Charge
4			Unregistered	Taxable under Forward Charge
5	Commercial	Commercial	Any Person	Taxable under Forward Charge

5B Services supplied by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project .

Person liable to pay tax is promoter

By

To

Any Person

Promoter (Builder)

5C Long term lease of land (30 years or more) against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project

Person liable to pay tax is promoter

By

To

Any Person

Promoter

6 Services supplied

Person liable to pay tax : Company or Body Corporate is liable

By

To

Director of a Company or Body Corporate

Said Company or Body Corporate



service



company
Under RCM, company
is liable to pay tax.

Clarification on levy of gst on Director's remuneration (circular no. 140/10/20202-gst dated 10/6/2020)

In order to determine the leviability of tax on the remuneration paid to the directors, 1st ascertain whether the director is an employee of the company or not. Following situations are possible:-

Case	Category of Director / Director's Remuneration & Clarification:-	
1.	Remuneration paid by companies to the independent or those directors who are not the employees of the said company (TDS U/s 194J):- ➤ It is Outside the scope of Schedule III of the CGST Act & therefore taxable . ➤ The recipient of said services i.e. the Company is liable to discharge applicable GST on it under RCM.	
2.	The director who is an employee in the company, irrespective of name & designation, examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a "contract of service") or is there any element of "contract for service":-	
(i)	The part of director's remunerations that is declared as Salaries in books of company & subjected to TDS under Section 192 of IT Act:-	Covered under the scope of Schedule III of the CGST Act and salaries paid to company directors will not attract GST as the same is not taxable
(ii)	Director's remuneration that is declared separately other than salaries in the Company's accounts and subjected to TDS under Section 194J of the IT Act as Fees for professional or Technical Services:-	To be treated as consideration for providing the services which are outside the scope of Schedule III of the CGST Act. Therefore, the recipient of the said services i.e. the Company is liable to discharge the applicable GST Under RCM.

Note:-

- Whole time/ Managing/ Executive director:- are employees of the company.
- Independent Director:- one of the condition for being Independent director is the director should not have been an employee of the company.
- Non-Executive/part time director - Can't be called as employee of Company. Hence sitting fees, commission is taxable.

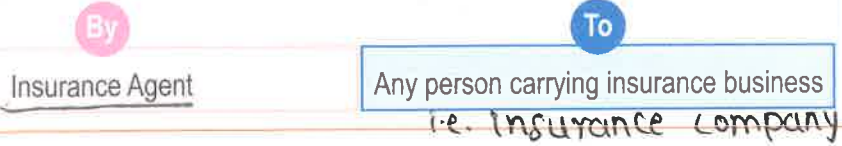


P 6:- Mumtaz Ltd. a body corporate having 3 directors. All the 3 directors providing various services are as follows.

- a) Mr. A a whole time director getting monthly salary of ₹ 2,00,000 for his service (TDS under IT Act 1922)
 - b) Mr. B a non executive director getting sitting fees of ₹ 50,000 (TDS-194 J)
 - c) Mr. C a non executive director getting commission from co. of ₹ 2,00,000 for sales promotion. (TDS-5/4-194)
- Determine who is liable to pay tax in above cases.

7 Service Supplied by

Person liable to pay tax : Any person carrying any insurance business located in taxable territory e.g. LIC or GIC [insurance co. tax pay kregi]



Insurance Agent has now been defined via N/N 13/2017 -CT(Rate) dt 25/1/2018 i.e. 'Insurance Agent' shall have the same meaning assigned to it in sec 2(10) of Insurance Act 1938.

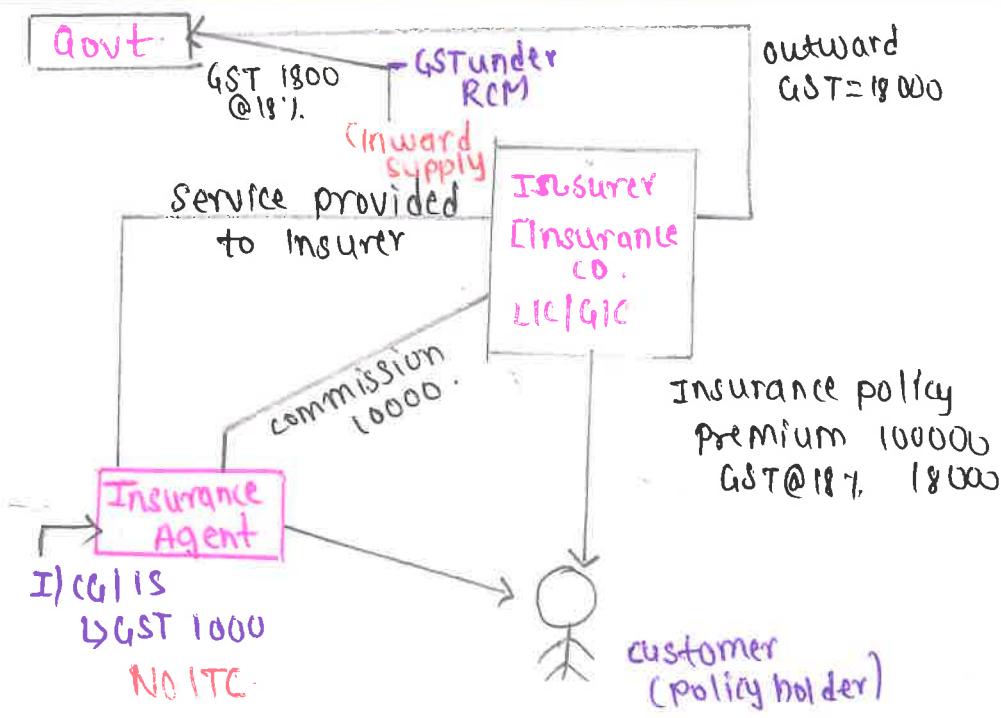
"Insurance Agent" means an insurance agent licensed under section 42 who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business [including business relating to the continuance, renewal or revival of policies of insurance.]

Comment :- Many insurance companies who are selling their policies through ECO operator not being licensed as Insurance agent under sec 42 of Insurance Act, for them reverse charge shall not be applicable.

P 7:- (1) Mr. Shridhar is a LIC Agent as well as actuary. He has provided following services to the Insurance co. Determine who is liable to pay tax.



- a) Insurance auxiliary service as a insurance agent for which commission is charged of ₹ 2,00,000
 - b) Actuary service for valuation of stock, for which fees is charged of ₹ 1,00,000
- (2) What would be the value for payment of GST by insurance co. if in above case, Company has deducted 10% TDS on commission of insurance agent Mr. Shridhar. under IT Act 1961.



Statement of insurance co. for GST payable.

outward tax	18000
(-) ITC	(1800)
outward tax	16200
Tax under RCM	1800
	18000

8 Service Supplied by

By

Recovery Agent

service provided to other than this - forward ch.

To

- ⇒ a Banking company or
- ⇒ a Financial Institution or
- ⇒ NBFC

Person liable to pay tax : Banking company or financial Institution or Non-banking financial Institutions located in taxable territory



Recovery Agent

If supply of services to



- i) Banking co
- ii) F.I
- iii) NBFC

in a taxable territory



RCMW is applicable & Bank / FI / NBFC is liable to pay tax on commission/fees paid to recovery agent.

If supply of service to others



forward charge is applicable & recovery agent is liable to pay tax.

9 Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original, dramatic, musical or artistic works

By

Music Composer, photographer, artist

To

A Music company, producer or the like, located in the taxable territory

Person liable to pay tax : A music company, producer or the like, located in the taxable territory

Musical



Lyrics of Song

Artistic



Painting by Painter

Dramatic



Acting by Actor



Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original **literary works**

Person liable to pay tax : A Publisher located in the taxable territory

By
An Author

To
A Publisher located in the taxable territory



Conditions:- (Reverse charge is not applicable in following cases)

Provided that nothing contained in this entry shall apply where,-

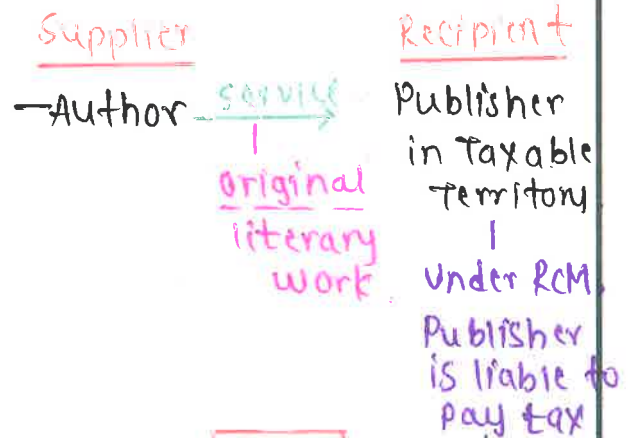
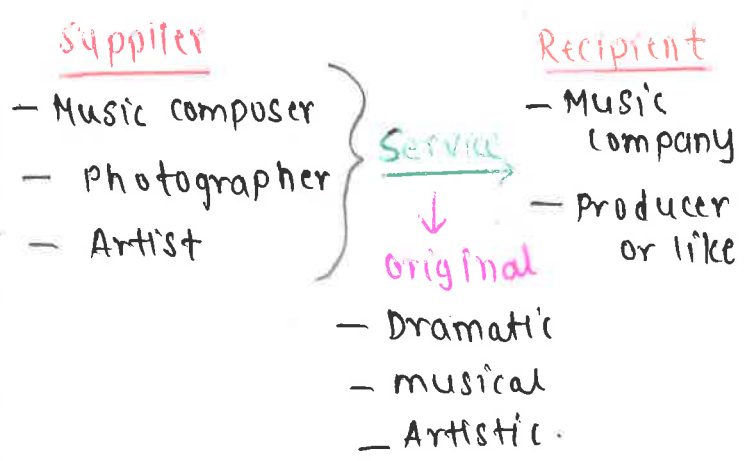
- (i) the author has taken registration, and filed a declaration, within the time limit with the jurisdictional GST commissioner that
 - ⇒ he exercises the option to pay central tax on the service under forward charge and
 - ⇒ to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and
 - ⇒ that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
- (ii) the author makes a declaration, on the invoice issued by him in Form GST Inv-1 to the publisher.

Note:- Thus, where the author is registered and he make a declaration to pay the tax to proper officer then publisher is not required to pay tax & Author will pay tax under forward charge.

Copyright Service.

Entry 9

Entry 9A



But

Supplier can shift the liability under FC subject to following condition :

Note: In above case option of forward charge is not available.

- 1) Author has taken registration in GST.
- 2) He has filed declaration to commissioner
 - ⇒ For payment of tax under FC
 - ⇒ compliance of all provisions of Act.
 - ⇒ Not reversing the option within a period of 1 year.
- 3) He will make declaration in invoice.

Q 8:- Mr. Chetan Bhagat written a book 'Two-States' and gave publication right to 'Snow White Company,' a publication Company. Determine who is liable to pay tax on royalty received by Mr. Chetan Bhagat on transfer of intellectual property. Can Mr. Chetan Bhagat pay tax under forward charge, Explain?



Priority (B)

10 Supply of Services

Person liable to pay tax : Reserve Bank of India (RBI)

By

To

Members of Overseeing committee

Reserve Bank of India (RBI)

Note : Overseeing Committee formed by RBI which aimed to vet resolution of all types of dud loans would harm customers as well as banks

11 Services supplied

Person liable to pay tax : A banking company or a non-banking financial company, located in the taxable territory.

By

To

Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.

A banking company or a non-banking financial company, located in the taxable territory.

Direct selling Agent - means a person who is promoting Banking loan products.

Liability In DSA

REM liability if all conditions are fulfilled :

- 1) REM is applicable only if service is supplied by Individual DSA.
- 2) Recipient is Banking co. or NBFC.
- 3) Recipient is located in taxable territory.

forward charge liability if any of the condition not fulfilled.

- 1) If DSA is body corporate or p'ship firm including LLP.
- 2) If recipient is - financial institution - other person.
- 3) If recipient is located in non taxable territory.

12 Services supplied

By

Business Facilitator

To

A banking company located in the taxable territory.

Person liable to pay tax : A banking company located in the taxable territory.

Note- "2(o) "business facilitator or business correspondent" means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India;"

Just For Knowledge:-

- Types of services supplied by Business Facilitators - Business Facilitators provide various services which includes:-
 - Identification of borrowers and fitment of activities
 - Collection and preliminary processing of loan applications including verification of primary information/data
 - creating awareness about saving and other products and education and advice on managing money and debt counselling
 - processing and submission of application of banks
 - promotion and nurturing Self-Help Groups/Joint Liability groups
 - Post-sanction monitoring
 - Monitoring and handholding of Self-Help Groups/Joint Liability Groups/Credit Groups/Other, and
 - Follow up for recovery
- The bank pays to business facilitation in form of commission for providing such services, so as per amendment bank are liable for payment of GST as receiver of service on commission paid by them

13 Services supplied

By

An agent of Business Correspondent (BC)

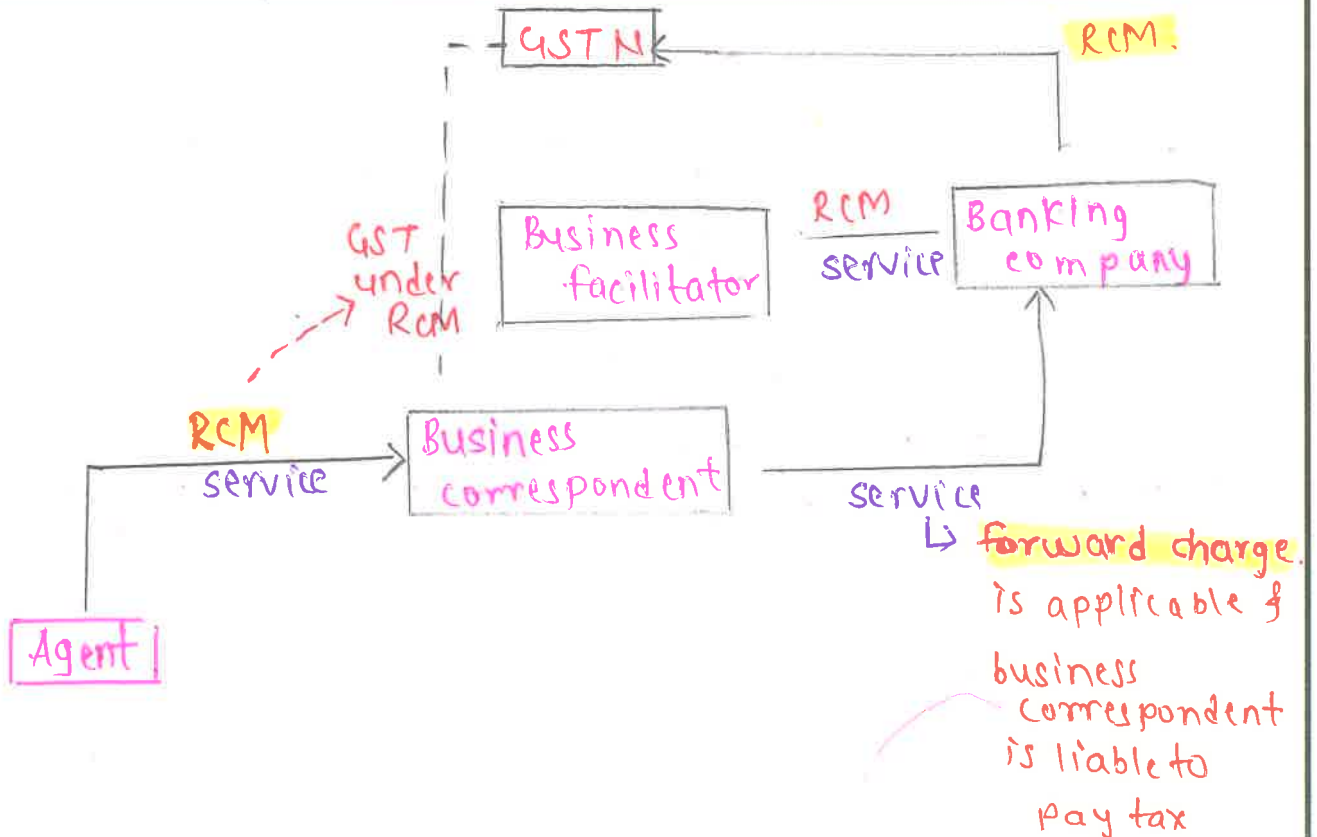
To

A business correspondent, located in the taxable territory

Person liable to pay tax : A business correspondent, located in the taxable territory

Analysis:-

- Business correspondent** - Are appointed by bank after conducting thorough due diligence Business correspondents can be NGOs/MFIs set-up under Societies/Trust Acts, Societies registered under Mutually Aided Co-operative Societies Acts or the Cooperative Societies Acts of States, registered NBFCs not accepting public deposits and post officers
 - Business correspondent supplies all types of services which are provided by business facilitator and in addition they are also engaged into providing small value credit and recovery of the same.
 - The bank pays them in the form of commission or fees for providing such services. These business correspondent have also appointed their agents and paying them commission or fees
- As per the amendment, business correspondents will be liable for the payment of GST as receivers of services on commission paid by the business correspondents to their agent.



14 Services supplied

A registered person, located in the taxable territory

By

To

Security services (services provided by way of supply of security personnel) provided (Any person other than a body corporate)

a registered person

Provided that nothing contained in this entry shall apply to, (Exceptions)-

- (i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or
- (b) local authority; or
- (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or
- (ii) a registered person paying tax under section 10 of the said Act. [Composition dealer]

Comment :-

(i) **Service must be supply of security personnel** - The entry cover the security service which is provided by way of supply of security personnel. Therefore it cover only supply of man power for security purpose, such as supply of security man at society/offices/ commercial spaces/bunglows/bouncers/bodyguard, etc. Hence there must be supply of man or women for security.

(ii) **Following security service are not cover under RCM :-**

- a) Dog sniffer b) Investigation Service c) Background check d) CCTV security/IT enable equipment security

(iii) if the services are provided by body corporate, those will continue to be liable under forward charge

(iv) Body corporate as define in section 2(11) of company Act, 2013

Example:- Company, Public Company, One person company, foreign company

(v) Body corporate does include an individual, HUF, A firm (including LLP), AOP or BOI, cooperative society, society.

(vi) Service must be received by Registered person other than specified.

Security Service

Applicability of RCM

(if all condition fulfilled)

1) security service is supplied only by way of supply by security personnel.

2) supplier is any person other than body corporate.

3) If recipient is registered person in T-T.

Applicability of F.C (if any of the condition of RCM is not fulfilled)

1) If security service is supplied by other ways - eg dog sniffer, CCTV security, investigation security, etc.

If supplier is body corporate then F.C is applicable.

3) If recipient is un-registered person then under F.C supplier is liable to pay tax.

Important point :- In following 2 cases under F.C security agency is liable to pay tax even though recipient is registered person:

- a) Service provided to dept of Govt, LA, Govt agency registered under GST for deduction of TDS u/s 51.

15 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,

Person liable to pay tax: Any body corporate located in the taxable territory.

By (a) Any person other than a body corporate, (who supplies the service to a body corporate and does not issue an invoice charging CGST at the rate of 6% and SGST 6% to the service recipient)

To (b) Anybody corporate located in the taxable territory.

Renting of Motor Vehicle.

if supplier opt for 5% GST

if supplier opt for 12% GST

forward charge is applicable & supplier is liable to pay tax.

RCM is applicable only in case Renting of motor vehicle which is designed to carry passengers (eg. car, bus, etc).

if renting of motor vehicle design to transport the goods (eg. truck, lorry, etc)

forward charge is applicable.

if cost of fuel included in consideration charged.

if cost of fuel is not included in consideration

RCM is applicable if

forward charge is applicable

Supplier

Recipient

Any person other than B-C

Body corporate in T.T.

Note: If supplier is B-C then F-C is applicable.

Note: If recipient is other than B-C then F-C is applicable.

Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers under reverse charge mechanism [Circular No. 177/09/2022 GST dated 03.08.2022]

Issue :- Whether RCM is applicable on:-

- (i) Service of renting of motor vehicle designed to carry passengers or *eg - Sinhgad*
- (ii) Service of transportation of passengers. - *Pune to Mumbai*

Discussion :-

- ➔ The two services are **distinct** as they fall under two different headings in Tariff.
- ➔ Services of renting of motor vehicles designed to carry passengers covers:-
 - renting of motor vehicle for transport of passengers for a period of time
 - where the renter defines how & when the vehicles will be operated, determining schedules, routes & other operational considerations.
- ➔ Whereas passenger transport services covers passenger transport services over **pre-determined routes** on pre-determined schedules.

Clarification :-

- ➔ If **body corporate** hires motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of body corporate (i.e. body corporate can use it in the manner as it likes subject to agreement with the person providing vehicle on rent), it will be services of **'renting of motor vehicles designed to carry passengers'** & **body corporate shall be liable to pay GST under RCM.**
- ➔ However, if body corporate avails the passenger transport service for specific journeys or voyages & does not take vehicle on rent for any particular period of time, it will be **'passenger transport services'** and the body corporate **shall not be liable to pay GST on the same under RCM.**

16 Services of lending of securities under Securities Lending Scheme, 1997 of SEBI

Person liable to pay tax :
Borrower i.e. a person who borrows the securities

By

Lender

(i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI)

To

Borrower

(i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI).

→ FYE only (not for inter).

RCM Notified Services (Notified in IGST) N/N 10/2017-IGST (Rate) Dated 28th June, 2017

17 Any service supplied

Person liable to pay tax : Any person located in taxable territory

By

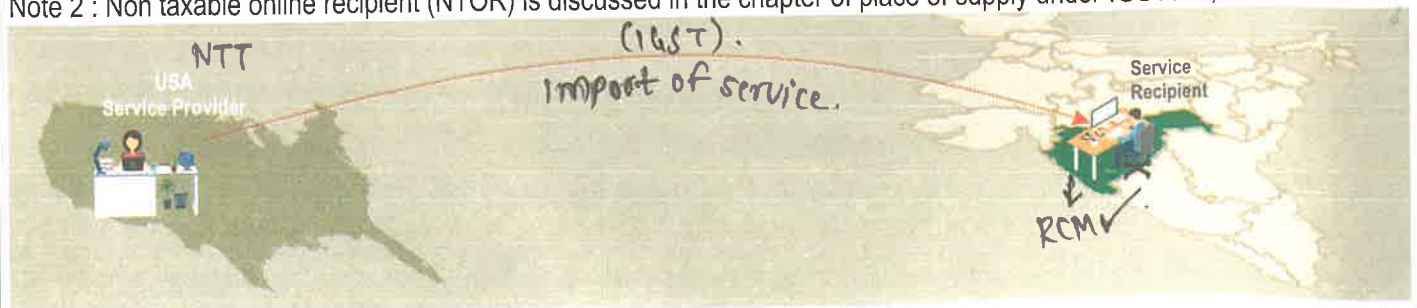
Any person from a non taxable territory

To

Any person other than non taxable online recipient (NTOR)

Note 1:- When any service provided by a person in non taxable territory to a person in a taxable territory then it amounts to import of services (Inter-State Supply) and subject to IGST

Note 2 : Non taxable online recipient (NTOR) is discussed in the chapter of place of supply under IGST Act, 2017



Legal Provision

(Not in Inter syllabus)

Sec 9(4) (CGST) Reverse Charge - when supply of goods or services by unregistered person to registered person

The central tax in respect of the

supply of specified category of goods or services or both by a supplier, who is not registered,

to

a specified class of registered person

shall be paid by such person on reverse charge basis as the recipient of such supply of goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

N/N 07/2019 CT(R) dt 29/03/2019

1 value of inputs and input services purchased from registered supplier is less than 80%

Person liable to pay tax is promoter

By

Purchase from unregistered person

To

promoter

Note:- Reverse Charge is applicable only to the extent of shortfall to make it 80%

2 In case of Cement

Person liable to pay tax is promoter

By

Supplied by unregistered person

To

promoter

3 In case of Capital Goods

Person liable to pay tax is promoter

By

Supplied by unregistered person

To

promoter

Sec 9(5) Electronic Commerce Operators

Electronic Commerce Operator (ECO) is any person who owns/operates/manages an electronic platform for supply of goods or services or both.

Sometimes, ECO itself supplies the goods or services displayed on its electronic portal.

However, many a times, the products/services displayed on the electronic portal are actually supplied by some other person to the consumer.

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.

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. Few services have been so notified. For instance, service by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle, etc.

Legal Provision

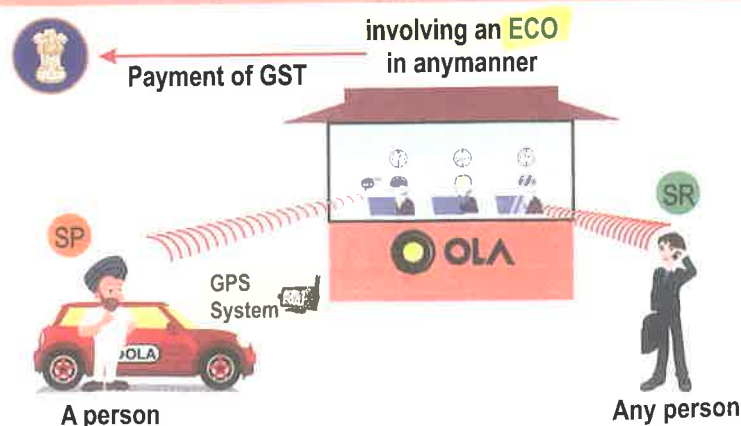
Sec 9 (5) - CGST liability of E-commerce operator

The Government may, on the recommendations of the Council,

- ⇒ by notification, specify categories of services
- ⇒ the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and
- ⇒ all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Proviso	Provided that where an electronic commerce operator does not have a physical presence in the taxable territory,	→	any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax
Proviso	Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory,	→	such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

E-Commerce Operator



Summary of RCM

Transport and Motor vehicle Sector

1. GTA	Services in relation to transportation of goods by road	GTA (who has not paid by CGST 6% & SGST 6%), a) Any registered factory, b) Any registered Society c) Any Co-operative Society d) Any person registered under GST e) Body corporate or; f) firm, (including LLP & AOP) g) Any CTP.	person who pays freight is a) Any registered factory, b) Any notified person located in non-taxable territory. c) Any person liable to pay freight is not falling under notified categories. d) If department or establishment of government or local authority registration only for the purpose of Deducting TDS u/s 51
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* Service by GTA to unregistered person (including CTP) other than above = Exempt (Sl.27A)

2. Renting of motor vehicle	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged	any person other than body corporate (does not issue an invoice charging CGST @6% and SGST 6% to the service recipient)	Any body corporate located in taxable territory
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Legal Service Sector

3. Legal Service	Legal Services provided by an individual / senior firm of advocates to business entity directly or indirectly.		Any business entity located in the taxable territory
4. Arbitral Tribunal	Services by Arbitral Tribunal to business entity in a taxable territory		Any business entity located in the taxable territory

Government Service Sector

5. Government	Any Services provided by Government or Local authority to business entity other than 1) renting of immovable property/2) Service by Department of Post 3) Service in relation to Aircraft, Vessel inside or outside precincts of port or airport/4) transportation of goods or passengers		Any business entity located in the taxable territory
6. Government	Renting of immovable property to any registered person by Govt or local authority		Any registered person

Construction Service Sector

7. Sec 9(3)	Construction (FSI etc.)	Transfer of development rights or Floor Space Index (FSI) by any person to promoter for construction of a project	Promotor
	Construction (lease)	Long term lease of land (30 years or more) by any person to promoter against consideration in the form of upfront amount for construction of a project	Promotor

Insurance & Banking Service Sector

8. Insurance agent	Service by an Insurance Agent to a person carrying insurance business located in taxable territory		Insurer carrying life or general insurance business.
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9. Recovery agent	Services by any recovery agent to a banking company, Financial Institution or NBFC in a taxable territory.	Such banking company, Financial institution or NBFC
10. Members of Overseeing committee	Supply of Service by Members of Overseeing committee to Reserve Bank of India (RBI)	Reserve Bank of India (RBI)
11. DSAs	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP	A banking company or a non-banking financial company, located in the taxable territory.
12. Business Facilitator	Services supplied by Business Facilitator to A banking company located in the taxable territory.	Banking company located in Taxable Territory
13.	Services supplied by An agent of Business Correspondent (BC) to A business correspondent, located in the taxable territory	Business correspondent located in Taxable Territory

Un-organised to Organised Service Sector

14. Sponsorship	Sponsorship Service by any person to any body corporate or partnership firm located in taxable territory.	Such body corporate or Partnership Firm located in a Taxable territory.
15. Director of company	Services by director of a company or body corporate to a registered person (other than - department of Govt. / local authority/ personnel)	Such company or body corporate
16. Security Services	Supply Security services by other than a body corporate Govt. authority/ registered person u/s 10.)	Registered Person located in Taxable Territory

Copyright Service Sector

17. Copyright service	transfer or permitting use or enjoyment of a copyright relating to original dramatic, musical works by Music composer, Photographer, Artist to Music company, producer or the like	Music company, producer or the like, located in the taxable territory
18. Copyright	Transfer or permitting use or enjoyment of a copyright relating to original literary work by an author to publisher	A Publisher located in the taxable territory

Other Service Sector

19. Lending of security	Lending of securities by lender to borrower	Borrower i.e. a person who borrows the securities
20. Import service	Any service supplied by Any person from a non taxable territory to Any person other than non taxable online recipient (NTOR)	Any person located in taxable territory
21. Transportation in vessel	Transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	Person located in non-taxable territory to Importer



CHAPTER - 5

IMPORTANT DEFINITIONS & COMPOSITION Levy

Important Definitions

Aggregate Turnover

Section 2(6)

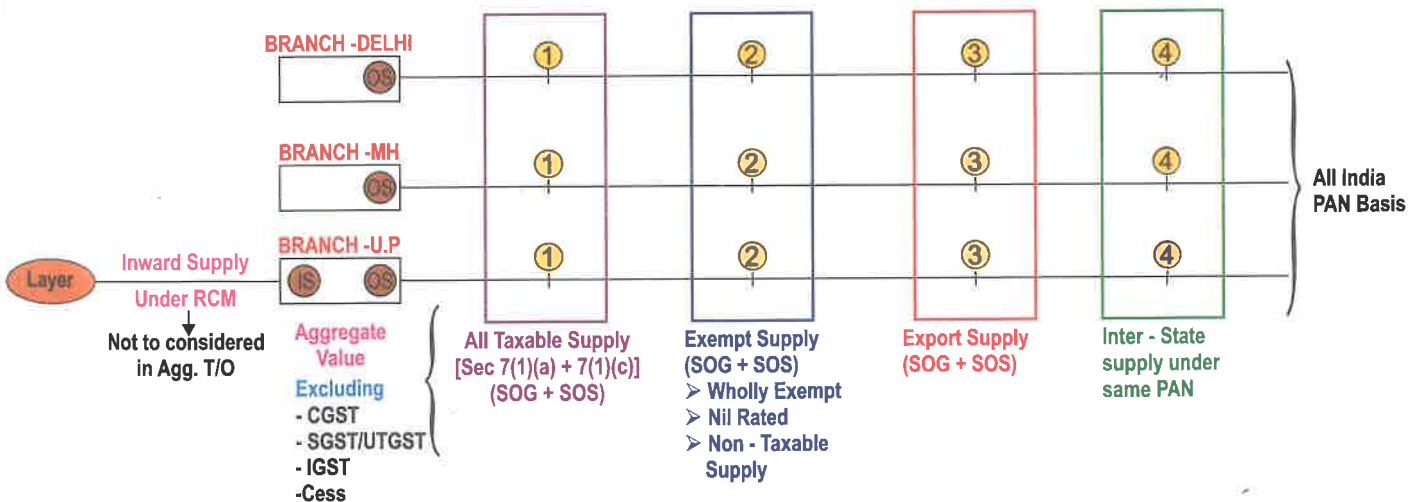
means the aggregate value of

- all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
- exempt supplies, (wholly exempt + nil rate + non taxable supply).
- exports of goods or services or both and
- inter-State supplies of persons having the same Permanent Account Number ~~***~~ (CDDP) (same branch)

to be computed on all India basis

but excludes central tax, State tax, Union territory tax, integrated tax and cess (sales entry)

Aggregate Turnover



Important Comments :

Q. What does "Aggregate" means?

- ◆ It covers all the supplies effected by a person having same PAN all over India basis.

Q. Why Inward Supplies under RCM is excluded from aggregate turnover?

- ◆ As per Sec 9(3) & 9(4) for liability under RCM all provision of this act are applicable to recipient as a supplier & taxable in the hands of recipient as a supplier & taxable in the hands of recipient.
- ◆ It can be misunderstood that the value of inward supply under RCM to be included in aggregate Turnover of recipient.
- ◆ Definition specifically excluded value of inward Supplies subject RCM.

Q. What is the Role of Aggregate Turnover in CGST Act, 2017?

- ◆ It is relevant for determining threshold limit of 20L (10L in special category of state to obtain registration).
- ◆ It is relevant for deciding eligibility of composition Scheme.
- ◆ Certain Supplies are excluded for calculation of aggregate turnover of Job worker.



P1 : XYZ Ltd is a manufacturing company located in Bangalore. During the financial year 20XX-XY total value of supplies including inward supplies taxed under reverse charge basis are as follows :

- i) Intra state supplies of goods chargeable to Nil rate of GST - ₹ 15,00,000
- ii) Intra state supplies made under forward charge - ₹ 88,50,000 (including GST@18%)
- iii) Intra state supplies of goods exempted under section 11 of CGST act - ₹ 9,00,000
- iv) Inward supplies of goods on which tax is payable under RCM - ₹ 5,00,000
- v) Inter-State supply to various buyers ₹ 16,80,000 (including IGST @ 12%)
- vi) Inter-State supply to own establishment under same PAN ₹ 11,20,000 (including IGST @ 12%)

Calculate aggregate turnover.



P2 : M/s X Ltd. being a manufacturer of Audio Systems has three factories in Maharashtra, Delhi, Gujarat, and two service Center in Jodhpur and Karnataka.

Place	Turnover ₹ including Taxes @ 18%
Maharashtra	5,90,000
Delhi	9,44,000
Gujarat	10,62,000
Jodhpur	3,54,000
Karnataka	2,36,000

HW-

$$3186000 \times \frac{100}{118}$$

Calculate Aggregate turnover of M/s X. Ltd 3186000



P3 : Mr. Jolly LLB an Advocate has supplied following goods and services in F.Y. 18-19

- i) Intra state supplies of legal services to business entity - ₹ 15,00,000
- ii) Renting of immovable property - ₹ 5,00,000
- iii) Trading of Goods - ₹ 9,00,000

Calculate aggregate turnover.

Turnover in State" or "Turnover in Union Territory

Section 2(112)

"turnover in State" or "turnover in Union territory" 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) and
- ⇒ exempt supplies made within a State or Union territory by a taxable person,
- ⇒ exports of goods or services or both and
- ⇒ inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person

but excludes central tax, State tax, Union territory tax, integrated tax & cess.



Tutorial Notes

Turnover is same as aggregate turnover, but only state wise :- The expression 'turnover in a state (or UT) is a exactly same to with definition 'aggregate turnover' but for the fact that 'turnover in state' is restricted to the turnover of a taxable person, as opposed to aggregate turnover which is PAN based (i.e. aggregate of turnover of all person registered with same PAN) refer discussion with sec 2(6) of CGST Act

2(108) : Taxable Supply	means a supply of goods or services or both which is leviable to tax under this Act
2(78) : Non-Taxable Supply	means a supply of goods or services or both which is not leviable to tax under this Act (i.e. CGST Act) or under the Integrated Goods and Services Tax Act
2(47) : Exempt Supply	means a 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, and includes non-taxable supply

Example : On the basis of following , determine Total value of exempt supply



Particulars	Value of Supply	Exempt supply or not
a) Supply of goods @12% but fully exempted by notification	1,50,000	Yes 150000
b) Supply of goods/services where rate in GST tariff is NIL	56,000	Yes 56000
c) Supply of goods/services for exports where rate is zero rate	1,75,000	No.
d) Supply of petrol & diesel	95,000	Yes . 95000 .
e) Supply of goods @ 18% but partly exempted by notification	48,000	No . only wholly exempted
g) Supply of goods under composition scheme 1%	20,000	No
Total value of supply		801000 .
Value of exempt supply		↓ .



COMPOSITION LEVY (Section 10)

Introduction : Composition Levy

The word 'Composition' comes from the latin componere, meaning 'Put together'.

Composition scheme is an alternative method to tax small taxpayers while simplifying compliances and reducing their compliance costs. Such schemes have existed in the previous regime of VAT laws, service tax laws and excise laws as well. Even the income tax law has Section 44AD, 44ADA and 44AE to provide for a flat rate of taxation in case of small assesseees. (name given to such scheme under Income tax is Presumptive scheme of taxation).

The very purpose of introduction of these schemes is to ensure proper tax collection to the government without having to trouble the small taxpayers with additional compliances as in case of normal taxpayers.

Composition scheme under GST law has been given under Section 10 of the CGST Act

The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Small taxpayers with an aggregate turnover in a preceding financial year up to ₹ 1.5 Cr. shall be eligible for composition levy. Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on the same, etc. They are not required to raise any tax invoice, but simply need to issue a Bill of Supply . At the end of a quarter, the registered person opting for composition levy would pay a certain specified percentage of his turnover of the quarter as tax, without availing the benefit of input tax credit.

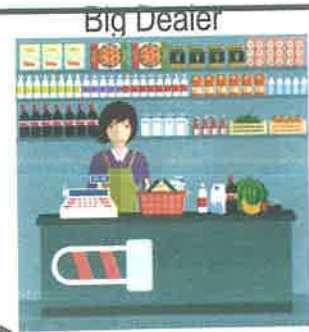
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Very Small Dealer



Small Dealer



Big Dealer

Aggregate Turnover
10 L/20 L/40 L

Aggregate Turnover
1.5 Cr./75 L/50 L

Threshold

Composition

Normal

Assessee	Threshold			Composition		
	Mfg	Trader	SP	Mfg	Trader	SP
	✓	✓	✓	✓	✓	✓

Tax benefits	Threshold	Composition	Normal
	No Tax payable	small tax payable @ composite rate	Tax payable @ normal rate 5/112/18/28/1

procedure benefit	Threshold	Composition	Normal
Registration	MCQ. NO Reg.	Reg. required	Reg. required
GST Invoice	NO.	"Bill of supply"	Tax Invoice.
GST Records	NO.	Simple records	As per GST law.
ITC	<u>NO</u>	NO.	Yes.
GST Return	No.	Yes. ↓ - yearly return in GSTR 4. - quarterly payment along with statement in CMP-08.	Monthly / quarterly in GSTR-3B.

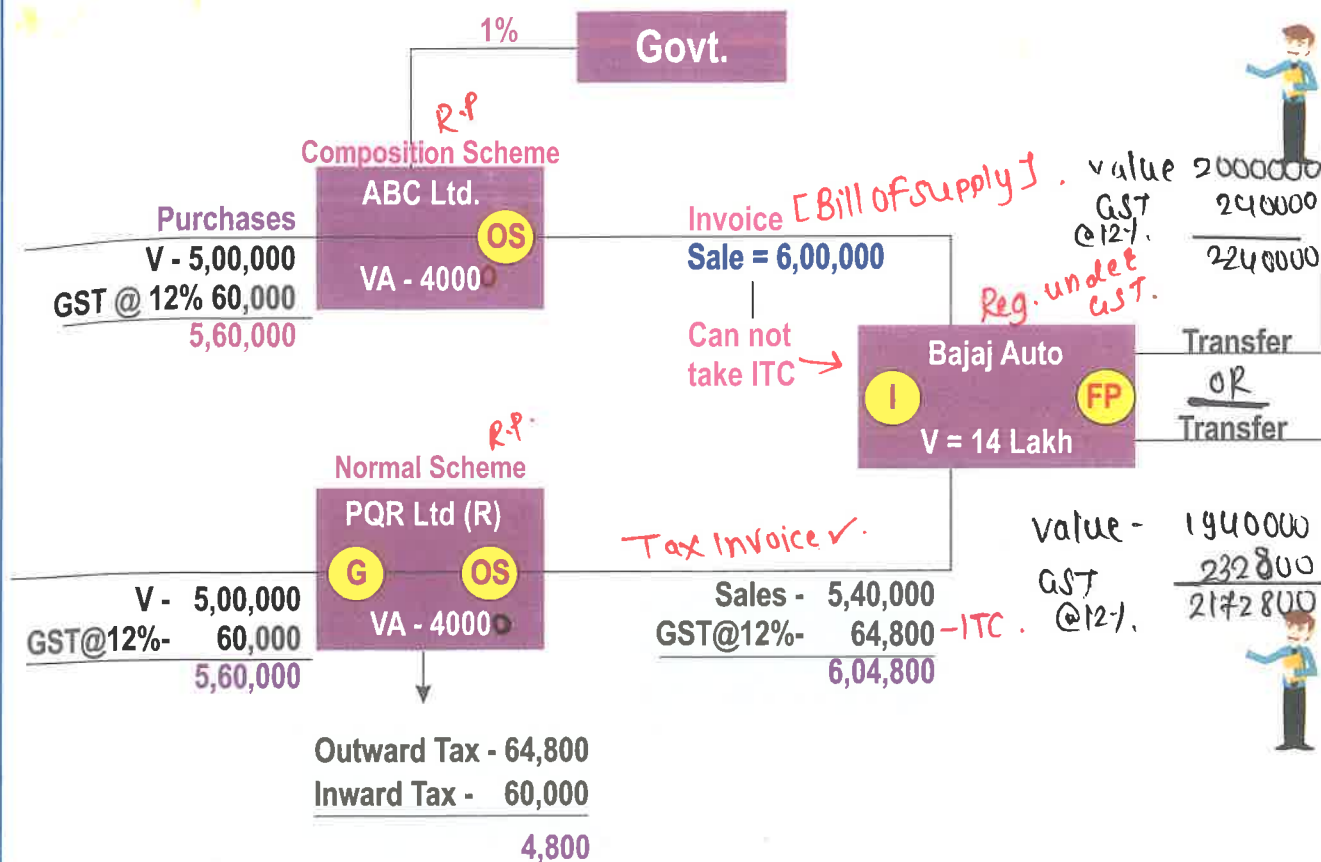
Question : Who should opt for the composition scheme?

Answer: Whether one should opt for composition scheme or not depends on various factors and the answer would differ depending upon the facts of each case. The factors being:

- a) Whether a person would like to give up the benefit of Input Tax Credit on inward supplies in order to relieve himself of the additional compliance which are required in case of a normal taxpayer or;
- b) Whether a person would like to have himself restricted to the market within his state (as he cannot make an inter-state supply) or;
- c) Whether a person is content with making offline sales and not being able to sell over the E-commerce platforms.
- d) Whether the sales to registered persons will be affected post opting for composition scheme.

It all comes down to personal choices where monetary benefit may be lucrative to some and mental relaxation of compliance with the law may seem attractive to some. Therefore, there is no clear answer to this question and shall be seen in light of the facts of each case.

$$6,00,000 \times 1\% = 6,000$$



Threshold and Composition limit (default composition)

Particular	2017-18	18-19	19-20	20-21	21-22	22-23
Agg. T/o	No Business	80L	200L	₹ 1	150L	180L
less: threshold	-	20L	-	-	-	-
Taxable	-	60L	200L	₹ 1.	150L	180L
T/O under composition Scheme	-	60L	150L	-	150L	150L
GST under composition scheme i.e. 1%	-	60000	1.5L	-	1.5L	1.5L
T/o under normal scheme	-	-	50L	₹ 1	-	30L
GST payable under Normal Scheme @ 12%	-	-	600000	₹ 0.12.	-	3.6L

Section 10 Composition Levy

Sec 10(1) Eligibility criteria for composition Levy

A registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5Cr. may opt to pay tax under composition levy.

Exception:- In case of (Special category State) following limit is applicable:-

Special category of State	Threshold limit of composition levy
⇒ Arunachal Pradesh, ⇒ Manipur, ⇒ Meghalaya, ⇒ Mizoram, ⇒ Nagaland, ⇒ Sikkim, ⇒ Tripura, ⇒ Uttarakhand	75 Lakh
⇒ Assam, ⇒ Himachal Pradesh ⇒ Jammu & Kashmir	1.5 Cr.

Important Comment

- Please note that the scheme is optional i.e. one may not pay tax under the composition scheme even if he is otherwise eligible to do so.
- The tax payable u/s 10 is in lieu of tax payable u/s 9(1). Therefore, he is relieved of his tax liability as a normal taxpayer. (This insertion was just clarificatory in nature).

My note - 9(1) rate - 5/12/18/28/

Notified Rate of GST under 10(1) scheme

Sr. No	Categories of registered person	Central Rate	State/UT GST Rate	Total Rate	Basis of Calculation
1	Manufacturers (Supply of goods)	0.5%	0.5%	1%	Turnover in State or UT (i.e. taxable supply + Nil rate + exempt)
2	Suppliers making supplies referred to in Clause (b) of para 6 of schedule II (Supply of service) Example - Restaurant, Catering, Mess or any other service contract where goods as food or drink is supplied for human consumption	2.50%	2.50%	5%	Turnover in State or UT (taxable supply Nil rate + exempt)
3	Other Suppliers (Specially traders) So Cr.	0.50%	0.50%	1%	Turnover of taxable supplies of goods & services in State or UT (only TS)

Sec 10 (3) - Threshold of composition levy in CFY

The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1). (i.e. 1.5 Cr.) / 75 lakhs.
↳ Current FY.

Diagram 1:-

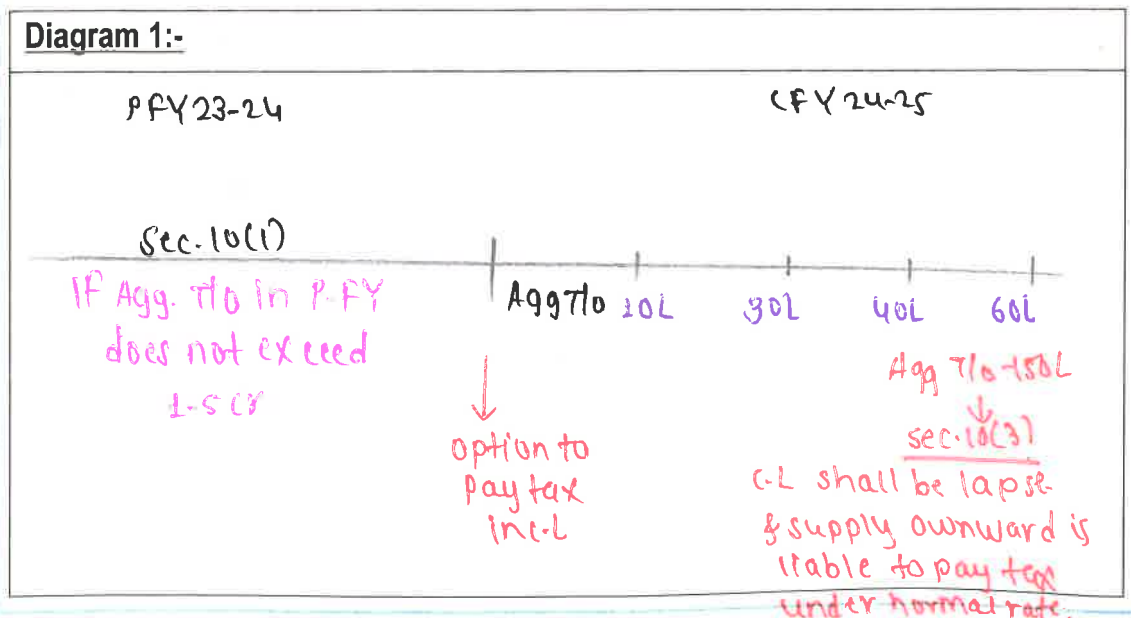


Diagram 2:-

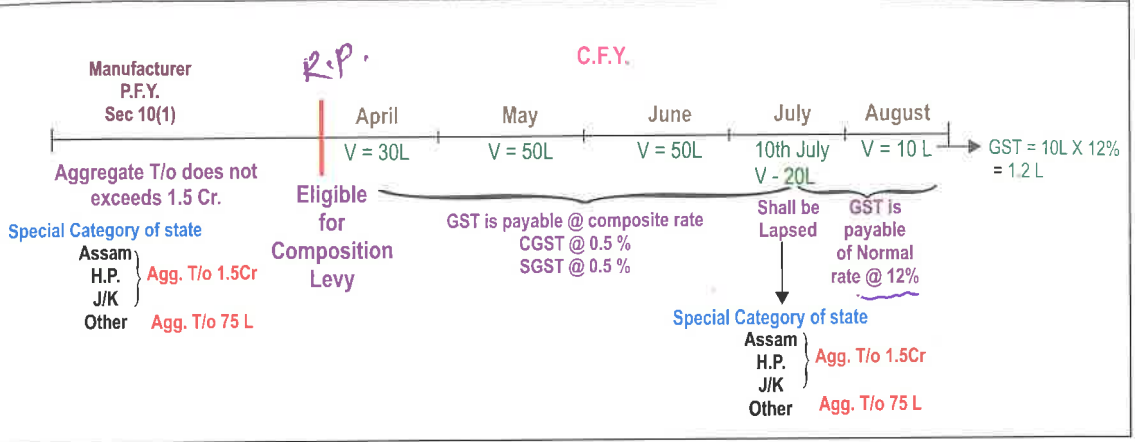
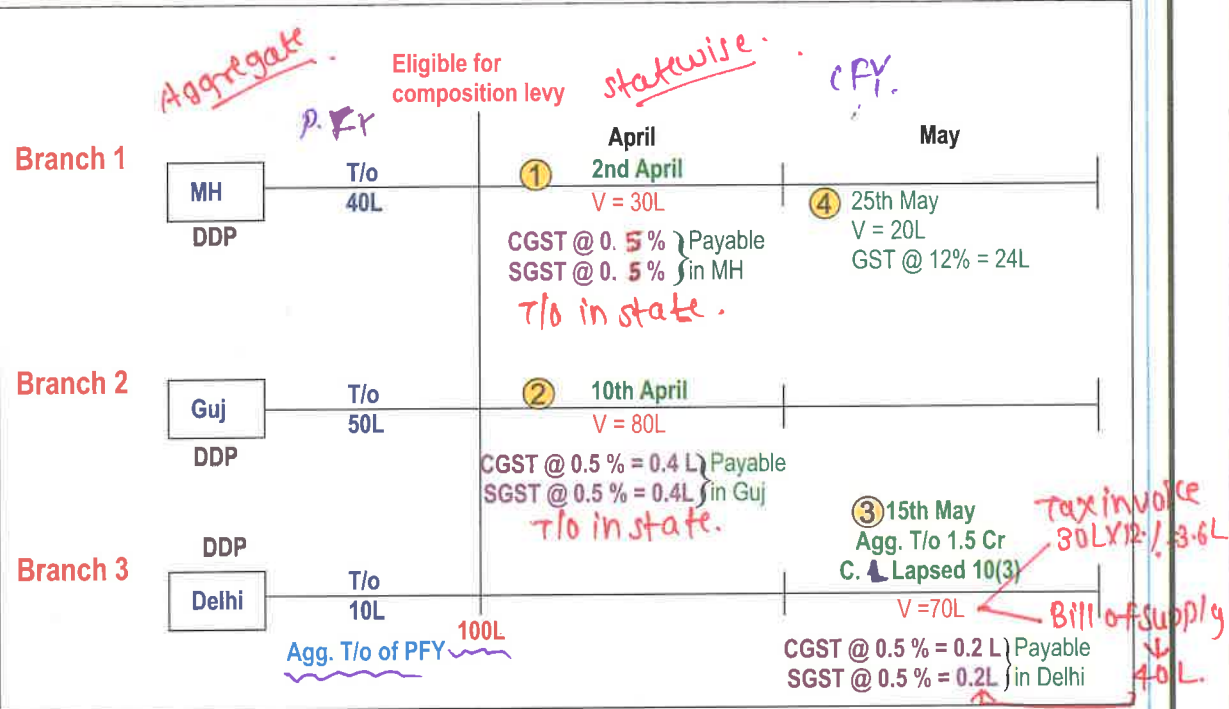
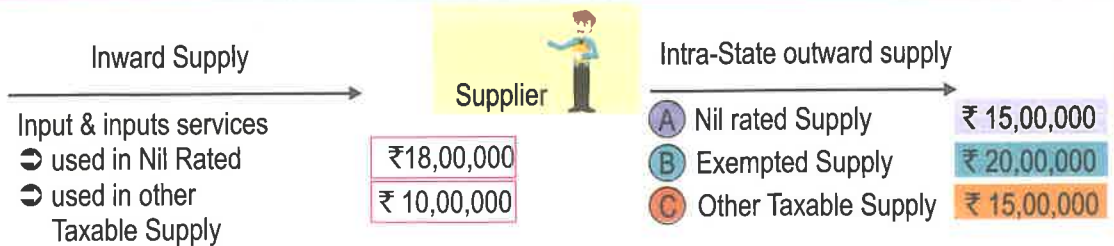


Diagram 3:- XYZ Ltd.



Calculation of GST liability without composition levy

Example 1 : If supplier does not opt for composition



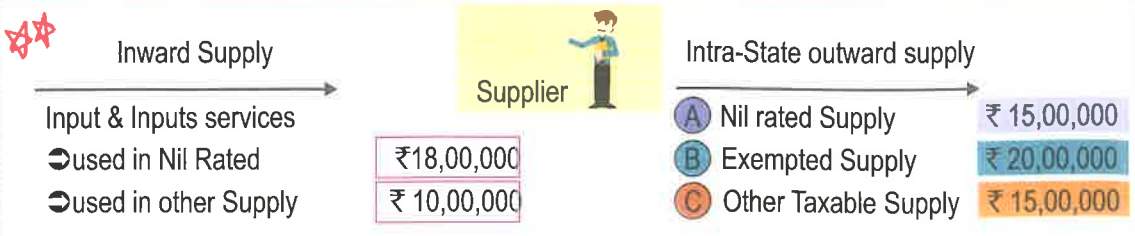
Calculate net tax payable. If Input & output rate of GST is 12%

Calculation of Net tax payable

Particulars	Amt ₹	Less: ITC
Tax on outward supply		
Nil rate supply	-	Nil rate Input/ Input service
exempt supply	-	Taxable I/IS (10L x 12%)
Taxable supply (15L x 12%)	180000	Net GST payable (normal scheme) 60000.

Calculation of GST liability under composition levy for manufacturer & Trader

Example 2 : If supplier opt for composition



Calculate net tax payable. If Input Tax rate of GST is 12% & Composite Rate is 1%

Calculation of Net tax payable.

Particulars	Manufacturer (Amt ₹)	Trader (Amt ₹)
<u>outward supply</u>		
1) Nil rate supply	1500000	-
2) exempted supply	2000000	-
3) Taxable supply	1500000	1500000
T10 in state as per sec 10(d)	5000000	1500000
CGST @ 0.5%	25000	7500
SGST @ 0.5%	25000	7500

- Notes:**
- 1) In case of manufacturer, GST payable under CL is 1% of T10 in state which includes: Taxable supply, Nil rate & exempted
 - 2) In case of trader GST under CL is payable as 1% of taxable supply of T10 in state.

Full GST is payable under

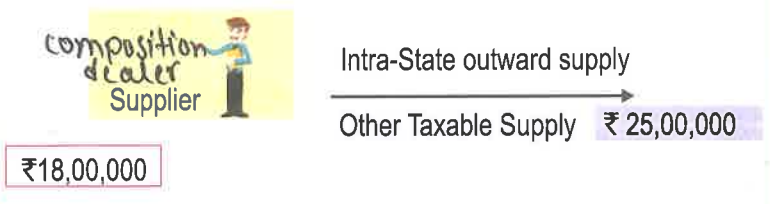
Whether GST is payable at normal rate under RCM if the taxable person is opting for composition scheme?

Notes.

- 1) composition dealer cannot take ITC on tax paid on Inward supply.
- 2) composition levy only applicable to outward supply & not on Inward supply.

an-obstante clause i.e. it overrides other provisions of the act but is subject to 9 i.e. he shall pay tax under Reverse Charge Mechanism on inward supplies of a flat rate of tax is only on outward supplies and not on inward supplies liable

composite Rate of tax.



Out Tax rate of GST is 18% & Composite Rate is 1%
of GST payable by composition dealer

Outward supply	Amt ₹
CGST @ 0.5%	2500000
SGST @ 0.5%	12500
	12500
Total tax payable on outward supply	25000
Tax payable under RCM on legal service [18 Lx 15%]	300000
Total tax payable	349000

→ manufacturer, restaurant & c., trader

Sec 10(2) - Conditions for Composition Scheme

These conditions are applicable only for calculating Agg-T/O of CFY & not for calculating Agg T/O of PFY.

my note: C.L will withdraw as soon as you make non-taxable supply)

cmnt: inter state outward supply also includes export (zero rate supply)

(a) Save as provided in subsection (1), he is not engaged in the supply of services

Your notes U/s 10(c) following services are allowed along with supply of goods:

- i) Restaurant & catering
 - ii) Any service upto marginal limit i.e. 10% of T/O of P.F.Y. or 500000 whichever is ↑.
- * 2) If value of service exceeds Marginal limit then C.L shall be withdrawn.

P4: Finolex Ltd (MH branch), sells electrical cables, motor and wire & also undertakes repair of switches, motor sets. The Aggregate Turnover during preceding financial 2024-25 year from supply of goods & services was ₹ 70 lakhs. The T/O of 1st Quarter of C.F.Y. 25-26 for supply of goods is ₹30 lakhs and repairing service 15 lakhs. Whether Finolex Ltd., is eligible for composition scheme & supply of services in C.F.Y. Advice.

P5: Mr. Amar is running a consultancy firm & also a readymade garment showroom which are registered under same PAN. Turnover of the showroom is ₹ 55L & receipt of consultancy firm is ₹15L in PFY
a) Whether Mr. Amar is eligible for composition scheme u/s 10 of CGST Act
b) Is there any difference if Mr. Amar wants to opt for composition scheme only for showroom.
c) If instead of consulting agency, Mr. Amar is running a Restaurant, whether he is eligible for composition?

(b) He is not engaged in making any supply of goods or Services which are not leviable to tax under this Act;

Your notes Goods not leviable to tax = Non-taxable supply (i.e. Al/Petroleum products) 2) If in C.F.Y composition dealer makes any non taxable supply the composition levy will lapse & prospectively GST is payable at normal rate.

P6: Mr. Jay is dealer who is selling taxable goods, exempted goods and non-taxable goods (i.e. Liquor). His turnover in the current financial year is ₹ 35 lakhs, ₹ 10 lakhs, ₹ 15 lakhs goods which are leviable to GST exempted and non-taxable respectively. Whether Mr. Jay is eligible for composition Scheme (Assume Agg. T/O of P.F.Y. less than 1.5 Cr.)?

P7: Surya Ltd. is engaged in restaurant services by providing restaurant food & wines. Whether Surya Ltd. is liable for composition scheme if aggregate turnover of Surya Ltd. is ₹ 80L in preceding financial year? eligible

(c) He is not engaged in making any inter-State outward supplies of goods or Services

Your notes This restriction is applicable to inter-state outward supplies of goods/services. & not on inter-state inward supplies. Therefore, R.P under C.L can make inter state purchases.

P8: Mr. C of Maharashtra is a retailer dealing with cell phones. He supplies goods to the person located in Maharashtra and Goa. Aggregate turnover in the preceding financial year is ₹ 45 lakhs. Mr. C wants to opt for composition scheme in the current financial year.

P9: Mr. Sugam is a manufacturer, having 2 factories in Punjab and Haryana. He supplies goods from Punjab to Haryana in their own factories. DDP → inter state. Whether Mr. Sugam is liable for composition scheme.

P10: VB Ltd. had made inter-state inward supply of goods of ₹30,00,000 in CFY and make only intra-state outward supply. Whether VB Ltd. is eligible for composition scheme? Yes ✓

eg. - Amazon, Swiggy, etc.

(d) He is not engaged in making any supply of goods or Services through an electronic commerce operator who is required to collect tax at source under section 52;

Your notes // Thus any registered person make outward supply through online platform (Eco) then not eligible for C.L.

P11: Mufti is a trader who sells his ready-made clothes online on Amazon India (an Electronic Commerce Operator). He received an order for ₹ 14,00,000 in the previous year. Mufti also supplied goods from there out lets. Aggregate turnover of the Company in the previous year was ₹21,00,000. Mufti is eligible for composition scheme. **NO.**

My note:
Restriction not on Trader, dealer, etc.

(e) He is not a manufacturer of such goods as may be notified (as notified in table given below) by the Government on the recommendations of the Council and

Notified Goods

Tariff item, subheading, heading or Chapter*	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2106 90 20	Pan Masala
2202 10 10	Aerated Water (Mineral water/Soft drink)
24	All goods, i.e. Tobacco and manufactured tobacco substitutes
6815	Fly ash bricks; Fly ash aggregates; Fly ash blocks Substituted by N/N 16/2022 CT dt 13/07/2022
6901 00 10	Bricks of fossil meals or similar siliceous earths
6904 10 00	Building bricks
6905 10 00	Earthen or roofing tiles".

Your notes // Above restriction on notified good is applicable only for manufacturer & not for trader & restaurant or catering. Hence trader or R&S can take C.L even though they make above supply

P12: Mr. Spiderman is a trader engaged in supply of Ice-cream during XX-XY. His total value of supplies was ₹90 L in PFY XX-XY.

- a) Whether Mr. Spiderman is eligible for composition scheme? **Yes**
- b) Would your answer differ, if Mr. Spiderman is a manufacturer of Ice-Cream. **Yes**

(f) he is neither a casual taxable person nor a non-resident taxable person

Your notes // Registration of CTP/NRTP is for temporary period & they are not eligible for threshold limit (i.e. 10/20/40 lakhs) & for composition

P13: Mr A. is an artist. Trade Fair is organised by Bombay Exhibition in Mumbai. Mr. A wants to display & sell his paintings in Trade Fair. His turnover in Trade Fair is ₹15 lakhs. Whether Mr. A is eligible to opt for Composition scheme

Proviso to Sec 10(2): Scheme applies to all registered persons with same PAN

(DDP)
all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme u/s 10(1). If any of them opts for normal scheme, then all such other persons also become ineligible for composition scheme.

How to Compute Aggregate Turnover for determining eligibility of composition scheme if person having his one of the establishment in special categories of state?

Ans:- One may have a doubt in case where a person who has business established in one of the special category states and other states, say in Manipur and Maharashtra, what would be the Aggregate Turnover threshold for composition levy. Whether it would be ₹ 75L or 150L? In such cases, harmonious interpretation shall be done to ensure that both the conditions are satisfied. Therefore, in such cases the Aggregate Turnover threshold limit will be ₹ 75L.

P14: Mohan enterprises has registered business verticals in Maharashtra and Delhi, its aggregate turnover of Maharashtra business vertical is ₹50 L and Delhi business vertical is ₹10 L in PFY. It wishes to pay tax under composition levy in Maharashtra while under normal levy in Delhi.

- a) You are required to advice Mohan enterprises whether it can do so?
b) What will be your answer in above case, if one registered unit of Mohan enterprises is located in Maharashtra and another registered unit is located in Assam. **Manipur.**

Explanation to sec 10(1):-
Marginal Service

Second Proviso.

Fundamentally, the composition scheme can be availed in respect of goods and only one service namely, restaurant service. However, there are cases where a manufacturer/trader is also engaged in supply of service other than restaurant service though the percentage of such supply of services is very small as compared to the supplied of goods. There may also be cases where a restaurant service provider is also engaged in supplying a small percentage of other services.

With a view to enable such taxpayers to avail of the benefit of composition scheme, second proviso to sec 10(1) permits marginal supply of services [other than restaurant services] for a specified value along with the supply of goods and/or restaurant service, as the case may be.

This specified value is the value not exceeding:

- a) 10% of the turnover in state /UT in the preceding financial year
or
b) ₹ 5Lakhs

marginal limit of service.

Whichever is higher

Turnover in the state/UT in the preceding FY (in Rs.)	10% of such turnover (in Rs.)	5 Lakh Rupees	Maximum amount of services which may be supplied by the manufacturer/trader during the current FY (in Rs.)
10,00,000	1,00,000	5,00,000	5,00,000
20,00,000	2,00,000	5,00,000	5,00,000
60,00,000	6,00,000	5,00,000	6,00,000

"Explanation.—For the purposes of second proviso, the 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 shall not be taken into account for determining the value of turnover in a State or Union territory."

will be discussed on pg. 138



P15 :- M/s Colgate Pvt. Ltd., a manufacturer, having the only registered place of business in the state of Maharashtra. Determine the eligibility to opt for composition scheme and also compute tax liability of M/s Colgate Pvt. Ltd. on the basis of following information assuming that total value of service provided by the company in Preceding Financial Year (PFY) is within the allowed limit of section 10(1) except interest and restaurant service:-

Sr. No.	Particulars	PFY 20XX-YY (₹ in lakhs)	1st Qtr. 20YY-ZZ (₹ in lakhs)
1	Value of taxable supply of goods	80	25
2	Value of exempt supply of goods	30	7
3	Value of taxable supply of service	5	(1) ✓ 11
4	Value of exempt supply of Service	3	(0.5)
5	Value of restaurant & catering services	10	1.5 - 5!
6	Interest on loan/advances /deposits	4	1.2

Calculate GST payable under composition scheme for 1st quarter of Current Financial Year (CFY) 20YY-ZZ.

P16: Mr. X is eligible under composition scheme in CFY XX-YY. Following details are given for CFY.

- Intra state Supply (Taxable) ₹ 25,00,000
- Intra state Supply (Wholly Exempt) ₹ 10,00,000
- Mr. X has taken legal service (Inward Supply) from individual advocate for ₹ 5,00,000 (applicable GST @ 18%)

Whether Mr. X is eligible for composition levy?

If yes, then calculate tax liability of current FY XX-YY if Mr. X is trader.

P17: PQR Ltd. is eligible for composition scheme on the basis of aggregate turnover in PFY XX-YY. If furnishes the following information for FYYY-ZZ:

Factory	Location	Amount (₹)
1	Intra-State supply of goods A	40,00,000
2	Intra-state supply of goods B (Nil Rate)	20,00,000
3	Intra- State supply of goods C (Wholly Exempted)	10,00,000

- Calculate GST liability under composition scheme if PQR Ltd. is a manufacturer.
- In above case, would your answer differ if PQR Ltd. is a trader

Composition Levy under Sec 10(2A)

Sec 10(2A) : Eligibility Criteria and Condition for those who are not eligible for composition Scheme under Sec 10 (1) [predominantly for supplier of service]

*H is available to R.P who exclusively engaged in SOS
ii) manuf. trader who pat-dominantly engage in SOS.*

A registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), 10(2)

whose aggregate turnover in the preceding financial year did not exceed ₹50 lakh, may opt to pay tax under composition levy.

Note:- In case of special category of state same threshold limit of composition levy u/s 10(2A) is applicable

Notified Rate of GST under 10(2A) scheme

6% (CGST 3% and SGST 3%) of the turnover in State or turnover in Union territory,

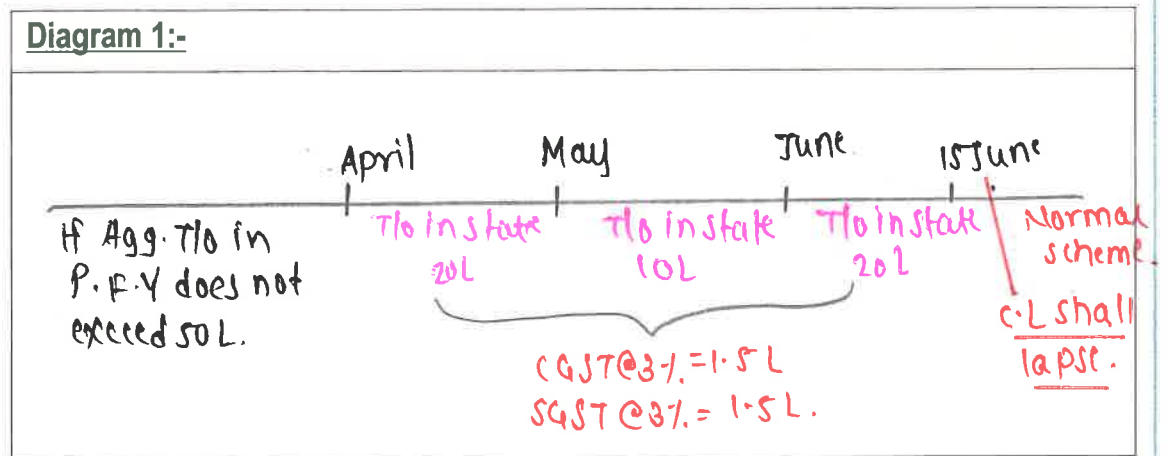
Your notes

1) Tlo in state = Taxable supply + exempts. + Nil rates.

Sec 10 (3) - Threshold of composition levy in CFY

The option availed of by a registered person under **Sub-section (2A) shall lapse** with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified **Sub-section (2A) (i.e. ₹50 lakh)**


Diagram 1:-



Sec 10(2A) - Conditions for Composition Scheme

- a) He is not engaged in making any supply of goods or services which are *not leviable to tax* under this Act *(i.e. non taxable supply)*
- b) He is not engaged in making any **inter-State outward supplies** of goods or services;
- c) He is not engaged in making any supply of goods or services through an **electronic commerce operator** who is required to collect tax at source under section 52;
- d) He is not a **manufacturer** of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

Tariff item, subheading, heading or Chapter*	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2106 90 20	Pan Masala
2202 10 10	Aerated Water
24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Your notes  This restriction is applicable only to the manufacturer of notified goods & not to the service provider, trader, restaurant & catering.

e) He is not a casual taxable person or a non-resident taxable person:

Proviso to Sec 10(2A):
Scheme applies to all registered persons with same PAN

all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme u/s 10(2A). If any of them opts for normal scheme, then all such other persons also become ineligible for composition scheme.]

P18:- Gold Gym started providing Health Fitness services in Pune on 01st April, 20XX. It has opted to pay tax under sec 10(2A) scheme. The aggregate turnover of Gold Gym for the quarter ending 30th June, 20XX was ₹ 20 lakh. Further, for the half year ending 30th September, 20XX, the turnover reached ₹ 50 lakh. Gold Gym recorded a rapid growth and the turnover reached ₹ 70 lakh by the end of October, 20XX. Determine the total tax liability of Gold Gym by the end of October, 20XX. (normal rate @ 18%.)



P19:- Mr. Vimal is running a readymade garment showroom and also a consultancy firm which are registered under same PAN. Turnover of the showroom is ₹ 35 lakhs and Receipt of the consultancy firm is ₹ 15 Lakhs in the current financial year.

- Whether Mr. Vimal is eligible for Composition Scheme u/s 10 of CGST Act (Assume turnover in state of preceding financial year is ₹ 10 Lakhs)?
- If instead of consulting agency, Mr. Vimal is running a Restaurant, whether he is eligible for composition?

Common Conditions for Composition Levy u/s 10(1) & 10(2A)

Sec 10(4) : Cannot collect the Tax as well as no ITC is available

A taxable person to whom the provisions of sub-section (1) *or as the case may be Sub-section (2A)* apply

- ➔ shall not collect any tax from the recipient on supplies made by him
- ➔ nor shall he be entitled to any credit of input tax.

Comment :- Composition taxpayers u/s 10(1) or 10(2A) shall not collect composition tax from their customers i.e. they have to pay tax from their own pocket and therefore cannot collect any amount in the name of tax from its customers. Because of this reason, they cannot issue a tax invoice and have to issue a Bill of supply instead.

Sec 10(5) : Recovery and Penalty

If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) *or Sub-section (2A)* as *the case may be* despite not being eligible, such person shall,

- ➔ in addition to any tax that may be payable by him under any other provisions of this Act,
- ➔ be liable to a penalty

and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

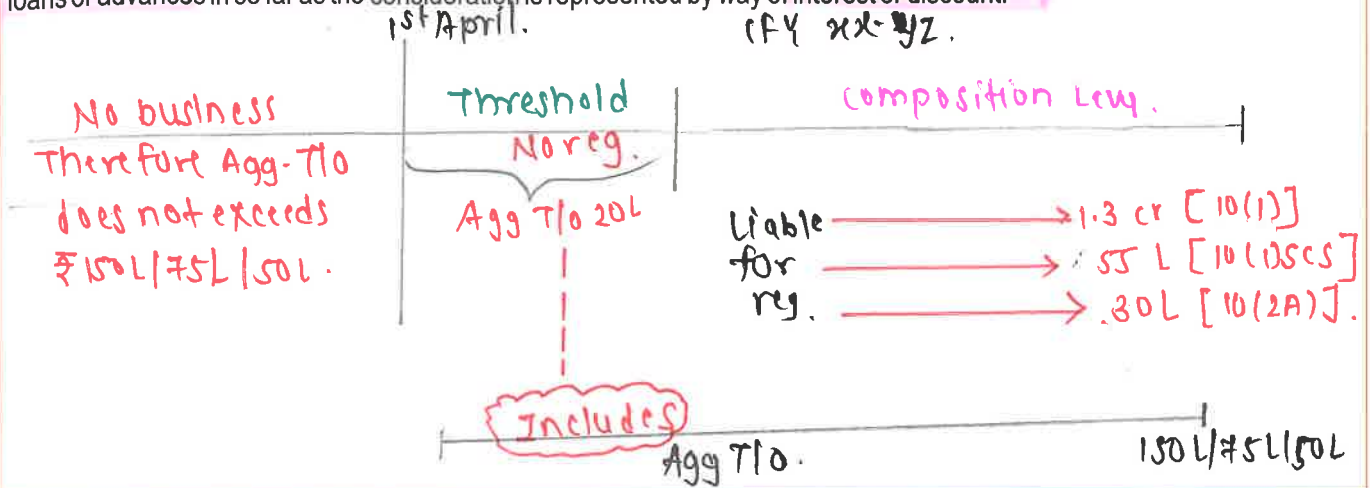
Inclusion and Exclusion in Aggregate turnover/Turnover in State for composition levy

Explanation to sec 10

Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “**aggregate turnover**”

⇒ **shall include** the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, (T/O or threshold)

⇒ **but shall not include** the 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.



While computing the threshold limit of ₹ 1.5 crore/ ₹ 75 lakh / ₹ 50 lakh, inclusions in and exclusions from ‘aggregate turnover’ are as follows:

Includes	Excludes
Value of all outward supplies --Taxable supplies --Exempt supplies --Exports* --Inter-State supplies* of persons having the same PAN be computed on all India basis.	⇒ CGST/SGST/UTGST/IGST/ Cess ⇒ Value of inward supplies on which tax is payable under reverse charge. ⇒ 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
These also includes	

Value of supplies made by registered person from 1st April of a FY up to the date when he becomes liable for registration under this Act

***Note:** The value of exports and inter-State supplies are relevant only while determining the aggregate turnover of the preceding FY. These values are not relevant for determining the aggregate turnover of the current FY in which the composition supplier has opted for composition levy as he is not permitted to make inter-State supplies and exports in the said FY.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression “**turnover in State or turnover in Union territory**” shall not include the value of following supplies, namely:—

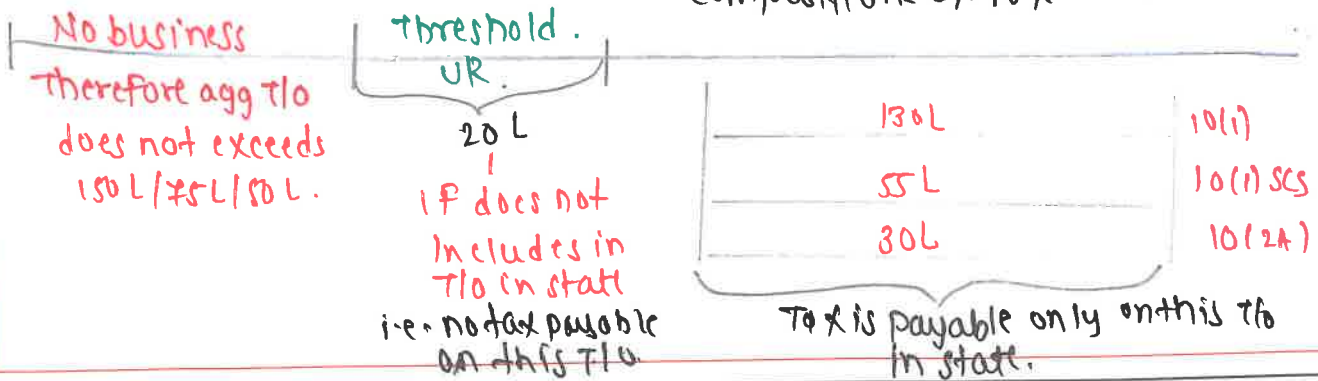
- (i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount. .

P-FY

1st Apr.

composition = 1% / 5% / 6%

↑



While computing the Turnover in a State/UT to pay tax under composition levy, inclusions and exclusions are as follows:

Includes	Excludes
<p>⇒ All taxable supplies and exempt supplies made within the State/UT</p> <p>(While computing turnover in a State/UT of a supplier, other than manufacturer and restaurant service provider, eligible for composition levy for goods [eg-trader], the exempt supplies will not be taken into consideration)</p>	<p>CGST/SGST/UTGST/IGST/Cess</p> <p>--Value of inward supplies on which tax is payable under reverse charge.</p> <p>--Value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under this Act</p> <p>--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</p>

P20:- A photographer 'Bhola' has commenced providing photography services in Delhi from April this year. His turnover for various quarters till December is as follows:

April-June ₹20 lakh

July-Sept ₹30 lakh

Oct-Dec ₹20 lakh

Whether Bhola is eligible for composition levy in CFY? Also determine GST liability.

(where normal rate 18%)

Implication of Interest or Discounting on loan/Adv./Deposits [Applicable for 10(1) & 10(2A)]

Situation	Example								
<p>Agg. T/O of P.F.Y. [for deciding eligibility of composition levy]</p>	<p>Aggregate T/O of XYZ Ltd. in P.F.Y. is ₹152 Lakhs which includes interest on Loan/Adv./Deposits ₹ 3 lakhs. Whether composition levy is available in C.F.Y?</p> <p>Ans :- Agg.T/O - 152L - 3L = <u>149 L</u></p> <p>Hence, XYZ Ltd. is eligible for composition Levy.</p> <p>Note :- As per explanation 1 to sec 10, Agg. T/O shall not include the 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.</p>								
<p>Agg. T/O of C.F.Y. [for deciding withdrawal of composition Levy in C.F.Y.]</p>	<p>XYZ Ltd. has opted composition levy in C.F.Y. [as T/O of P.F.Y. is less than 150L/75L/50L]. Till September of C.F.Y. Agg. T/O of XYZ Ltd. is ₹155 Lakhs which includes ₹10 lakhs for interest on loan /adv./deposits, state whether composition levy of XYZ Ltd. has lapsed in month of September or still it can pay tax under composition Levy?</p> <p>Ans:- Agg. T/O - 155L - 10L = <u>₹145Lakhs</u></p> <p>Hence, XYZ Ltd. can still continue composition levy upto 5 lakhs after September.</p> <p>Note :- As per explanation 1 to sec 10, Agg. T/O shall not include the 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.</p>								
<p>T/O in State/UT [for calculation of composition Tax 1%, 5%, 6% under composition levy]</p>	<p>Manufacturer PQR Ltd. has opted for composition levy in C.F.Y. Its T/O of state in Maharashtra is 1st quarter (April-June) is includes</p> <table style="margin-left: 20px; border: none;"> <tr> <td>a) Taxable supply of goods</td> <td style="text-align: right;">₹20 Lakhs</td> </tr> <tr> <td>b) Taxble supply of service</td> <td style="text-align: right;">₹2 Lakhs</td> </tr> <tr> <td>c) Exempt supply of service</td> <td style="text-align: right;">₹1 Lakh</td> </tr> <tr> <td>d) Interest on Loan/Adv./Deposit</td> <td style="text-align: right;">₹0.5 Lakhs</td> </tr> </table> <p>Calculate Gst payable in 1st Quarter under composition levy</p> <p>Note :- Whatever service provided in 1st quarter is within marginal limit as per proviso 2</p> <p>Ans:- GST payable = 1% [20+2+1L] = <u>₹23 lakhs</u></p> <p>Note:- Interest excluded</p> <p>Note :- As per explanation 2 to sec 10, T/O in state/UT shall not include the 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.</p>	a) Taxable supply of goods	₹20 Lakhs	b) Taxble supply of service	₹2 Lakhs	c) Exempt supply of service	₹1 Lakh	d) Interest on Loan/Adv./Deposit	₹0.5 Lakhs
a) Taxable supply of goods	₹20 Lakhs								
b) Taxble supply of service	₹2 Lakhs								
c) Exempt supply of service	₹1 Lakh								
d) Interest on Loan/Adv./Deposit	₹0.5 Lakhs								
<p>T/O of State/UT of P.F.Y for calculation of marginal limit of service under proviso 2 to 10(1) i.e. 10% of T/O in state or ₹ 5 lakhs</p>	<p>ABC Ltd. has turnover in state of Maharashtra in P.F.Y. is ₹80 lakhs. Turnover includes ₹ 7 lakhs for interest on loan/Adv./deposits. Whether ABC Ltd. is eligible for C.L. in C.F.Y. ? Also, what is the amount of marginal limit of service available in C.F.Y?</p> <p>Ans:- 1) Agg. T/O = 80 Lakhs - 7 lakhs = <u>73 lakhs</u> T/O in state only 1 branch]</p> <p>ABC Ltd. is eligible for composition levy in C.F.Y.</p> <p>2) Marginal limit of service = 73L X 10% or ₹ 5Lakhs = <u>₹ 7.3 Lakhs</u></p> <p>Note :- As per Explanation to sec 10(1), for the purposes of second proviso, the 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 shall not be taken into account for determining the value of turnover in a State or Union territory."</p>								

Procedure under CGST Rules, 2017

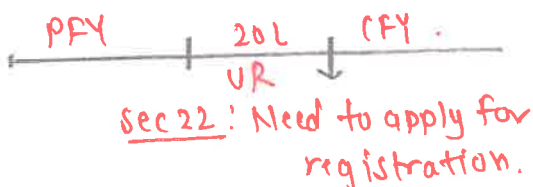
Rules 3 & 4:- Intimation of opting for composition levy & Effective Date

<p>Intimation by person applying for registration:</p>	<p>Any person who is not registered and applies for registration may give an option to pay tax under composition levy in Part B of the registration form, viz., FORM GST REG-01.</p> <p>The same shall be considered as an intimation to pay tax under Composition Levy. Such intimation shall be considered only after the grant of registration to the applicant and his option to pay tax under composition levy.</p>
<p>Intimation by a registered person:</p>	<p>A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form (CMP-02) on the Common Portal [www.gst.gov.in], prior to the commencement of the FY for which said option is exercised.</p> <p>He shall also furnish the statement Form GST ITC-3 for details of ITC relating to inputs lying in stock, inputs contained in semi-finished or finished goods within 60 days of commencement of the relevant financial year in accordance with the provisions of rule 44(4) of CGST Rules, 2017.</p> <p>**** Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.</p>

Detailed discussion in ITC.

Intimation for opting CL

If a person is unregistered



Form: REG-01.

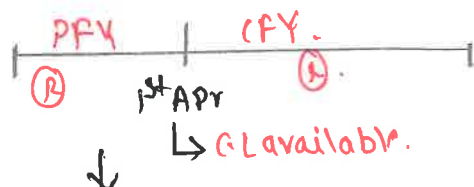
Part A - PAN.

Part B.

*↓
opting for CL*

- It is treated as intimation.

If a person is already registered.



Intimation of CL

shall be given in form

[CMP 02] before

starting C.F.Y.

Rule 5: Conditions and restrictions for compositions levy

<p>Payment of RCM on purchases from unregistered person</p>	<p>the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9 (already discussed u/s 10(2))</p>
<p>Title on Bill of Supply</p>	<p>he shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him; and</p>
<p>Display at business premises</p>	<p>he shall mention the words "Composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.</p>

Validity of composition levy [Section 10(3) read with rule 6]

Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions

- ⇒ The option exercised by a registered person to pay amount under composition levy shall remain valid so long as he satisfies all the conditions mentioned in the relevant section and rules.
- ⇒ Such person is required to pay tax under regular scheme under section 9(1) from the day he ceases to satisfy any of the conditions prescribed for composition levy.
- ⇒ He shall issue tax invoice for every taxable supply made thereafter. Further, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
- ⇒ The **effective date from which withdrawal from the composition scheme shall take effect** shall be the date indicated by him in his intimation, but such date may not be prior to the commencement of the financial year in which such intimation is being filed.

Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme

- ⇒ The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in prescribed form.
- ⇒ The **effective date from which withdrawal from the composition scheme shall take effect** shall be the date indicated by him in his application, but such date may not be prior to the commencement of the financial year in which such application for withdrawal is being filed.

OTHER RULES APPLICABLE TO A COMPOSITION TAXPAYER

Registration	Rule 11(1)(b): A person can register himself to pay tax either u/s 10 or as per section 9. He cannot opt for both for different place of businesses.
Return	<p>Rule 62</p> <p>62(1)(i) All composition taxpayers shall file a statement in FORM GST CMP – 08 on a quarterly basis till 18th of the month following the quarter. Therefore, the default due dates for CMP – 08 are as follows: Apr-Jun: 18th July Jul-Sep: 18th Oct Oct-Dec: 18th Jan Jan-Mar: 18th Apr</p> <p style="color: red; font-size: 1.2em;">} Payment of tax is also quarterly before filing CMP 08</p> <p>62(1)(ii) All composition taxpayers shall file a Return (annual basis) in FORM GSTR-4 till 30th April of the following year. Earlier GSTR-4 was required to be filed on a quarterly basis but to ease the compliance, this requirement has been shifted from quarterly to annual basis.</p> <p>62(2) CMP-08 (quarterly statement) shall be a simple form wherein the composition taxpayer can declare his turnover in the state/UT and discharge his tax liabilities (including tax on reverse charge) along with interest by debiting the electronic cash ledger. (As he cannot have any balance in the electronic credit ledger).</p> <p>62(6) This rule is applicable for persons who have opted to pay tax by taking benefit under notification 2/2019 – CT. Therefore, this rule is irrelevant for the reasons as discussed previously in this article.</p>
Rule 80	Annual Return: The annual return for a composition taxpayer has to be furnished in FORM GSTR-9A

Difference betⁿ composition Levy v/s 10(1) & 10(2A)

	composition Levy v/s 10(1)	composition Levy v/s 10(2A)
eligible Person.	<ul style="list-style-type: none"> - Manufacturer (supplier of goods) - Trader (supplier of good) - Restaurant / catering, etc. <p style="color: red;">Note: predominantly, it is for supply of goods & restaurant & catering.</p>	<p>Every person who is not eligible for composition Levy v/s 10(1) i.e.</p> <ul style="list-style-type: none"> - supplier of service - manufacturer / trader who predominantly supply the services more than marginal limit. - Restaurant & catering who also supply other services more than marginal limit.
Tlo for composition Levy.	<p>Aggregate Tlo upto 1.5 cr. but for special category of state - 75 lakhs</p> <p>But, In case of Assam, Himachal Pradesh, J & K - 1.5 cr.</p>	<p>Aggregate Tlo upto 50 lakh.</p> <p style="color: red;">Note: Same limit is applicable for special category of state.</p>
composite rate of tax	<p>i) manufacturer = 1% of Tlo in state. (Taxable + exempt + Nil rate).</p> <p>ii) Trader = 1% of taxable supply of Tlo in state.</p> <p>iii) Restaurant & catering = 5% of Tlo in state.</p>	<p>6% of Tlo in state (Taxable + exempt + nil rate).</p>
Marginal limit of service.	<p>Along with supply of goods following marginal limit of service is available:</p> <p style="color: red;">a) 10% of Tlo in state of PFR, or b) 500000 whichever is higher.</p>	<p style="color: red;">No such marginal limit applicable.</p>
Notified goods by manufacturer.	<p>composition scheme is not available on following item also:</p> <p style="color: red;">Ply ash bricks, Bricks of fossils, meals, building bricks, Earthen / roofing tiles.</p>	<p>C-L is available to manufacturer for such items.</p>

CHAPTER - 6

TIME OF SUPPLY

Table of Content

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Introduction :

GST is payable on supply of goods or services. A supply consists of elements that can be separated in time, like purchase order / agreement, despatch (of goods), delivery (of goods) or provision or performance of service, entry in the records, payment, and entry of the payment in the records or deposit in the bank.

So, at which of these points of time will GST become payable? Will it become payable when an agreement to supply goods or services is made, or when the goods are shipped or the services are provided, or when the invoice is issued or when payment is made? What if the goods are shipped over a period of time? What if the service is provided over a period of time? Provisions relating to 'time of supply' provide answer to all such and other questions that arise on the timing of the liability to pay CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) as time of supply fixes the point in time when the liability to pay tax arises.

The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13 of CGST Act. Section 14 provides for the method of determining the time of supply in case there is a change in the rate of tax on supply of goods or services. Sections 12 and 13 use the provisions of section 31 relating to issue of tax invoice as a reference point.

Events like issuing of invoices, receipt of payment, provision of service, receipt of services in books of account need to be analysed to determine the time of supply when the tax on supply is payable under forward charge. When the tax on supply is payable under reverse charge, events like date of receipt of goods, date of making payment etc. need to be analysed to determine the time of supply. The provisions relating to time of supply essentially push the tax collection event to the earliest possible time.

DATE OF ISSUE OF INVOICE BY SUPPLIER OF GOODS OR SERVICES (Relevant extract of Sec 31)

Invoice is main criteria for deciding Time of Supply. Hence before going ahead first try to understand when the invoice to be issued by supplier of goods or services.

Invoice by supplier of the goods

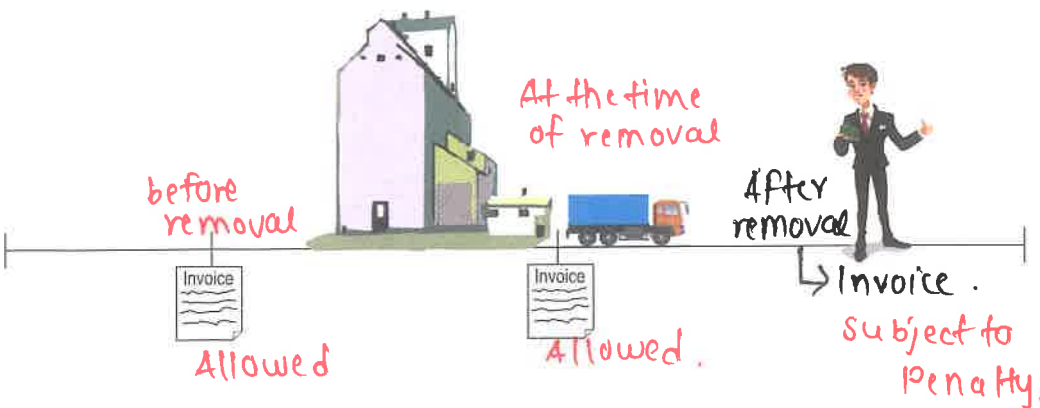
As per Sec 31 a registered person supplying taxable goods shall, before or at the time of

(a) **removal of goods** for supply to the recipient, **where the supply involves movement of goods**; or

(b) **delivery of goods or making available** thereof to the recipient, **in any other case**

shall issue the Invoice

movement is not involved.

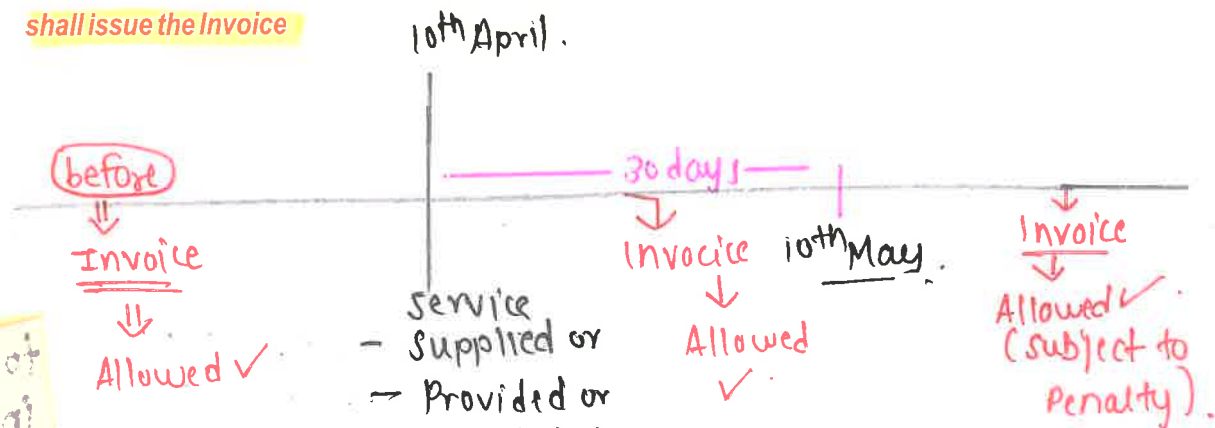


Invoice by supplier of the Service

As per Sec 31 a registered person supplying taxable services shall, **before or after the provision of service**

but not beyond 30 days (in case of banks or financial institution within 45 days) from the date of supply of service

shall issue the Invoice



Last date of Invoice for SOG (issuing) is date of removal of supply (if movement of goods involved) or date of delivery or made available (if movement not involved).

Section 12 : Time of Supply of Goods

1. *The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.*

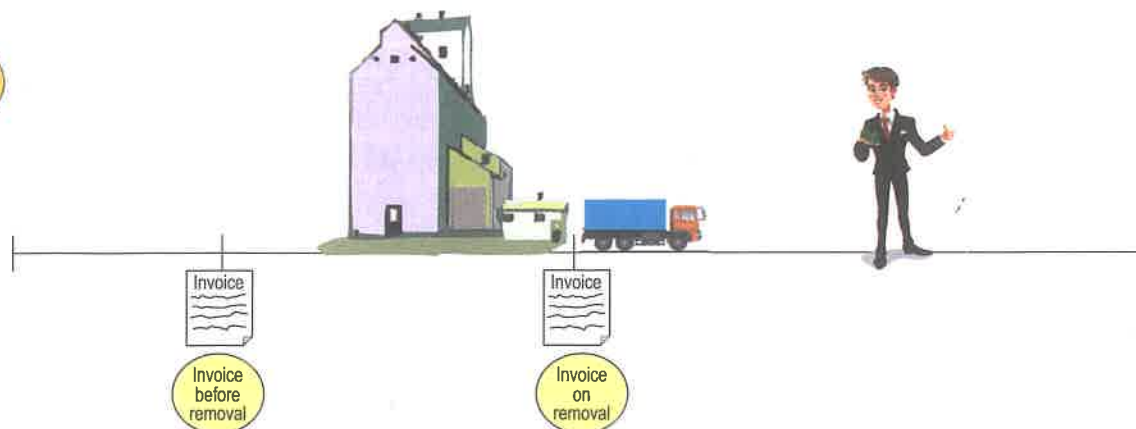
2. *The time of supply of goods shall be the **earlier of the following dates**, namely*

the date of issue of invoice by the supplier or

(a)

the last date on which he is required to issue the invoice with respect to the supply (Sec 31)

OR



(b) **the date on which the supplier receives the payment with respect to the supply:**

Explanation

For the purposes of clause (b),

“the date on which the supplier receives the payment” shall be

➔ the date on which the payment is entered in his **books of account** or

➔ the date on which the payment is credited to his **bank account**,

whichever is earlier.



Explanation

For the purposes of clauses (a) and (b),

“supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

P1:- XYZ Ltd. enters into an agreement with Mr. B to supply of goods. It removed the goods on 15th July 20XX & issued invoice on 14th July 20XX. Mr B has made the payment on 25th Aug 20XX. Determine time of supply for payment of GST.

Would your differ if,

a) Invoice is issued on 20th July

b) Payment is received on 2nd July

P2 :- V smart Academy has sold its benches and projectors as such to E Academy for ₹100000. The benches and projectors are not moved from one place to another & V smart Academy made the delivery of goods on 10th July 20XX.

Advise when V smart Academy can issue the invoice and determine TOS also.

Would your answer differ, If invoice will issue on 15th July 20XX

Time of Supply is only on invoice basis

N/n - 40/2017 C.T. dated 13 Oct. 2017 Superseded by N/n 66/2017 dated 15 Nov.2017

Any registered person who did not opt for the composition levy under section 10 of the said Act as the class of persons

who shall pay the central tax *Also applicable to SGST / IGST.*
 on the outward supply of goods at the time of supply as specified in clause (a) of sub-section (2) of section 12 of the said Act

including in the situations attracting the provisions of section 14 of the said Act, and

shall accordingly furnish the **details and returns** as mentioned in Chapter IX of the said Act and the rules made thereunder and

the period prescribed for the **payment of tax** by such class of registered persons shall be such as specified in the said Act.

Your notes It means that, ToS in case of SOG shall be determined only as per sec 12(2)(a) & sec. 12 (2b) not applicable. Thus it mean that in case of SOG, GST is not payable on advance amount.

Case : Where 'movement of goods' is involved

S. No.	Date of Removal of goods	Date of Invoice	Last date of Invoice as per Section 31	Date of Receipt of Payment		Time of supply	Comments
				In suppliers book	Credit in Bank a/c		
1.	20.10.20XX	10.10.20XX	20.10.20XX	28.10.20XX	30.10.20XX	10-10-20	} As per sec 12 (2)(a) read with N/N 66/2017 ToS is on - Invoice or - Date of invoice whichever is earlier.
2.	20.10.20XX	20.10.20XX	20.10.20XX	28.10.20XX	30.10.20XX	20-10	
3.	20.10.20XX	23.10.20XX	20.10.20XX	28.10.20XX	30.10.20XX	20-10	
4.	20.10.20XX	20.10.20XX	20.10.20XX	10.10.20XX	13.10.20XX	20-10	
5.	20.10.20XX	15.10.20XX	20.10.20XX	08.10.20XX	05.10.20XX	15-10	

P3 :- ABC Ltd. entered into a contract with B Ltd. for supply of goods of ₹25Lakhs on 20th May 20XX. Company has removed first supply of ₹ 5 Lakhs & issued invoice also of ₹5Lakhs on 5th July. The 2nd consignment of ₹20Lakhs has removed on 10th August 20XX & issued invoice on 25th August 20XX. Determine Time of supply for both the consignments?

P4:- Superman Ltd. entered into a contract with Shaktiman Ltd. for supply of goods of ₹30Lakhs. Superman Ltd. has received the advance of ₹10 Lakhs on 10th Sep 20XX. The entire consignment has removed on 5th Oct 20XX & invoice is also issued on 5th Oct 20XX. The balance amount has received from Shaktiman Ltd. on 15th Dec 20XX. Determine time of supply
 What will be your answer if Superman Ltd has issued an invoice on 1st Oct 20XX.

Proviso

Time of Supply if excess amount is received upto 1000

Provided that where the supplier of taxable goods

➔ receives an amount **upto ₹ 1000**

➔ in **excess of the amount** indicated in the tax invoice,

the **time of supply** to the extent of such excess amount shall, **at the option of the said supplier**, be the **date of issue of invoice in respect of such excess amount.**

This proviso is not relevant, in case of SOG because of N/N - 66/2017.

Example 2: Determine the Time of Supply in the following cases-



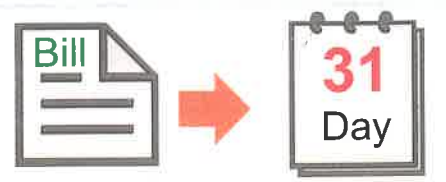
1. M/s. ABC Ltd. removed the goods valuing ₹ 10 lakh on 15.6.20XX & issued invoice thereof on 12.6.20XX. The payment is received on 1.8.20XX (book entry and bank realization is on same date).
2. M/s. A Ltd. removed the goods valuing ₹ 12 lakh on 15.6.20XX & issued invoice thereof on 15.6.20XX. The payment is received on 21.9.20XX (book entry and bank realization is on same date).
3. Mr. A removed the goods valuing ₹ 14 lakh on 15.7.20XX & issued invoice thereof on 20.7.20XX. The payment is received on 21.9.20XX (book entry and bank realization is on same date).
4. M/s. MNLAOP removed the goods on 1.5.20XX. An invoice towards value of ₹ 2 lakh was issued on 1.5.20XX. The payment is received by cheque and entered in books on 10.4.20XX. It is realized in bank by 13.4.20XX.
5. M/s. AB HUF removed the goods valuing ₹ 12 lakh on 19.6.20XX & part payment ₹ 4,00,000 received on 21.6.20XX & balance payment received on 2.7.20XX (book entry and bank realization is on same date). The invoice thereof is issued on 19.6.20XX.
6. M/s. XYZ Ltd. removed the goods valuing ₹ 12 lakh on 19.6.20XX & part payment ₹ 5,00,000 received on 21.5.20XX (book entry is on 21.5.20XX and bank realization is on 19.5.20XX) & balance payment received on 2.8.20XX (book entry and bank realization is on same date). The invoice thereof is issued on 2.7.20XX.

Solution:

Assessee	Date of removal of goods (Last Date of Invoice) ①	Date of Invoice ②	Date of receipt of Payment		Date of TOS (read with N/N 66/2017)	Remark
			Book entry	Credit in Bank		
ABC Ltd	15/6/XX	12/6/XX	15/6/XX	1/8/XX	12/6/XX	AS per SEC 10(2)(a) read with N/N 66/2017 ↓ TOS in case of SUG is earlier of the following: a) Date of issue of invoice or b) Last date of issue of invoice.
M/s A Ltd	15/6/XX	15/6/XX	15/6/XX	29/9/XX	15/6/XX	
Mr. A	15/7/XX	20/7/XX	15/7/XX	29/9/XX	15/7/XX	
M/s MNL	1/5/XX	1/5/XX	10/4/XX	13/4/XX	1/5/XX	
M/s AB					19/6/XX	
					19/6/XX	

3. Time of Supply for goods in case of reverse charge

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—

<p>(a) the date of the receipt of goods;</p> <p>OR</p>	
<p>(b) the date of payment as</p> <ul style="list-style-type: none"> ➤ entered in the books of account of the recipient or ➤ the date on which the payment is debited in his bank account, whichever is earlier; or <p>OR</p>	
<p>(c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:</p>	

Whichever is earlier

Proviso (See my notes) Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.
ie: TOS = Date of provision made by recipient in his books of account

Case : Where reverse charge is applicable as per section 9(3) & 9(4) of CGST act

Sr. No.	Date of receipt of goods (1)	Date of issue of Invoice by supplier	31st day after invoice (2)	Date of (3) (4)		Time of Supply	Comments
				Payment in books of recipient	Payment debited in bank a/c		
1.	22.10.20XX	20.10.20XX	20/11/XX	23.10.20XX	25.10.20XX	22/10/XX	As per sec 12(3) in case of reverse charge of SOG the TOS shall be earliest of the following: - Date of receipt of goods - Date of payment entered in books of account - Date of payment debited to bank - 31st day after supply invoice.
2.	22.10.20XX	15.10.20XX	1/11/XX	17.10.20XX	18.10.20XX	1/11/XX	
3.	22.10.20XX	15.10.20XX	1/11/XX	20.10.20XX	18.10.20XX	18/10/XX	
4.	22.10.20XX	10.10.20XX	1/11/XX	23.11.20XX	25.11.20XX	1/11/XX	

P5: Hemant Ltd. is a trading concern registered under GST purchased cashew nuts from agriculturist for ₹5 Lakhs on 10th July 20XX. Agriculturist issued the invoice for cashew nuts on 5th July 20XX. The Cashew nuts are received in premises of Hemant Ltd. on 10th July 20XX. Payment made by Hemant Ltd. to agriculturist by cheque dated 25th July 20XX (Book entry) but cheque is debited to bank on 28th July. State the following

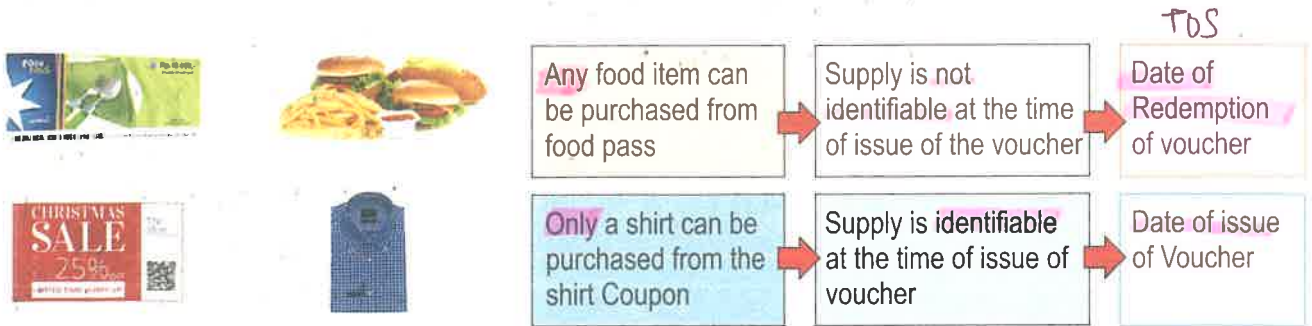
a) Who is liable to pay GST on cashew nuts?
 b) What is the time of supply under reverse charge for supply of cashew nuts?

such voucher / coupon where it is agreed to make supply of goods.

4. Time of Supply in case of Voucher

In case of supply of vouchers by a supplier, the time of supply shall be

- (a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases. (non-identifiable).



P6:- TATA Ltd. has purchased for its employees 50 vouchers dated on 14/12/20XX worth ₹1,000 each for specific Wrist Watch from ABC Ltd., a Wrist Watch manufacturing company. The vouchers were issued by ABC Ltd. on 15/12/20XX. The vouchers can be encashed at retail outlets of ABC Ltd. The employees of TATA Ltd. encashed the same on 01/01/20XY. Determine the time of supply. Would your answer differ if vouchers are not identifiable for specific goods.

5. Residual Case *chronical tax evader*

Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall

- (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, be the date on which the tax is paid.

P7:- Mr. Akash, a chronical tax evader has not paid GST and also not registered under GST even though his Turnover exceeds 20 Lakhs. No books of account are maintained for receipts, payments & for Sales. Raid was also carried out by GST department and officer has found that Akash has made a sales of ₹40 Lakhs in the month of June 20XX after his turnover exceeds 20 Lakhs. Determine time of supply if due date of return for month of June is 20th July. → TOS = 20 July 20XX.

6. Enhancement in value on account of interest/late fee etc. for delayed payment of consideration

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

P 8:- Mr. Shubham is a supplier who has sold the goods to Mr. B dated on 25th May 20XX. He has removed the goods on 28th May 20XX. Invoice is issued on same date. Following are the details regarding the invoice:

S.No.	Particulars	Amount
1	Price of the goods	1,50,000
2	Packing charges	5,000
3	Commission and Brokerage	5,000
4	Advertisement expenses	3,000
5	Freight charges which is directly paid to Mr. B (for which Mr. Shubham is not liable to pay)	8,000

As per the terms of agreement, if payment is not made by Mr. B within a month then interest is payable @ 2% p.m. on amount due. Mr. B has made the payment on 20th July 20XX. Determine

- a) Value of Supply &
- b) Time of Supply

Determination of TOS

Particulars	TOS = SoG = Sec. 12.	TOS = SoS = Sec. 13.
<p><u>Normal charge</u> [where supplier is liable to pay tax].</p>	<p><u>Sec 12(2)</u></p> <ul style="list-style-type: none"> - Date of Issue of Invoice - or last date of Issue of Invoice → WIE. <p><u>Note:</u> As per N/N 66/2017 in case of SoG, No TOS on receipt basis.</p>	<p><u>Sec 13(2)</u></p> <ul style="list-style-type: none"> a) If invoice within time (i.e. 30 days / 45 days) <ul style="list-style-type: none"> - Date of Issue of Invoice - or date of receipt <u>WIE</u> b) If invoice not within time <ul style="list-style-type: none"> - Date of completion of service - or date of receipt <u>WIE</u> c) If case where (a)/(b) does not apply, <ul style="list-style-type: none"> TOS = Date of receipt of service in receipts books of A/c.
<p><u>Reverse charge</u> (where receipt is liable to pay tax).</p>	<p><u>Sec 12(3)</u></p> <p><u>TOS = earliest of following</u></p> <ul style="list-style-type: none"> - Date of receipt of goods - Date of payment entered in the books of A/c - Date of debit to bank. - 31st Day from supplier invoice 	<p><u>Sec. 13(3)</u></p> <p><u>TOS = earliest of following</u></p> <ul style="list-style-type: none"> - Date of payment entered in books of A/c - Date of debit to bank. - 61th Day from supplier invoice.
<div style="border: 1px solid black; display: inline-block; padding: 5px; margin: 0 20px;">Same</div> <div style="border: 1px solid black; display: inline-block; padding: 5px; margin-left: 20px;"> If TOS cannot be determined as above then it is on date of provision in the books of A/c. </div>		
<p><u>Excess payment</u> more than Invoice upto ₹1000.</p>	<p>TOS = At the option of supplier, it is on date of issue of next invoice when such amt. gets adjusted.</p> <p><u>Note:</u> In case of SoG, this proviso is not relevant because of N/N-66/2017.</p>	
<p><u>Vouchers</u> (जिसमें Goods/Service देने का बारा किया हो।)</p>	<p><u>Sec 12(4) / Sec 13(4) - TOS</u></p> <ul style="list-style-type: none"> a) If voucher is identifiable - Date of Issue of voucher. b) If voucher is not identifiable - Date of redemption of voucher. 	
<p><u>Residual case</u></p>	<p><u>Sec 12(5) / Sec 13(5)</u> If TOS cannot be determined as per above then</p> <p>TOS is = a) In case of periodical return has to be filed = Date on which such return to be filed.</p> <p>b) In any other case = Date on which tax is paid.</p>	
<p><u>Interest / Late Fee / Penalty on delay payment of consideration</u></p>	<p><u>Sec 12(6) / Sec 13(6)</u></p> <p>TOS = Date on which the supplier receives such addition in value.</p> <p><u>Notes:</u> Associated enterprises: TOS = Date of entry in books of A/c or Date of payment → WIE</p>	

Section 13 : Time of Supply of Service

1. **The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.**

2. **Time of Supply for Normal Charge** : *BC.* The time of supply of services shall be the earliest of the following dates, namely

(a) if the invoice is issued within the period prescribed under section 31 (within 30/45 days)



the date of issue of invoice by the supplier, or the date of receipt of payment, whichever is earlier



"the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(b) if the invoice is not issued within the period prescribed under section 31



(completion) the date of provision of service, or the date of receipt of payment, whichever is earlier



"the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(c) in a case where the provisions of clause (a) or clause (b) do not apply



the date on which the recipient shows the receipt of services in his books of account,

Explanation the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment

Case : Supply of services in normal case

Sr. No.	Date of Completion of Service	Date of issue of invoice	Last date to issue invoice as per Sec 31(2)	Date on which payment received	Time of Supply	Comments
1.	10.07.20XX	20.07.20XX	09.08.20XX	30.07.20XX	20/7/20XX	Sec. 13(2)(a)
2.	10.07.20XX	06.08.20XX	09.08.20XX	30.06.20XX	30/6/20XX	Sec. 13(2)(a)
3.	10.07.20XX	20.08.20XX	09.08.20XX	17.07.20XX	10/7/20XX	Sec. 13(2)(b)
4.	10.07.20XX	20.08.20XX	09.08.20XX	05.07.20XX	5/07/20XX	Sec. 13(2)(b)

P 9 :- ABC Ltd. is running an advertising agency. It has provided advertisement services to Mr. B for ₹2 Lakhs. Following are the details of its services:

i)	Date of completion of service	10th June 20XX
ii)	Date of invoice	5 July 20XX
iii)	Date of payment received	
	a. Book Entry	12th Aug 20XX
	b. Bank realization	18th Aug 20XX

You are required to:

- Determine time of Supply
- What will be your answer in above case study, if payment is received in following manner
 - ☛ Book entry – 20th June 20XX
 - ☛ Bank Realization – 2nd July 20XX

Example 2: Determine the Time of Supply in the following cases-

1. M/s. ABC Ltd. provided taxable services valuing ₹ 10 lakh on 15.6.20XX & issued invoice thereof on 12.6.20XX. The payment is received on 1.8.20XX (book entry and bank realization is on same date).
2. M/s. A Ltd. provided taxable services valuing ₹ 12 lakh on 15.6.20XX & issued invoice thereof on 15.6.20XX. The payment is received on 21.9.20XX (book entry and bank realization is on same date).
3. Mr. A provided taxable services valuing ₹ 14 lakh on 15.7.20XX & issued invoice thereof on 20.8.20XX. The payment is received on 21.9.20XX (book entry and bank realization is on same date).
4. M/s. MNL AOP provided taxable services on 1.5.20XX. An invoice towards value of ₹ 2 lakh was issued on 1.5.20XX. The payment is received by cheque and entered in books on 10.4.20XX. It is realized in bank by 13.4.20XX.
5. M/s. AB HUF provided taxable services valuing ₹ 12 lakh on 19.6.20XX & part payment ₹ 4,00,000 received on 21.6.20XX & balance payment received on 2.7.20XX (book entry and bank realization is on same date). The invoice thereof is issued on 19.6.20XX.
6. M/s. XYZ Ltd. provided taxable services valuing ₹ 12 lakh on 19.6.20XX & part payment ₹ 5,00,000 received on 21.5.20XX (book entry is on 21.5.20XX and bank realization is on 19.5.20XX) & balance payment received on 2.8.20XX (book entry and bank realization is on same date). The invoice thereof is issued on 2.7.20XX.

Solution:

Assessee	Date of provision of service	Date of Invoice	Last Date of Invoice	Date of receipt of Payment		Date of TOS	Due date of Payment (monthly)	Remark
				Book entry	Credit in Bank			
ABC Ltd	15/6/20XX	12/6/XX		1/8/XX	1/8/XX	12/6/XX	20/7/XX	Sec-13(2)(a)
M/s A Ltd	15/6/XX	15/6/XX		21/9	21/9	15/6	20/7/XX	Sec-13(2)(a)
Mr A	15/7/XX	20/8		21/9	21/9	15/7	20/8	Sec-13(2)(b).
M/s MNL	1/5	1/5		10/4	13/4	10/4	20/6	13(2)(a)
M/s AB	19/6	19/6		21/6	21/6	19/6	20/7	
				2/7	2/7	19/6	20/7	
M/s XYZ	19/6	2/7		21/5	19/5	19/5	20/6	
				2/8	2/8	2/7	20/8	

Proviso Time of Supply if excess amount is received upto ₹1000

Provided that where the supplier of taxable service receives an amount upto one thousand rupees in excess of the amount indicated in the tax invoice, ^{Advance} the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount. (i.e. At a time of issue of next invoice)

₹1000

P10:- An Idea company had issued the invoice of ₹1,453 dated on 22nd May in the name of Mr. Vishal Bhattad. The Payment was made by Mr. Vishal Bhattad a lumpsum amount of ₹1,500 on 27th July. The Idea Company adjusted excess amount of ₹47 in next bill dated on 22nd June 20XX. Determine TOS?
 Would your answer differ if lumpsum payment, made by Mr. Vishal Bhattad is ₹3,000

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3. Time of Supply for service in case of reverse charge

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely

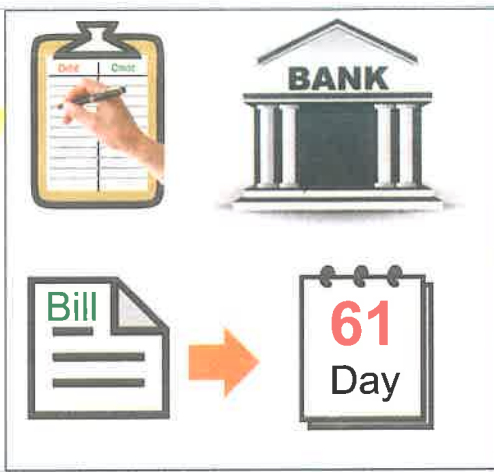
Date of Payment

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier

OR

(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier

(61st),



Whichever is earlier

Proviso 1 Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply **Date of provision in books of account**

Proviso 2 Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier **Refer next page.**

Case -Where reverse charge is applicable as per section 9(3) & 9(4) of CGST act

Sr.no	Date of services provision by supplier	Date of Invoice by issue of supplier of	Last date section issue as per 13(3)(b) i.e.61 days	Date of		Time of supply	Comments
				Payment in books of recipient	Payment debited in bank a/c		
1	01.10.20XX	01.10.20XX	01.12.20XX	03.10.20XX	04.10.20XX	3/10/XX	b) Date of debit to bank. c) 61 st day from date of supplier's invoice.
2	01.08.20XX	01.08.20XX	01.10.20XX	21.10.20XX	20.10.20XX	1/10/XX	As per sec. 13(3), in case of JOS under RCM, TOS shall be earlier of the following: a) Date of payment entered in books of account.

P11:- V smart Academy has taken legal service from individual advocate dated on 18th June 20XX. Advocate has issued the invoice on 2nd Aug 20XX and payment for such service is made by V smart Academy through cheque on 10th Aug 20XX which was debited to bank on 13th Aug 20XX. Determine
a) Who is liable to pay tax on legal service
b) Time of supply
What will be the TOS, if Advocate has issued the invoice on 2nd June 20XX.

TOS IN CASE OF ASSOCIATED ENTERPRISES

Sec 2 - Associated Enterprise

Sake of reading.

"Associate Enterprise" Shall have the same meaning as assigned to it in Section 92-A of the Income tax Act, 1961

Section 92-A of the Income Tax Act, 1961

Associated Enterprise means :

1. An enterprise, which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise or
2. An enterprise in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

TOS : As per 2nd Proviso, in case of **supply by associated enterprises,** where **the supplier of service is located outside India,**

the time of supply shall be the

- **date of entry in the books of account of the recipient of supply or**
- **the date of payment, whichever is earlier**

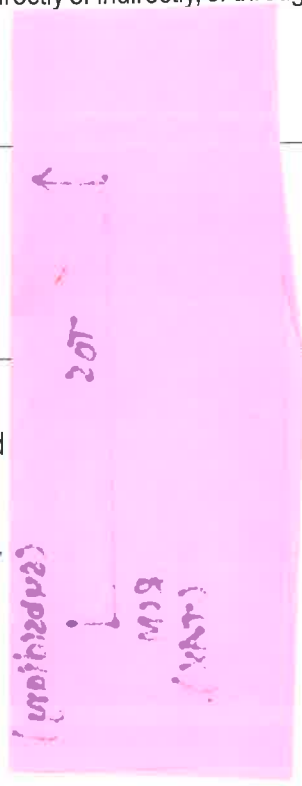
Case :

Sane & Sane Ltd is located in India and holding 51% of the shares of Parker Ltd., a USA based Business Auxiliary services to Sane & Sane Ltd.

From the following details, determine the Point of Taxation of Sane & Sane Ltd:

Agreed Consideration	US \$ 1,00,000
Date on which services are provided by Parker Ltd.	16.09.20XX
Date on which invoice is sent by Parker Ltd	19.09.20XX
Date of debit in the books of account of Sane & Sane Ltd	30.09.20XX
Date on which payment is made by Sane & Sane Ltd	23.12.20XX

Hint : Time of supply shall be as on 30.09.20XX as per proviso to Sec 13(3) of CGST Act



4. Time of Supply in case of Voucher (where it is agreed to supply service)

In case of supply of vouchers by a supplier, the time of supply shall be

- (a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases.

5. Residual Case

Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall

- (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, be the date on which the tax is paid.

6. Enhancement in value on account of interest/late fee etc. for delayed payment of consideration

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

CHAPTER - 7

VALUE OF SUPPLY

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Introduction :

GST is payable on ad-volorem basis i.e. percentage of Value of supply of goods or services. Therefore, It is important to know how to arrive value for payment of GST.

Provisions relating to 'value of supply' set out the mechanism to compute such value basis which CGST and SGST/UTGST (intra-State supply) and IGST (inter- State supply) should be paid.

Section 15 of the CGST Act supplemented with the Chapter IV: Determination of Value of Supply of CGST Rules3 prescribes the provisions for determining the value of goods and services.

Section 15 of the CGST Act provides common provisions for determining the value of goods and services. It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration of the supply. When value cannot be determined under section 15, the same is determined using Chapter IV: Determination of Value of Supply of CGST Rules.

Section 15 : Value of Taxable Supply

Invoice price

Sec 15(1) Transaction Value

The value of a supply of goods or services or both shall be the **transaction value**, which is the price actually paid or payable for the said supply of goods or services or both

- where the supplier and the recipient of the supply are not related and
- the price is the sole consideration for the supply.

Note: If they are related, then value shall be determined as per Rule 27. (not in syllabus)



Q1:- Mr. A has sold the goods for ₹ 20,000 to Mr. B & also sold some goods to Mr. C for price ₹22,000. GST department wants to collect tax on transaction made with Mr. B on ₹22,000. Whether action taken by GST department is correct as per Law?

Q2:- ABC Ltd. selling goods 'A' to various buyers determine GST liability & taxable value on the following data.

- Goods sold to Mr. Akshay ₹ 10,000
- Goods sold to Mr. Rahul ₹ 20,000 &
- Goods sold to Mr. Surya ₹ 18,000

Same goods are sold to all customers an applicable GST rate goods 'A' 12%.

Sec 15(2) Inclusion in Transaction Value

The value of supply shall include

(a) Taxes other than GST, if charged separately by the supplier

any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier

Tobacco & Tobacco Products



Invoice	
Basic Price	100000
Ex. Duty@30%	30000
Total	130000
GST@28%	36400



Invoice	
Basic Rent	100000
Municipal Taxes	10000
Total	110000
GST@18%	19800

Q3:- Admission to Inox Theater is ₹ 90 per ticket for a Hindi Movie plus entertainment tax (by local body) ₹ 10% on such movie. In the month of November, Inox Theater sold 2000 tickets of Hindi Movie. Find the value of taxable supply of service & GST Payable. Applicable rate of GST is 18%.

Clarification valuation methodology for ascertainment of GST on TCS under Income tax act via Circular no 76/50/2018 dt 31/12/2018

Issue:- What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?

Legal Provision:- Section 15(2) of CGST Act specifies that the value of supply shall include "any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.

Clarification:- For the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 **would not be includible** as it is an **interim levy not having the character of tax.**

(b) **Payments made to third parties by the recipient of behalf of the supplier in relation to the supply.**

any amount that the **supplier is liable to pay** in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both

83 ✓ P4:- Isha Time Gallery has been appointed as an authorized center of Sony electronics, On sales of worth ₹ 20,00,000 electronic items. Sony electronics is liable to pay commission @ 10 % on such sale i.e. ₹ 2,00,000 but such selling commission to be paid by Sony electronics has been paid by Isha Time Gallery for the month of August. Determine the taxable value of supply made by Sony Electronics.

83 ✓ P5:- Mr. A has sold the goods to Mr. B for ₹ 1,50,000. The obligation of transportation of goods at Mr. B destination is taken by Mr A. For some reason Mr. A could not provide transportation arrangement hence Mr. B has paid transportation fees ₹ 2000 separately. What should be the value of supply of goods sold by Mr. A to Mr. B. Would your answer differ if Mr. A sold the goods on ex. Shop basis (obligation of transportation is on recipient)

(c) **Incidental expenses**

incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and

any amount charged for anything done by the supplier in respect of the supply of goods or services or both

at the time of, or before delivery of goods or supply of services

Examples of additional recoveries by supplier

- ⇒ Commission paid to agent and recovered from recipient.
- ⇒ Packing if charged by the supplier to the recipient.
- ⇒ Inspection or certification charges if incurred before/at the time of supply and billed to the recipient of supply.
- ⇒ Installation and testing charges at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply, at the time of making the supply.
- ⇒ Weighment charges, loading charges, designing charges etc. incurred before/at the time of supply will be added to the value, if billed to the recipient of supply.
- ⇒ **Outward freight, transit insurance:-**
 - Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance, the contract of supply becomes a composite supply, the principal supply being the supply of goods.
 - Therefore, these expenses become part of the value of the composite supply and GST is payable at rate as applicable for the relevant goods.
 - However, if the contract for supply is on ex-factory basis where buyer pays the outward freight and insurance, the same will not be included in the value of supply of goods.

P6 :- Mr X goes to haldiram outlet and buys dryfruit worth ₹ 2000 . Mr X ask for the special packing for which ₹ 500 is charged by Haldiram outlet. Determine the taxable value.

HW P7:- A company appoints an agent to procure order of goods from buyer. Agent procures an order @ ₹100 rupees. Now Seller company ask the buyer to pay only to supplier @ ₹ 98 only and pay ₹ 2 directly to the agent. Determine taxable value. 15(2)(b)

HW P8:- Joshi and Associates a CMA firm from Maharashtra is providing Cost Auditing Service to their client XYZ Pvt Ltd located in Karnataka. Fee being ₹ 2,00,000. The travelling expense of ₹ 10,000 is borne by Joshi and Associates on behalf of XYZ Pvt Ltd. Determine taxable value. 15(2)(c) which is charged in the invoice.

(d) interest or late fee or penalty for delayed payment of any consideration for any supply

Interest, Late fee or penalty.

Interest on loan, advances or deposit.

It is exempt supply of service.

Interest, late fee or penalty for delay payment of consideration.

as per sec 15(2)(d), it is includible in T.V.

Imp Note: 1) Normally Interest, late fee or penalty is treated as inclusive of GST.

2) as per Sec. 12(c) → TOS = Date when such Interest, late fee, or penalty received.

Q9:- Mr. X has supplied goods to Mr. Y on credit of 30 days of worth ₹ 20 Lakhs. The contract provides that interest will be charged for delayed in making tax. Mr. Y has delayed the payment for 2 months and have paid the interest of ₹ 30,000 in addition to value of supply. Determine taxable value.

Q10:- Reliance telecommunication provides internet service to Mr. Y at a monthly charge of ₹ 500. The last date for payment of the same is on the 5th of the following month. Late fee of ₹ 100 is charged if the payment of the bill is not made within the due date. Determine taxable value if payment made by Mr. Y is after due date.

(e) Subsidy is by private enterprises

subsidies **directly linked to the price** excluding subsidies provided by the Central Government and State Governments.

Subsidy

Subsidy provided by the Co/SG

Not treated as consideration & not includible in T.V.

Subsidy provided by any person other than Govt.

subsidy linked to the price

As per sec 15(2)(e) It is includible in T.V.

Subsidy not linked to the price [Lumpsum subsidy]

It is not includible in T.V.

- 85 ✓ P11:- Mr. X is a supplier of registers and stationery. He is getting a subsidy of ₹ 10 per register from charitable trust for their supply to poor students. Mr. X has charged ₹ 30 per register to students. Determine Taxable Value.
- 86 ✓ P12:- Vsmart Academy is training institute have collected fees of ₹ 20 lakhs in the month of April. Academy also got a subsidy of ₹ 5 lakhs to setup coaching classes in backward region from a private enterprises which is not link with the fees charged to per student. Determine Taxable Value.
- HW P13:- Sale of urea by the manufacturer at the recommended price by the Government (i.e. at cheaper price) to make urea at a cheaper price of ₹1000 per packet. The supplier is paid the subsidy directly by the Government of ₹ 500. Determine Taxable Value. *Hint - V=1000 & 500 not includible.*

**Sec 15(3)
Discount**

Deduction of Discount

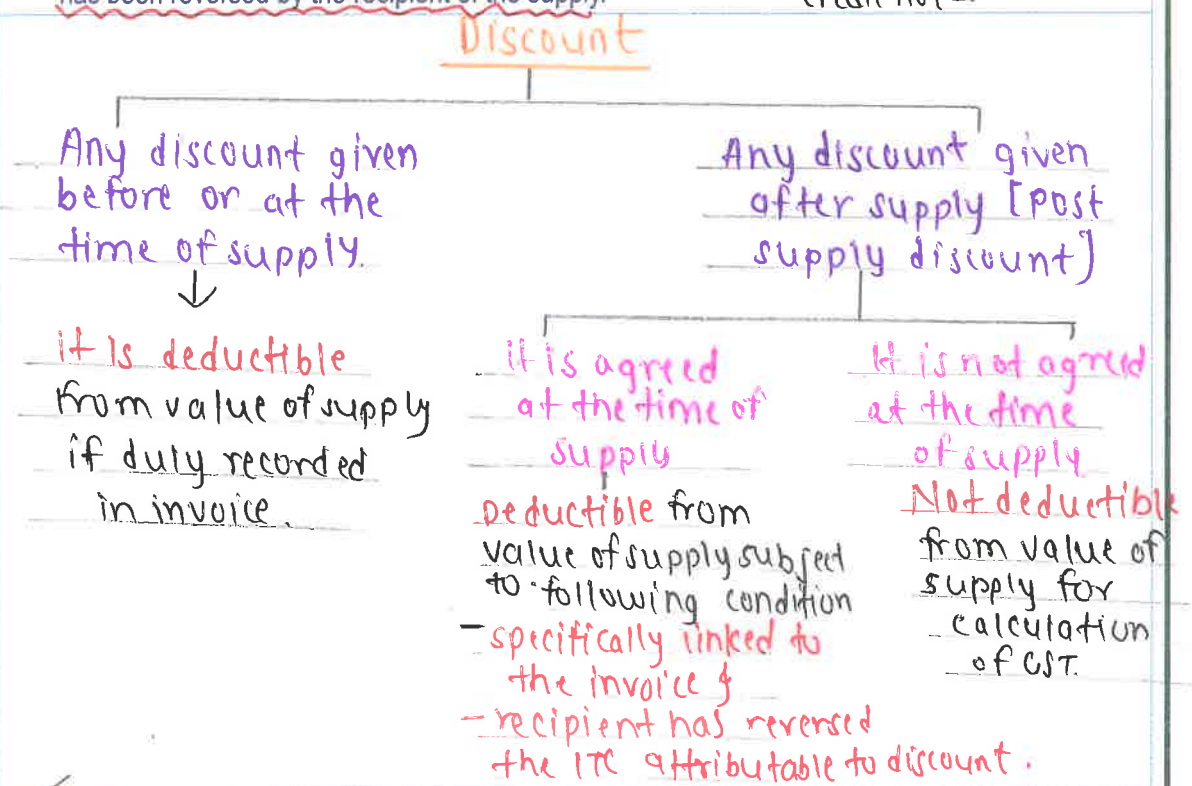
The value of the supply shall not include any discount which is given

(a) **Discount given before or at the time of supply**
before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

12 ✓ P14:- A Ltd a registered company is providing services to B Ltd for development of a commercial property. The cost of service is ₹ 20,00,000. A Ltd is giving a 5% discount to B Ltd. The same has been separately reflected in the invoice before the providing the service. Determine taxable value.

(b) **Discount given after the time of supply (Post supply discount)**
after the supply has been effected, if— (declaration).
(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply. *credit note.*

*my note :
credit note
can be issued
till 30th Nov
of next year.*



13 ✓ P15:- Mr. B purchases an Air Conditioner from Mr. A for ₹ 20000 on credit on July 1, 20XX. On August 1, 20XX, Mr. A gives discount of ₹ 5000 to Mr. B and Mr. B makes payment of ₹ 15000. What would be your answer if,
a) Discount is agreed at the time of supply.
b) Discount is not agreed at the time of supply.

Clarification on taxability of No Claim Bonus (NCB) offered by Insurance companies (Circular No. 186/18/2022-GST Dt. 27/12/2022):-

1	Issue	<i>Whether the deduction on account of No Claim Bonus allowed by insurance company from insurance premium payable by the insured, can be considered as consideration for supply provided by the insured to insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s)?</i>
	Explanation	<ul style="list-style-type: none"> ⇒ In insurance sector, insurance companies deduct No Claim Bonus from gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). ⇒ The customer/ insured procures insurance policy to indemnify himself from any loss/ injury as per the terms of the policy, and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of No Claim Bonus.
	Clarification	<ul style="list-style-type: none"> ⇒ It is clarified that there is no supply provided by the insured to insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s). ⇒ No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to insurance company.

2	Issue	<i>Whether No Claim Bonus provided by insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by insurance company to insured?</i>
	Explanation	<ul style="list-style-type: none"> ⇒ As per section 15(3)(a) of CGST Act, value of supply shall not include any discount given before or at the time of supply if such discount has been duly recorded in invoice issued for such supply. ⇒ Insurance companies make the disclosure of the fact of availability of discount in form of No Claim Bonus, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the no claim Bonus in the invoices also. ⇒ The pre-disclosure of NCB amount in policy documents & specific mention of the discount in form of No Claim Bonus in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply u/s 15(3)(a) of CGST Act.
	Clarification	<ul style="list-style-type: none"> ⇒ It is clarified that No Claim Bonus (NCB) is a permissible deduction u/s 15(3)(a) of CGST Act to calculate the value of supply of insurance services provided by insurance company to the insured. ⇒ Accordingly, if the deduction on account of NCB is provided in the invoice issued by insurer to insured, GST shall be leviable on actual insurance premium amount, payable by policy holders to insurer, after deduction of NCB mentioned on the invoice.

Sec 15(4) Determination of value as per rules



Value to be determined as per Rules if any of the conditions of Sec 15(1) are violated:-

Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined as per the rules.

Author Note:-

This sub-section means that if value cannot be determined u/s 15(1) i.e. either:-

- Supplier & Recipient are related or
- The price is not sole consideration for the supply,

Then, the value shall be determined as per the CGST Rules, 2017.

Note:- Rules are not applicable for students at CA inter level.

Analysis of exclusion of discounts from value [Section 15(3)]:- *irrelevant.*

- Numerous kinds of discounts are given by the suppliers to their customers like trade discounts, cash discounts, quantity/volume/performance discounts etc.
- As the value of a taxable supply is the transaction value, it does not mean that all such discounts are deducted from the value.

The deduction shall be allowed from value as follows:-

If Sec 15(3) conditions are satisfied:-	Discounts are allowed as deduction from the value (GST is levied on value net of discounts).
If Sec 15(3) conditions are not satisfied:-	Discounts are not allowed as deduction from the value (GST is levied on gross value before discounts).

Discounts that are allowed as deduction from the value are as follows:-

Discounts given before or at the time of supply and shown in the invoice:-

- These are discounts offered for making the payment at the time of supply itself.
- Such discounts are thus, recorded in the invoice & GST is charged on the gross value less discount recorded in the invoice.

Post supply discounts:-

- Some discounts like cash discount given for making the payment within a stipulated time or quantity/volume/performance discount cannot be recorded in invoice as the supplier does not know that whether buyer will make payment/requisite purchase in such time or not.
- In such cases, initially the GST is paid on the gross value indicated in the invoice without considering the discount & passes the discount to the buyers subsequently by issuing credit notes.
- Following 2 conditions are to be satisfied for the discounts that are given after supply is made, to be deducted from value of supply:-
 - Discount is in terms of an agreement that existed before/at the time of supply and can be worked out invoice-wise; and
 - Proportionate input tax credit availed is reversed by the recipient on issue of credit note by supplier as the supplier's output tax liability will be reduced by the same amount.

Author Note:-

If any one condition is also not satisfied then, the supplier can issue commercial/ financial credit note for such discounts but he cannot issue credit note under GST in order to reduce his GST liability. In such a scenario, the buyer will not be required to reverse any ITC.

Clarification:- Allowability of certain specific types of discounts offered by the suppliers as clarified vide Circular No. 92/11/2019 GST dated 07.03.2019:-

(i)	<p>Staggered discounts (Buy more, Save more' offers)</p>	<ul style="list-style-type: none"> ⇒ In this, rate of discount increases with increase in purchase volume. ⇒ For example:- 10 % discount for purchases above ₹ 5,000/-, 20% discount for purchases above ₹ 10,000/- and 30% discount for purchases above ₹ 20,000/-. ⇒ Such discounts are shown on the invoice itself. ⇒ Such discounts are excluded to determine the value of supply.
(ii)	<p>Periodic/year ending discounts/ volume discounts</p>	<ul style="list-style-type: none"> ⇒ These discounts are offered by the suppliers to their stockists, etc. ⇒ 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. ⇒ Such discounts are established in terms of an agreement entered into at/ before the time of supply though not shown on invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. ⇒ These discounts are referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes. ⇒ Such discounts are excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document(s) issued by the supplier.
(iii)	<p>Additional discount Secondary discounts (Post supply).</p>	<ul style="list-style-type: none"> ⇒ These are the discounts which are not known at the time of supply or are offered after the supply is already over. ⇒ For example, M/s A supplies 10,000 packets of biscuits to M/s B at ₹ 10/- per packet. Afterwards, M/s A re-values it at ₹ 9/- per packet. Subsequently, M/s A issues credit note to M/s B for ₹ 1/- per packet. ⇒ Such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in section 15(3)(b) are not satisfied. <i>generally such discount not agreed at the time of supply.</i> ⇒ It may be noted that financial / commercial credit note(s) can be issued by supplier even if the conditions mentioned in sec 15(3)(b) are not satisfied. Such credit notes do not include GST, and do not have any impact on value of supply for purposes of GST.

Definition of Related person *(done in supply)*

Explanation	<p>For the purposes of this Act,—</p> <p>(a) persons shall be deemed to be "related persons" if</p> <ul style="list-style-type: none"> (i) such persons are officers or directors of one another's businesses; (ii) such persons are legally recognised partners in business; (iii) such persons are employer and employee; (iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them; (v) one of them directly or indirectly controls the other; (vi) both of them are directly or indirectly controlled by a third person; (vii) together they directly or indirectly control a third person; or they are members of the same family; <p>(b) the term "person" also includes legal persons;</p> <p>(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.</p>
-------------	--

Question for Practice:-

P16 - Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colourful Pvt. Ltd.

Particular	₹
List price of the goods (exclusive of taxes and discounts)	50,000 ✓
Tax levied by Municipal Authority on the sale of such goods	5,000 ✓
CGST and SGST chargeable on the goods	10,440 ✓
Packing charges (not included in price above)	1,000 ✓

Black and White Pvt. Ltd. received ₹ 2000 as a subsidy from a NGO on sale of such goods. The price of ₹ 50,000 of the goods is after considering such subsidy. Black and White Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by Black and White Pvt. Ltd.

P17 - Samriddhi Advertisers conceptualised and designed the advertising campaign for a new product launched by New Moon Pvt. Ltd. for a consideration of ₹ 5,00,000. Samriddhi Advertisers owed ₹ 20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt. Ltd. Such liability of Samriddhi Advertisers was discharged by New Moon Pvt. Ltd. New Moon Pvt. Ltd. delayed the payment of consideration and thus, paid ₹ 15,000 as interest. (Assume GST Rate 18%)

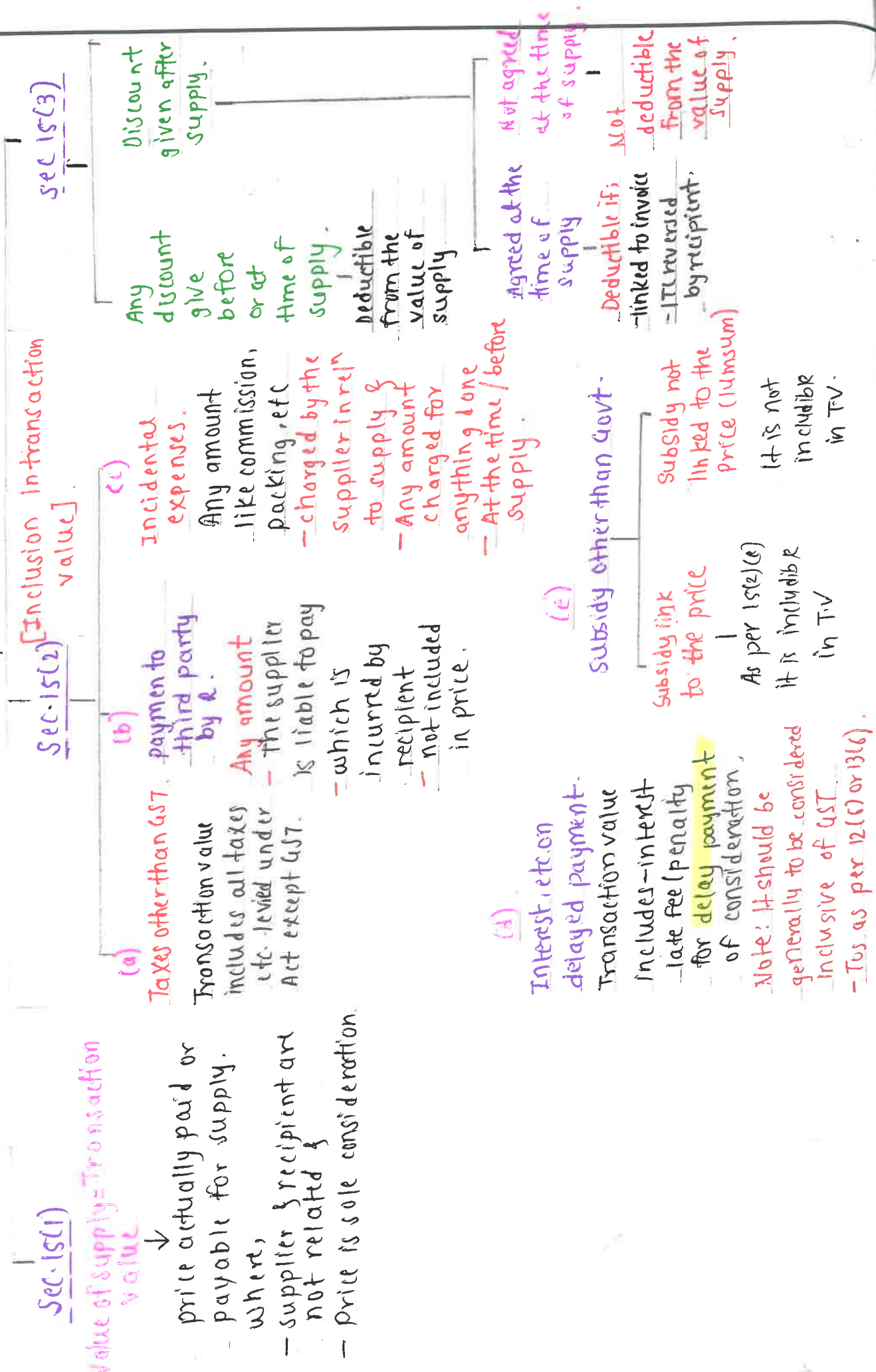
Determine the value of taxable supply made by Samriddhi Advertisers.

P18 :- Varad Pvt. Ltd., a registered dealer, furnishes the following information relating to goods sold by it to Vibha Pvt. Ltd. in the course of Intra State:-

Sr. No.	Particulars	Amount in RS
(i)	Price of the goods	1,50,000 ✓
(ii)	Municipal Tax	2,000 ✓
(iii)	Inspection charges	10,000 ✓
(iv)	Subsidies received from Shri Ram Trust (As the products is going to be used by blind association)	50,000 ✓
(v)	Late fees for delayed payment (Though, Vibha Pvt. Ltd. made late payment but these charges are waived by Varad Pvt. Ltd.)	1,500 ✓
(iv)	Vibha Pvt. Ltd. paid weightment charges to Radhe Pvt. Ltd. (on behalf of Varad Pvt. Ltd.)	3,000 ✓

According to GST Law, determine the value of taxable supply made by Varad Pvt. Ltd. Items given in Point (ii) to (vi) are not considered while arriving at the price of the goods given in point no. (i).

Sec 15: Value of Supply.



Payment of Tax.

Inward supply				Outward supply					
value	CGST	SGST	IGST	Supplier of goods or services	Rate	value	CGST	SGST	IGST
100000	6000	6000		12-l		300000	18000	18000	- S1
200000			24000	12-l		200000	12000	12000	- S2
10000	900	900		18-l		100000	-	-	180000 S
				5-l		50000	1250	1250	- S4
Total	6900	6900	24000						

1st April to 30th April
↓

Details of inward supply
& I-T is auto populated
in GSTR-2A/2B.

Details of outward
supplies in GSTR-1.
↳ To be filed
on 1st of next
month

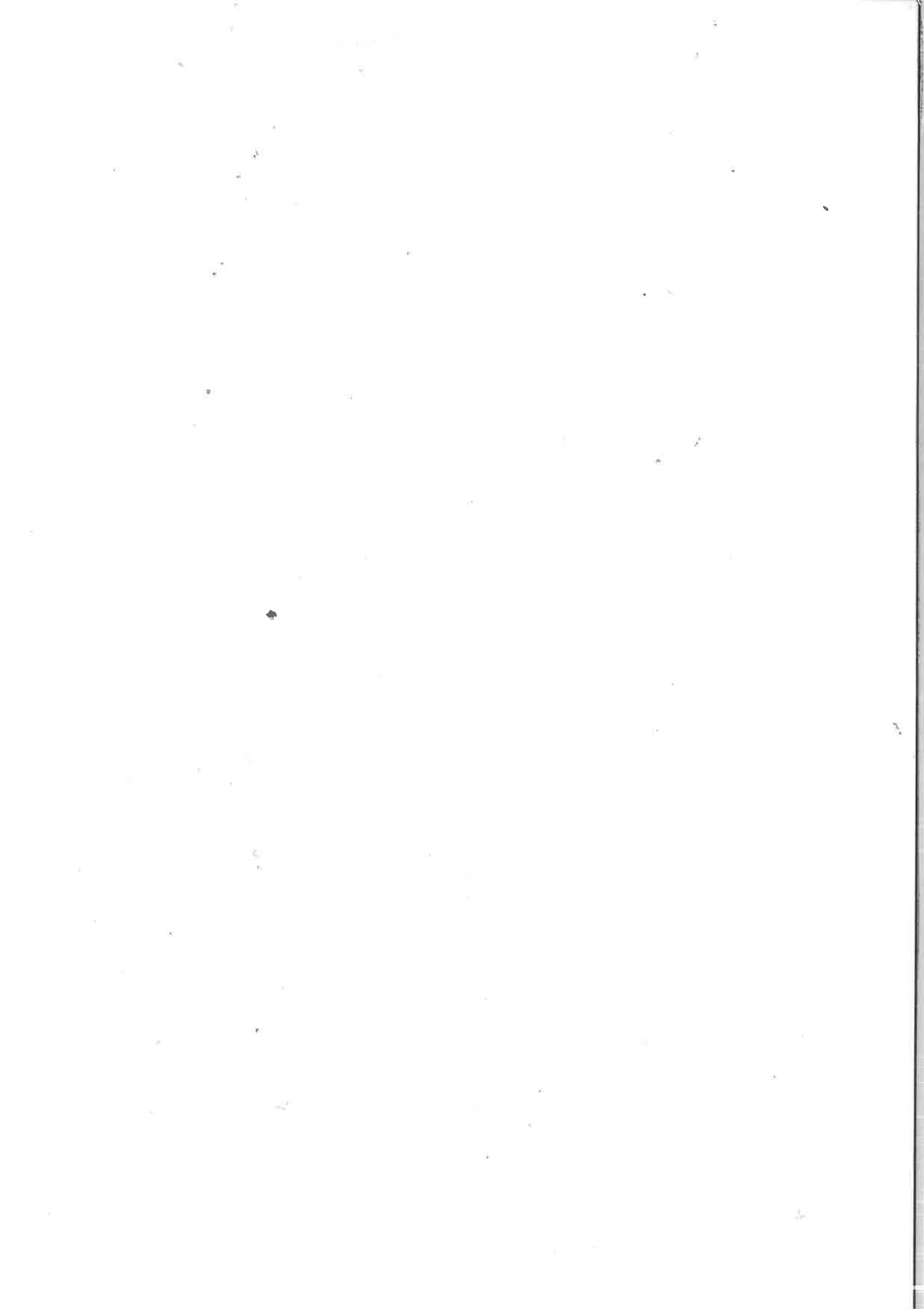
E-credit ledger

E-liability ledger

E-credit ledger				E-liability ledger			
Particulars		Amt		Particulars		Amt	
				CGST Payable		31250	
				SGST Payable		31250	
				IGST Payable		18000	
				E-credit ledger			
				CGST		24000	
				CGST		6900	
				SGST		6900	
				E-cash ledger			
				CGST		21350	
				SGST		21350	

E-cash ledger

Dr		Cr	
	Amt		Amt
Such excess balance of e-cash ledger	CGST 21350	cash deposit	
either clf for use of next month liability	SGST 21350	CGST	50000
		SGST	50000
or it can be refunded.	Bal/cf	IGST	50000
	CGST		
	SGST		
	28650		
	28650		
	28650		





CHAPTER - 8

PAYMENT OF TAX

INDEX

Section	Description	Pg. No
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Section 49A	Utilisation of input tax credit subject to certain conditions.	168
Section 49B	Order of utilisation of input tax credit.	168
Section 50	Interest on delayed payment of tax	171

CGST rules pertaining to Payment of Tax

Rule No.	Description	Pg. No
85	Electronic Liability Register	170
86	Electronic Credit Ledger	168
87	Electronic Cash Ledger	165
88	Identification number for each transaction	168
88A	order of utilization of input tax credit via n/n 16/2019 -ct dt 29/03/2019	168
88B	Manner of calculating interest on delay payment	172
86A	Conditions of use of amount available in electronic credit ledger	168

Introduction :

As per Section 9 of CGST Act, the tax is required to be paid on supply of goods or services at the specified rates. The tax is payable by the supplier of goods or services. The common portal will compute the tax payable by the taxable person on the basis of information of outward supply furnished by him. The tax payable under reverse charge by the taxable person will be computed on the basis of information of outward supply declared by the supplier of such goods or services. Similarly, the amount of tax payable on exports including deemed exports of goods or services will be computed based on the declaration of outward supply.

The common portal will compute the tax liability which is required to be paid by the taxable person. Section 49 makes provision for payment of tax, interest, penalty and other amounts. Section 50 provides for payment of interest on delayed payment of taxes. Section 51 pertains to Tax Deduction at Source whereas Section 52 pertains to Collection of Tax at Source. Lastly, Section 53 pertains to Transfer of Input Tax Credit.

Concepts pertaining to E-liability ledger, E-cash ledger & E-credit ledger which the taxpayer can see on their dashboard once they login to GSTN portal will also be discussed in detail in this chapter.

ELECTRONIC CASH LEDGER

[SECTION 49(1),(3),(6),(10)&(11) READ WITH RULE 87 OF CGST RULES]

- 1 The Electronic Cash Ledger contains a **summary of all the deposits/payments** made by a tax payer.
- 2 Electronic Cash Ledger is **maintained on the GST Portal**.
- 3 The deposit in the electronic cash ledger shall be made through any of the following **modes**, namely:-
 - i **Internet Banking** through authorised banks; **PMT 06**.
 - ia. **Unified Payment Interface (UPI)** from any bank;
 - ib. **Immediate Payment Services (IMPS)** from any bank
 - ii **Credit card or Debit card** through the authorised bank;
 - iii **National Electronic Fund Transfer (NEFT)** or **Real Time Gross Settlement (RTGS)** or **Immediate Payment Service (IMPS)** from any bank; or
 - iv **Over the Counter** payment through authorized banks for **deposits up to ₹10,000** **MIG**
- 4 Any deposit made towards payment of tax, interest, penalty, late fee or any other amount will be **credited to the electronic cash ledger**. Any **debit to the electronic cash ledger** represents payment therefrom towards tax, interest, penalty, late fee or any other amount.

Newly Inserted by N/N
14/2022 CT dt 05/07/2022

Analysis

E-cash ledger.

e-ability
Reg.

Debit Amount (DR)	Credit Amount (CR)
<ul style="list-style-type: none"> ⇒ Credit amount of this ledger may be used for payment of tax, interest, fees etc. ⇒ Remaining credit balance amount after payment of above tax etc. will be refunded to taxable person 	<ul style="list-style-type: none"> ⇒ Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc. ⇒ TDS/TCS claimed (of GST).

PMT-06.

Over the counter payment above ₹ 10,000 is allowed in certain cases

It may be noted that the restriction for deposit up to ₹10,000 per challan in case of an Over the Counter payment will **not apply to deposit to be made by -**

- a **Government Departments** or any other deposit to be made by persons as may be notified by the **Commissioner** in this behalf
- b **Proper officer** or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties
- c **Proper officer** or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any **investigation or enforcement activity** or any ad hoc deposit.

Your notes



RULE 87 - TAX PAYMENT CHALLAN

Format of GST Challan

GOODS AND SERVICES TAX PAYMENT RECEIPT						
CPIN : 16020000000001 (14 digits) PMT-06.				Payment Date : 20/02/2016 Payment Time : 10:00:00		
Payment Particulars						
CIN	: 16020000000001SBIN (17 digit) -					
Name of Bank	: State Bank of India					
BRN	: <111222333>					
Taxpayer Details						
GSTIN	: 07ASMCC947721X3					
Name	: Kamath Traders Pvt. Ltd.					
Address	: 1234, Kamla Nagar, Delhi					
E-mail Id	: abc@xyz.com					
Mobile No.	: +91-9999999999					
Tax Liability						
	Tax	Interest	Penalty	Fee	Others	Total
CGST	10000	10000	10000	10000	10000	50000
IGST	10000	10000	10000	10000	10000	50000
<Delhi> SGST						
					Total	100000
Rupees(In words) : One Lakh Only						
Mode of Payment : Internet Banking - State Bank of India						
Notes:						
1. Status of the transaction can be tracked under 'Track Payment Status' at GST website.						
2. Payment Status will be set as 'Paid' for this transaction.						
3. This is a system generated receipt.						

General Provision

1	Generation PMT 06 challan	Any person, or a person on his behalf, can generate a challan in prescribed form (PMT-06) on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.
2	Validity	E- challan validity is for 15 days .
3	Mandate form to bank	The mandate form obtained after making NEFT/RTGS payment has to be submitted in the Bank. The validity of the mandate form is 15 days.
4	Generation of CIN	On successful credit of amount in the concerned (Central/State) Government Account maintained in the authorized bank, a Challan Identification Number (CIN) will be generated by the collecting bank which will be indicated in the challan.
5	Credit to E-cash Ledger	On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the person on whose behalf the deposit is made and the common portal will generate a receipt to this effect.
6	If CIN is not generate	If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not been reflected in the common portal, the person making the deposit or the person on whose behalf the deposit has been made, can make a representation in prescribed form i.e. FORM GST PMT- 07 through the common portal or e-gateway through which the payment has been made.
	Proviso	Provided that 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.
	Newly Inserted by N/N 26/2022 CT dt 26.12.2022	
7	Date of credit to Govt.	Date of credit into the treasury of the State Government/Central Government is deemed to be the date of debit in the electronic cash ledger and not the actual date of deposit of amount in the electronic cash ledger of the taxable person. MC9 *
8	Discrepancy	In case any discrepancy is noticed in <u>electronic cash ledger</u> , the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form.

Manner of utilization of amount reflected in Electronic Cash Ledger

[Sec 49(3) of the CGST Act]

- 1 The amount reflected in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fee, or any other amount in the prescribed manner.
- 2 In the e-ledger, information is kept minor head-wise for each major head. The ledger is displayed major head-wise i.e., IGST, CGST, SGST/UTGST, and CESS. Each major head is divided into five minor heads: Tax, Interest, Penalty, Fee, and Others.

Minor Head	Major Head				Total (₹)
	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	Cess (₹)	
Tax					
Interest					
Fee					
Penalty					
Other					

- 3 A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for
 - a integrated tax, central tax, State tax, Union territory tax or cess; or
 - b integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25, **PMT-09** in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

Newly Inserted by N/N/ 14/2022
CT dt 05/07/2022

★★
PA-22

Proviso Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

Example For instance, 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, 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.

Other peculiar aspects of Electronic Cash Ledger

- 1 An unregistered person has to make payment through electronic cash ledger on the basis of temporary identification number generated through common portal.
- 2 Where the person has claimed refund of any amount from electronic cash ledger, the amount of refund claimed would be debited from the electronic cash ledger
- 3 Where the refund claimed by a person is rejected either fully or partly, the amount debited earlier shall be credited to electronic cash ledger by the Proper office to the extent of amount of refund rejected.

Example 1:- M/s. Daksha Enterprises has made a cash deposit of ₹ 10,000 under minor head 'tax' of major head 'SGST'. It has a liability of ₹ 2,000 for minor head "Interest" under the major head "SGST".

State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

Answer:- The Registered person is allowed to transfer the amount available under any minor head of a major head to any of the minor head of the same or other major head as per Section 49(10) of the CGST Act vide Form PMT-09.

Therefore, in the given case, amount of ₹10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of ₹ 2,000 under minor head 'interest' of the same major head, after making a due transfer entry using Form GST PMT-09 from the minor head of 'tax' to 'interest'.

What is CPIN ?

short notes .

1. CPIN Stands for **Common portal Identification Number.**
2. It is created for every Challan successfully generated by the taxpayer.
3. **It is a 14-digit unique number to identify the challan.**
4. CPIN remains valid for a period of 15 days.

What is CIN ?

1. It stands for **Challan Identification number (CIN)**
2. It is generated by authorised bank/RBI when payment is actually received by such authorised banks or RBI & credited in the relevant Govt. A/c
3. It is indication of successful payment of account
4. CIN is communicated by authorised bank to taxpayer as well as to GSTN
5. **It is 17 digit number that is 14 digit CPIN plus 3 digit Bank code.**

What is BRN ?

It is a **bank reference number** is the transaction number given by the bank for a payment against a Challan

What is E-FPB ?

Stands for **Electronic Focal Point Branch**. These are branches of authorised bank which are authorized to collect payment of GST. Each authorized bank will nominate only **one branch** as its E-FPB for pan India transaction.

The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS Transactions, RBI will act as E-FPB.

Your
notes



ELECTRONIC CREDIT LEDGER [SECTION 49(2),(4)&(5), SECTION 49A, SECTION 49B READ WITH RULE 86, RULE 86A, RULE 86B AND RULE 88A OF CGST RULES]

Sub-section (2) of section 49 of the CGST Act provides that the self-assessed input tax credit (ITC) by a registered person shall be credited to its Electronic Credit Ledger

	Utilisation of cash ledger	Utilisation of Credit ledger
Tax dues		
GST	✓	✓
Other Dues		
Interest	✓	✗
Penalty	✓	✗
Fees	✓	✗
Other Amt.	✓	✗

Non-utilisation of ITC for tax liability under reverse charge mechanism

The amount available in the electronic credit ledger may be used for making any payment towards output tax under CGST or IGST. It is pertinent to note that "output tax" in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods and/or services made by him or by his agent but excludes tax payable by him on reverse charge basis. Thus, ITC cannot be utilised for tax payable under reverse charge mechanism.

Manner of utilisation of ITC [Combined reading of section 49(5), 49A, 49B, rule 88A and Circular No. 98/17/2019 GST dated 23.04.2019]

INWARD SUPPLY	OUTWARD SUPPLY		
1. IGST	First IGST	Any CGST	Any SGST
2. CGST	Any CGST	Any IGST	
3. SGST/UTGST	Any SGST/UTGST	Any IGST	

2) It should be noted that CGST cannot be used against SGST/UGST or vice-versa


- Available IGST credit in the credit ledger should first be utilized towards payment of IGST.
 - Remaining amount if any, can be utilized towards the payment of CGST and SGST/UTGST in any order and in any proportion, i.e. ITC of IGST can be utilized either against CGST or SGST.
- Entire ITC of IGST is to be fully utilised first before the ITC of CGST or SGST/UTGST can be utilized.
- Available CGST Credit in the credit ledger shall first be utilized for payment of CGST.
 - Remaining amount if any, will be utilized for payment of IGST
- Available SGST/UTGST credit in the credit ledger shall first be utilized for payment of SGST/UTGST.
 - Remaining amount if any, will be utilized for payment of IGST, only when credit of CGST is not available for payment of IGST

Analysis

Electronic Credit Ledger

Debit Amount (DR)	Credit Amount (CR)
⇒ Credit amount of this ledger may be used for payment of output tax viz IGST, CGST, SGST, UTGST in the prescribed order. <i>(e-liability ledger)</i>	⇒ Input Tax credit as self-assessed in the return in the form of IGST, CGST, SGST, UTGST

Clarification of Utilisation of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities Circular No. 172/04/2022-GST

Issue:-  whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

Clarification:-

1. Accordingly, 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 of a registered person.
2. It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

Issue:- Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST Laws?

Clarification:- As per section 49(4), the electronic credit ledger can be used for making payment of output tax only under the CGST Act or the IGST Act. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said acts. Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

Issue:- Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST Laws?

Clarification:- As per section 49(3) of the CGST Act, the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST Laws

RULE 85 - ELECTRONIC LIABILITY REGISTER

- (1) **Electronic Liability Register :** The electronic liability register specified under subsection (7) of section 49 shall be maintained in **FORM GST PMT-01** for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.
- (2) **Debit to Electronic Liability Register :** The electronic liability register of the person shall be debited by-
- (a) The amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person
 - (b) The amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person **Said Person**
 - (c) ~~The amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or~~
 - (d) Any amount of interest that may accrue from time to time.
- (3) **Credit to Electronic Liability Register :** Subject to the provisions of section 49, **section 49A and Section 49B** payment of every liability by a registered person as per his return shall be made by
- ⇒ debiting the **electronic credit ledger** maintained as per rule 86 or
 - ⇒ the **electronic cash ledger** maintained as per rule 87
- Newly Inserted by N/N 19/2022 CT dt 28/09/2022
- and the electronic liability register shall be credited accordingly.
- (4) **Certain liabilities only to be discharge through cash :**
- ⇒ The amount deducted under section 51, or the amount collected under section 52, or **(TDS/TCS)**
 - ⇒ the amount payable on **reverse charge basis**, or **(RCM)**
 - ⇒ the amount payable under section 10,
 - ⇒ any amount payable towards **interest, penalty, fee or any other amount** under the Act
- shall be paid by debiting the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.
- (5) **Reduction in E-Liability Register, on relief given in appeal, etc. :** Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.
- (6) **Reduction in penalty :** The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability register shall be credited accordingly.
- (7) **Communication of discrepancy in E-liability register :** A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

Electronic Liability Register

Debit Amount (DR)	Credit Amount (CR)
⇒ Amount payable towards tax, interest, fees etc.	⇒ Electronic cash ledger
⇒ Tax or interest payable due to mismatch	
⇒ Any other Due	
⇒ Amount payable towards output tax	Electronic Credit ledger

←

Dr to cash ledger

Sec 50: Interest on delayed payment of tax

~~100% N 23~~ 100% N 23

In case of monthly scheme.

Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, [eg. 20th of next month] shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding 18% p.a., as may be notified by the Government on the recommendations of the Council

Note : Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum.

"Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, [except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period,] NA. shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger."

Why this proviso is inserted? (Just for Casual Reading)

In case a registered person does not have sufficient amount available in electronic credit ledger to pay the tax dues for a particular tax period. Also, the registered person does not have sufficient money for making deposit of balance tax amount in electronic cash ledger. In such a situation, GST common portal doesn't have a mechanism to allow a registered person to make part payment of taxes.

If the law maker demands tax dues along with interest on the gross payments i.e. tax paid through electronic cash ledger and credit ledger, it may be an unhealthy practice from business perspective. To counter such recovery mechanism, the proviso under Section 50 provides that when a registered person has paid his taxes through a return specified under Section 39 of CGST Act, 2017 belatedly, interest shall be applicable only on the net taxes paid through electronic cash ledger and not on the gross taxes paid for such tax period.

As per the said proviso, the interest in cases where the tax return has been furnished after the due date (but furnished before commencement of proceedings under Section 73 or Section 74) shall be levied on that portion of the output tax which is being paid by debiting the electronic cash ledger. This means that the 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.

Accordingly, interest if any payable by the registered person for delay in remittance of taxes beyond the stipulated due date on account of delay in filing of return under section 39, shall be demanded only on the net cash liability of taxes and not on the gross tax liability.

- Your notes
- i) Interest is payable @ 18% p.a
 - ii) It is calculated from next date after due date of payment of tax. till the date of payment of tax
 - iii) It is calculated on the amt which are to be debited to e-cash ledger. [Net GST + RCM, if any]
 - iv) Interest is payable only through e-cash ledger.

Analysis :-

When interest is payable?	Interest is payable in case of delay in payment of tax, in full or in part within the prescribed period.
Rate of interest	18% p.a.
Computation of period for calculation of interest	The period of interest will be from the date following the due date of payment to the actual date of payment of tax.

Other relevant points relating to interest

- ⇒ The term "tax" here means the tax payable under the Act or Rules made thereunder.
- ⇒ The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.
- ⇒ The interest payable under this section shall be debited to the Electronic Liability Register.
- ⇒ The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger but not with balance in electronic credit ledger.

Example 2 :- Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 20XX on 15th April, 20XX. The prescribed due date to file the said GSTR3B was 20th February, 20XX. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹ 36,500 which was paid on 15th April, 20XX. Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

Answer:-

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

Thus, the amount of interest payable by Mr. Alok is as under:-

Period of delay = 21st February, 20XX to 15th April, 20XX = 54 days

Hence, amount of interest = ₹ 36,500 x 18% x 54/365 = ₹ 972

Sec 50(3): Interest on wrongly availed and utilisation of ITC

PA 22 Retrospective amend. Amt to the extent of wrong utilisation.

Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding 24% as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed."

Newly Inserted by F.A.2022
Retrospectively from 1 JULY 2017

Note : Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum.

Rule 88B:- Manner of calculating interest on delayed payment of tax:-

Rule	Scenario	Period for which interest is payable	Amount on which interest liability is payable	Rate of interest
88B(1)	If tax has been belatedly paid through credit balance on account of delayed filing of return, before commencement of proceedings u/s 73 or 74 of CGST Act [proviso to Section 50(1)]:-	Interest is to be paid for period of delay in filing the said return beyond the due date upto date of filing GSTR-3B	Tax paid by debiting the electronic cash ledger (i.e. on NET TAX PAYABLE AFTER ITC). Note:- If there is excess ITC in e-credit ledger over the output tax liability & there is delay in filing the return, then interest will not be applicable.	18% p.a.
88B(3) (Refer Eg. 1 below)	If interest is payable on ITC wrongly availed and utilised u/s 50(3):-	Period from date of utilisation of such wrongly availed ITC till the date of reversal of such credit or payment of tax in respect of such amount	ITC wrongly availed and utilised	18% p.a.

Explanation:- For the purposes of rule 88B(3):-

- (1) ITC wrongly availed shall be construed to have been utilised, when balance in e-credit ledger falls below the amount of ITC wrongly availed, and the extent of such utilisation of ITC shall be the amount by which balance in e-credit ledger falls below the amount of ITC wrongly availed.
- (2) The date of utilisation of such ITC shall be taken to be as under:-
 - (a) If balance in e-credit ledger falls below the amount of ITC wrongly availed on account of payment of tax through the said return, then date of utilisation of such ITC shall be earlier of:-
 - the date on which the return is due to be furnished u/s 39 or
 - the actual date of filing of the said return.
 - (b) When balance in e-credit ledger falls below the amount of ITC wrongly availed in all other cases, then the date of utilisation of such ITC shall be:-
 - the date of debit in the electronic credit ledger.

Example :-

Mr. A has given the following information:-



Month	Opening balance in electronic credit ledger [A] (ITC)	Eligible ITC (B)	ITC wrongly availed (C)	Total ITC (D) = (A+B+C)	Output liability (E)	Due date of return filing	Actual date of filing Return
April	-	7,00,000	50,000	7,50,000	7,00,000	20 May 20XX	20 May 20XX
May	50,000	5,00,000	-	5,50,000	5,00,000	20 June 20XX	20 June 20XX
June	50,000	3,00,000	-	3,50,000	3,30,000	20 July 20XX	20 July 20XX
July	20,000	6,00,000	-	6,20,000	6,10,000	20 Aug 20XX	18 Aug 20XX
Aug	10,000	5,00,000	-	5,10,000	5,10,000	20 Sep 20XX	25 Sep 20XX

u/s 50(3)

Determine the date from when interest is applicable in above cases & also calculate the amount of interest if wrongly availed and utilized ITC is reversed in the September return i.e. 20 October 20XX

Answer:- Calculation of amount on which interest is payable under rule 88B

Month	Opening balance in electronic credit ledger [A]	Eligible ITC (B)	ITC wrongly availed (C)	Total ITC (D) = (A+B+C)	Output liability (E)	Closing balance in E-credit ledger (F) = (D-E)	Amount on which Interest is applicable
April	-	7,00,000	50,000	7,50,000	7,00,000	50,000	-
May	50,000	5,00,000	-	5,50,000	5,00,000	50,000	-
June	50,000	3,00,000	-	3,50,000	3,30,000	20,000	30,000
July	20,000	6,00,000	-	6,20,000	6,10,000	10,000	10,000
Aug	10,000	5,00,000	-	5,10,000	5,10,000	-	10,000

- 1) Date of filing the return is the date of utilization of ITC.
- 2) Interest is calculated 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
- 3) Calculation of Interest - As per sec 50(3) read with rule 88B,

April & May :- ITC of `50000/- was wrongly availed but the same was not utilised, so interest is not applicable.

June:- Wrongly availed ITC of `50000/- is carried forward to the June month, however `30000/- is utilised out of `50000 when we had shortage of eligible ITC (`30,000/-) to adjust against the output liability of `330000/-, interest shall be applicable on `30000/- as the same is utilised by filing the return of June month i.e. from 20th July 20XX.

Calculation of Interest -

Amount of wrongly utilized ITC - 30,000

Rate of Interest - 18% p.a

Date of utilization of ITC - 20th July 20XX

Date of Reversal of ITC - 20th October 20XX

Interest = $30,000 * 18\% * 93 \text{ days} / 365 = 1376$

July:- Out of `50000/-, `30000/- was already utilised and the balance of `20000/- was carried forward to the July month. Since eligible ITC (`600000/-) is lesser than the output liability of `610000/- and the remaining wrongly availed ITC of `10000 is utilised, therefore interest shall be applicable for `10000/- from the date of filling the return i.e. 18th August 20XX.

Calculation of Interest -

Amount of wrongly utilized ITC - 10,000

Rate of Interest - 18% p.a

Date of utilization of ITC - 18th Aug 20XX

Date of Reversal of ITC - 20th October 20XX

Interest = $10,000 * 18\% * 64 \text{ days} / 365 = 316$

Aug:- Out of `50000/-, `40,000/- was already utilised and the balance of `10000/- was carried forward to the Aug month. Since eligible ITC (`500000/-) is lesser than the output liability of `510000/- and the remaining wrongly availed ITC of `10000 is utilised, therefore interest shall be applicable for `10000/- from the date of filling the return i.e. 25 Sep 20XX.

Calculation of Interest -

Amount of wrongly utilized ITC - 10,000

Rate of Interest - 18% p.a

Date of utilization of ITC - 20th September 20XX

Date of Reversal of ITC - 20th October 20XX

Interest = $10,000 * 18\% * 31 \text{ days} / 365 = 153$

Note:- For the calculation of no. of days the date of utilization and date of reversal or date of payment of Tax is considered.

Your
notes



CHAPTER - 9

INPUT TAX CREDIT

INDEX

Section	Description
Section 16	Eligibility & conditions for taking input tax credit
Section 17	Apportionment of credit & blocked credits
Section 18	Availability of credit in special circumstances

CGST rules pertaining to Input tax credit

Rule No.	Description
36	Documentary requirements and conditions for claiming input tax credit
37	Reversal of input tax credit in case of non-payment of consideration
38	Claim of credit by a banking company or a financial institution.
44	Manner of reversal of credit in special circumstances
86A	Conditions of use of amount available in Electronic credit ledger
86B	Restriction on use of amount available in Electronic credit ledger

Introduction :

“Input Tax” in relation to a taxable person, means the Goods and Services Tax charged on any inward supply of goods / services which are used or are intended to be used, during or in furtherance of his business.

Fulfillment of Input Tax Credit under GST and conditions to claim is one of the most critical activities for every business to settle its tax liability. Input Tax Credit (ITC) is the backbone of the GST regime as due to :-

- ⇒ These provisions of Input Tax Credit makes GST a value added tax i.e., collection of tax at all points after allowing credit for the inputs.
- ⇒ ITC has been defined as credit of IGST/CGST/SGST charged on any supply of goods and or services used or intended to be used in the course or furtherance of business and include tax payable under reverse charge.

Important definitions

Sec 2(59) "Input"

Means **any goods** ^{used} other than capital goods used or intended to be used by supplier in course or furtherance of business.

Sec 2(60) "Input service"

Means **any service** used or intended to be used by a supplier in the course or furtherance of business

- ⇒ The word 'service' would take its meaning from definition of service viz. anything other than goods
- ⇒ **Capitalization not relevant** : Even if the input service is capitalized by way of cost of capital goods, then also, it will continue as input service only.

Sec 2(19) "Capital goods"

Means **goods, the value of which is capitalised in the books of account** of the person claiming the input tax credit and which are used or intended to be used **in the course or furtherance of business**

Important Explanation:- For the purpose of this chapter

The expressions "capital goods" shall include "plant and machinery" as defined in the Explanation to sec 17;

Analysis :

- ⇒ Even if certain goods e.g., machinery, tools, spares item are not capitalized, same is still eligible for credit as input.
- ⇒ **Intention to use is relevant** : Words 'intended to be used' mean that if certain goods are intended for use but are not actually used, then also, they would be capital goods, subject to other provisions.
- ⇒ **Course of business** : The purchase must have been made in course of business i.e., to run or continue the business as per business needs.
- ⇒ **Furtherance** : it means purchases for improvement or enhancement or advancement of business

Sec 2(62) "Input Tax"

In relation to a registered person, 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

- ~~CGST SGST IGST~~ ~~UTGST~~
- ↳ Inward supply.
- * (a) the integrated goods and services tax charged on import of goods
 - (b) the tax payable under the provisions of sections 9(3) and 9(4)
 - (c) the tax payable under the provisions of sections 5(3) and 5(4) of the Integrated Goods and Services Tax Act
 - (d) the tax payable under the provisions of sections 9(3) and 9(4) of the respective State Goods and Services Tax Act; or
 - (e) the tax payable under the provisions of sections 7(3) and 7(4) of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy

Comment - Following Duties/Taxes credit thereof is not admissible as ITC

- ⇒ Central Excise duty paid on tobacco
- ⇒ Central Excise duty and VAT/ Sales tax paid on petro products (Petrol, diesel etc.)
- ⇒ Basic Customs duty paid on import of goods

Sec 2(63) "Input Tax credit":

means the credit of input tax

Sec 2(46) "Electronic credit ledger":

means the electronic credit ledger as referred in section 49(2) i.e. The input tax credit as self-assessed in return of registered person shall be credited to electronic credit ledger in accordance with section 41, to be maintained in the manner as may be prescribed.

Sec 2(67) "Inward supply":

in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other with or without consideration.

Sec 2(47) "Exempt Supply":

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 IGST Act, and includes non-taxable supply.

Sec 2(82) "Output Tax":

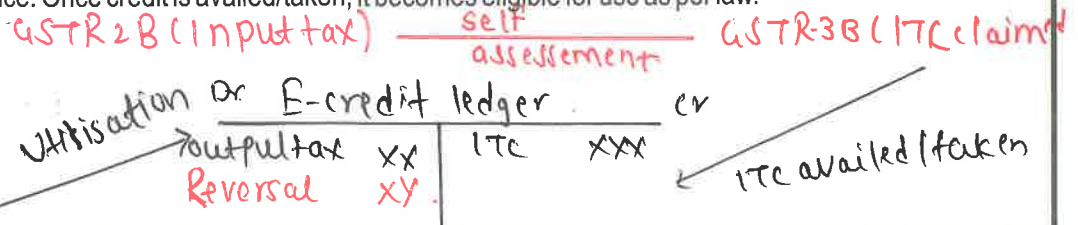
"Output tax" in relation to a taxable person, means the tax chargeable under this Act on

- ➔ 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.

Understanding of Some important Terms in ITC

Availment, or, Taking Credit : It means recording Credit in statutory records i.e. in ~~GSTR-2~~ (now currently in GSTR-3B). It results in increase in credit balance. Once credit is availed/taken, it becomes eligible for use as per law.



Utilization or Use of Credit : It means using credit availed/taken to pay output tax or other eligible sums (transfer to electronic liability register). It results in decrease in Credit balance.

Reversal : Reversal of credit also results in decrease in balance & is similar to utilization, with a difference that word "reversal" is generally required/used when

- ➔ credit is wrongly taken or
- ➔ becomes subsequently ineligible.

Sec 16 : Eligibility and conditions for taking input tax credit.

1 **Eligibility Criteria:-** Every **registered person** shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49,

- be **entitled to take credit of input tax charged** on any supply of goods or services or both to him
- which are **used or intended to be used** in the **course or furtherance of his business** and the said amount shall be credited to the **electronic credit ledger** of such person.

100% ITC is available on I/(CG) IS.



Tutorial Notes

1. As sec 49 of CGST act deals with the self assessment of ITC credited to Electronic Credit Ledger and it also covered restrictions on utilisation of CGST, SGST, IGST or UTGST credit for the purpose of payment of taxes provided that such inputs are used for the purpose of business only.
2. ITC will be available only if goods or services are **"used or intended to be used"** in the course of furtherance of his business. Thus, tax paid on goods and or/services which are used or intended to be used for non-business purposes cannot be availed as credit.

P1:- M/s XYZ Ltd. has started his business from 1st April 20XX. Company has made outward supplies as follows:

- a) Invoice no. 001 of ₹ 5,00,000 (10th April 20XX)
- b) Invoice No. 002 of ₹ 8,00,000 (28th April 20XX)
- c) Invoice No. 003 of ₹ 7,00,000 (18th May 20XX)
- d) Invoice No. 002 of ₹ 8,00,000 (28th May 20XX)

Company has also made inward supplies during this period in the following manner :

- 1) Purchased goods (invoice no. 921) of ₹ 3,00,000, GST @12% on 1st April 20XX
- 2) Capital goods purchased of ₹ 12,00,000, GST @12% on 25th April 20XX
- 3) Input service purchased of ₹ 2,00,000, GST @18% on 10th May 20XX
- 4) Inputs purchased of ₹10,00,000 GST @12% on 22nd May 20XX

Determine :-

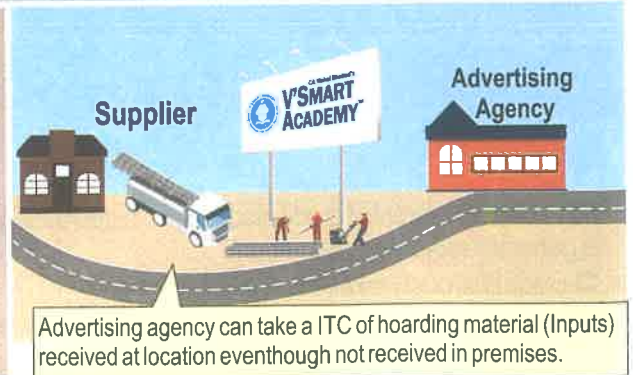
- a) When XYZ Ltd. is required to registered under GST
- b) Also specify from when & which invoice is eligible for ITC.

2 **Conditions for availment of ITC :-** Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless.

(a) **he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed**

(aa) **the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37**

(b) **he has received the goods or services or both.**



	Date of invoice received	Date of receipt G/S	In which month ITC is available
A	25-04-XX	26-04-XX	April
B	28-04-XX	03-05-XX	May
C	05-05-XX	29-04-XX	May

whichever is later

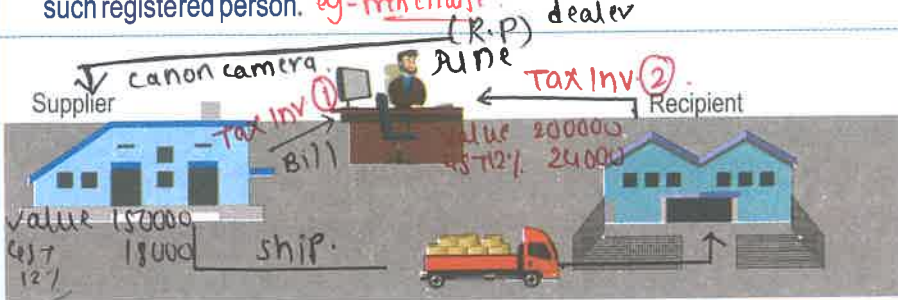
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Explanation : Bill to Ship to Model : For the purposes of this clause, it shall be **deemed** that the registered person has **received the goods or as the case may be, services**

i) where the **goods are delivered**

- ⇒ by the supplier to a recipient or
- ⇒ any other person on the direction of such registered person, whether acting as an agent or otherwise,
- ⇒ before or during movement of goods,
- ⇒ either by way of transfer of documents of title to goods or otherwise

ii) Where **the services are provided** by the supplier to any person on the direction of and on account of such registered person. *eg- franchisee dealer (for ease, Refer P 2 ↓)*



89. **P2:-** V smart Academy has ordered 1000 T-Shirts to ABC Ltd. with specific requirement of brand name of V smart. ABC Ltd. has given further order to XYZ Ltd. a manufacturer of T-Shirt for supply of T-shirt as per specification of V smart. XYZ Ltd., a supplier has delivered T-shirt to V smart Academy on 11th Aug 20XX. **Determine**

- a) To whom XYZ Ltd. will issue the invoice
- b) When ABC Ltd. can take ITC of given consignment?

concept of input service distributor is not applicable.

Rule 36. Documentary requirements and conditions for claiming input tax credit.-

(1) **Eligible Document for ITC :** The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-

- (a) an **invoice issued by the supplier** of goods or services or both.
- (b) an **invoice issued by recipient** (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge) **(Self Invoice)**.
- (c) a **debit note** issued by a supplier
- (d) a **bill of entry** or any similar document prescribed under the Customs Act, 1962 for the assessment of integrated tax on imports; **of Goods**
- (e) **Revised invoice** *Refer invoice chapter.*
- (f) Documents issued by **input service distributor. NA.**

(2) **Authenticity of Invoice - Requirement of all particulars for ITC :** Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI (invoice) are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person. *Rule 46*

Mandatory Requirement : Provided that if the said document does not contain all the specified particulars but contains the

- ⇒ details of the amount of tax charged,
- ⇒ description of goods or services,
- ⇒ total value of supply of goods or services or both,
- ⇒ GSTIN of the supplier and recipient and
- ⇒ place of supply in case of inter-State supply,

input tax credit may be availed by such registered person

omitted by N/N 19/2022 CT dt 28/09/2022

P3 : Mr. Umesh (GST registered) has procured inward supplies worth ₹ 1,00,000 from Mr Yuvraj (GST registered). Invoice issued by Mr Yuvraj is not containing GSTIN of Mr Umesh (Recipient). Can he claim ITC on such invoice? **NO**

P4 : Mr Umesh (GST registered) has procured inward supplies worth ₹ 2,00,000 from Mr Yuvraj (GST registered). Supply is intra-state supply. Invoice is not mentioning Place of Supply and also HSN of the goods. Can he claim ITC on such invoice?

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

P5 : Central Tax officer has served SCN (u/Sec 74) on Mr. Umesh for fraud by Mr. Umesh (deliberating charging GST@5%) resulting into tax evasion. Demand order passed on Mr. Umesh and differential tax element. Mr. Umesh now issuing 'debit note' to Mr. Yuvraj for recovering the differential tax. Whether Mr. Yuvraj is eligible to take ITC of differential tax element as mentioned in debit note?

(4) **No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under section 37(1) unless,-**
(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and
(b) the details of **input tax credit in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under rule 60(7).**

Newly Inserted by N/N
19/2022 CT dt 28/09/2022



Tutorial Notes

No Input Tax Credit unless details are populated in GSTR 2B. Furnishing of details of invoice/credit note in GSTR-1 or through IFF by the supplier is now mandatory to take credit. A self-policing mechanism for claiming validated ITC.

(ba) The details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted

Newly Inserted by F.A 2022

Sec 38 : Restriction on ITC in following cases :

- 1) In case of newly registered supplier (notified by govt)
- 2) In case of supplier has defaulted in payment of tax.
- 3) In case of supplier has done short payment of tax.
- 4) In case of supplier has taken a wrong credit
- 5) In case of supplier has paid the tax from e-credit ledger has proposed u/s 49(12)
- 6) Such other class of supply as may be prescribed.

Imp note: Govt has prescribed above situations for restriction of ITC u/s 38, but these restrictions are applicable only on that person who is notified by the govt. still there is NO notification issued by govt.

(c) The tax charged (by supplier) in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

P6:- Mr Vishal purchased spare parts worth ₹ 75000 as on 01/8/20XX on which CGST @ 9% i.e. ₹ 6750 & SGST @ 9% i.e. ₹ 6750 were charged, thus total amount payable against such purchases is ₹ 88500/-. The consignment is received on same date explain the eligibility of ITC of Mr Vishal if supplier fails to make the payment of GST to Government within due date.

Sec 41 :- Claim of ITC and Provisional acceptance thereof

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.
- (2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed *Rule 37A*.
Provided that 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 in such manner as may be prescribed. "

V.V.V.V.M.P.
FA 22

Rule 37A:- Reversal of ITC in the case of non-payment of tax by the supplier and reavailment thereof:-

Newly Inserted by N/No. 26/2022 - CT dt. 26.12.2022

- Where ITC has been availed by a registered person in the return in **FORM GSTR-3B** for a tax period in respect of such invoice or debit note,
 - the details of which have been furnished by the supplier in the statement of outward supplies in **FORM GSTR-1** or using the invoice furnishing facility,
 - but the return in **FORM GSTR-3B** for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the 30th day of September following the end of financial year in which the ITC in respect of such invoice or debit note has been availed,
 - the said amount of ITC shall be reversed by the said registered person, while furnishing a return in **FORM GSTR-3B** on or before the 30th day of November following the end of such financial year.

Proviso If ITC is not reversed within the time limit by recipient:-



Provided that where the said amount of ITC is not reversed by the registered person in a return in **FORM GSTR-3B** on or before the 30th day of November following the end of such financial year during which such ITC has been availed, such amount shall be payable by the said person along with interest thereon u/s 50. → sec 50(3). interest rate @ 18% pa.

Proviso Re-availment of ITC subsequently:-

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

P7:- M/s Perfect Ltd. received an Invoice dated 01/01/2023 for Rs 11800 (Base price Rs 10000+ GST@ 18%) against service from M/s Imperfect Ltd. M/s Imperfect Ltd. has filed the GSTR- 1 of January 2023 with in due date and as a consequence, the invoice got reflected in GSTR-2B of M/s Perfect Ltd. Based upon its GSTR-2B, M/s Perfect Ltd. availed the ITC while filing its GSTR-3B of January 2023. However, M/s Imperfect Ltd. did not file its GSTR-3B for January 2023. What will be the course of action for M/s Perfect Ltd. under following circumstances?

Case-1: M/s Imperfect Ltd. filed its January 2023 GSTR-3B on 20-09-2023 .

Case-2: M/s Imperfect Ltd. filed its January 2023 GSTR-3B on 20-11-2023

Case-3: M/s Imperfect Ltd. filed its January 2023 GSTR-3B on 31-01-2024; M/s Perfect Ltd. came to know on or after 01.12.2023 by way of self-assessment or by way of investigation by dept that the ITC has not been reversed by 30.11.2023 by it.

(d) ^{R-P} He has furnished the return under section 39:

Analysis

	Jan, 2019	Feb, 2019	Mar, 2019
Status of GSTR-3/3B	Filed	Not filed	Cannot be filed unless return for tax period is filed Sec 39(10)
	ITC allowed	ITC not allowed	ITC not allowed

ITC if Goods received in a Lots

Provided that where the goods ^{single invoice.} against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment

P8:- M/s Asha Trading Co purchased certain goods from Venus traders, Mumbai who agreed to deliver the goods in following installments :- ^{under single invoice}

Date	Installment	Value of goods
10.6.2018	1 st	₹ 15000
10.7.2018	2 nd	₹ 35000
10.8.2018	last	₹ 42000
Total		₹ 92000

The above goods are be charged GST @ 5 %. Consequently the ITC of ₹ 4600/- (92000*5%) shall be available only after receipt of last installment of goods i.e after 10.8.2018

Payment for the invoice to be made within 180 days

Provided further that where a recipient fails to pay to the supplier of goods or services or both [other than the supplies on which tax is payable on reverse charge basis]

180 days → the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier,
 → an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed: ^{↳ or reverse.}

Regaining of ITC

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

My note: This provision is not applicable to RCM.

The registered person (recipient) must pay to the supplier, the value of the goods &/or services along with

2nd Provision: Payment to supplier within 180 days.

GST-R1

[Common Portal]

GSTR-2B

Supplier

Recipient

GSTR-3B
Payment of Tax

Tax Invoice [value 30L + GST 3-6L]

→ Date = 10th April. @ 12%.

Payment Against Invoice [value + GST]

[Credit Sale]

ITC of 3.6L
claimed by
recipient
in GSTR3B

If payment is made
within 180 days

From the date of invoice

(ie 11th Oct)

ITC already availed

will be continued

If payment is not
made within 15 days
from the date of invoice

→ Amt payable or reversal
→ ITC availed.

Amt payable or reversible
in GSTR3B of tax period

Immediately following the

period of 180 days (1-20 Oct)

2) Interest is payable u/s 30B3.

★ FA-22

If payment is made after
180 days from the date
of invoice.

Regaining of ITC: can again

reavail the ITC so reverse
or paid in the month in
which payment is made

Note: No regaining of
interest

Note: If payment partly made within 180 days then proportionate
reversal is required & after payment regain that proportionate
credit

★ FA-22

classmate

Time limit for availing ITC

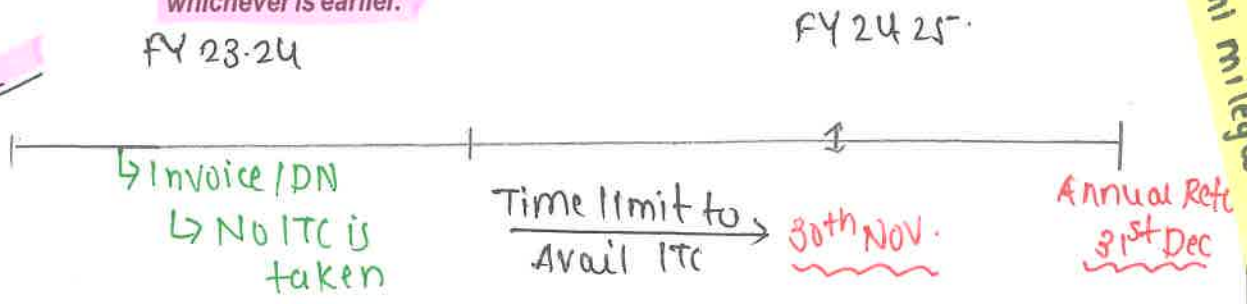
A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both

Substituted by F.A 2022

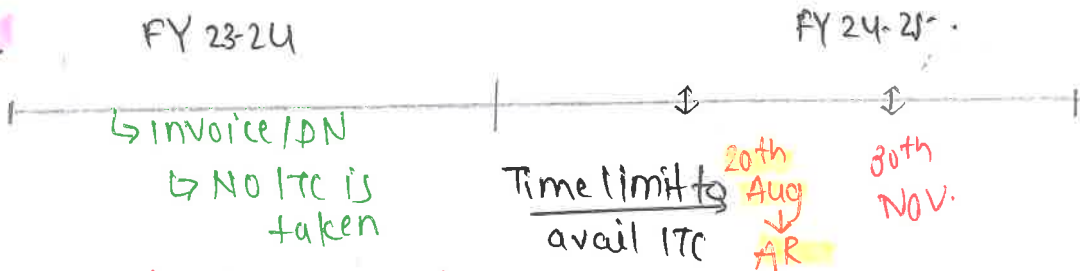
- after the due date of furnishing of the return under section 39 for the month of September 30th ~~of~~ **November** following the end of financial year to which such invoice or debit note pertains or
- furnishing of the relevant annual return, **whichever is earlier.**

2022
business credit nil
al, uska credit nil
2024 ni milega.

Case I



Case II



Important comments

- Non applicability of above time limit
 - a) Re-availment of ITC under rule 37A.
 - b) Re-availment of ITC under 2nd Proviso to sec. 16(2). [i.e. payment within 180 days].
- The above time limit is applicable to availment of ITC & not for utilisation. Once ITC is availed then it can be utilised / carried forward without any time limit.

100

P13:- Yash Ltd. has failed to take ITC of one of his invoice dated on 18th Aug 20XX. During the course of Audit, it is found that ITC of such invoice has not taken in 31st march 20XX. Yash Ltd. need your advice that can he avail ITC of such invoice after completion of FY XX-XY.

Would your answer differ if he came to know such missing invoice on 15th Nov 20XX.

Note:- Yash Ltd. has filed annual return on 31st Dec 20XX.

101

P14: Hercules Machinery delivered a machine to XYZ in January 20XX under Invoice no. 49 dated 28th January, 20XX for ₹ 4,15,000 plus GST, and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for the post delivery activities was covered in a debit note raised in April 20XX for ₹ 50,000 plus GST. Hercules Machinery did not file its annual return till October, 20XX. XYZ Hd have not taken ITC of invoice / DN in his books of account. Discuss eligibility of ITC. (ICAI Material)

Sec 17(5) : Blocked credits.



Non eligibility of Credit : Input tax credit shall not be available in respect of the following, namely

(a) **Motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making the following taxable supplies namely :**

- (A) Further supply of such motor vehicles or eg. motor v. → sale, lease, rent, etc.
- (B) Transportation of passengers or
- Imparting training on driving, such motor vehicles (Driving schools)

Motor Vehicle (M.V)

M.V used for transportation of person [eg: car, bike, cab]

MV used for transportation of goods [Truck/ goods carriage etc]

If approved seating capacity is 13 or less (including Driver)

If approved seating capacity is more than 13 eg: BUS.

ITC allowed.

ITC allowed.

Normally on such M.V ITC not allowed.

Exceptions:

- If M.V is used for following taxable supply.
 - a) further supply of such M.V
 - b) Transportation of passenger
 - c) Training / driving school

ITC allowed.

on such M.V R.P is eligible to take ITC of notified services:

- i) General insurance
- ii) servicing
- iii) Repairs & maintenance
- iv) Leasing, Renting, hiring of M.V. under clause (b).

Note: As per clause (a), R.P is not eligible to take ITC of notified services on such M.V

102

P15 :- SRS Cars Pvt Ltd, a car manufacturer, purchased a tempo Traveler (Seating capacity of 15 persons) for the transport of its employees within the factory premises. Can SRS Cars pvt. ltd. avail ITC on such purchase? Will your answer differ if seating capacity on tempo traveler is 10 persons

102

P16:- Kesari tours & Travels, a tour operator, purchased a Tempo Traveler (Seating capacity of 20 persons) for the purpose of transporting tourists passenger during their package tours. Can Kesari Tours & Travels avail ITC on such purchase?

yes, ITC ✓

(aa) **Vessel & aircraft except when they are used -**

(i) For making the following taxable supplies namely

- (A) Further supply of such vessels or aircraft or
- (B) Transportation of passengers or (Business keliye).
- (C) Imparting training on navigating such vessels or
- (D) Imparting training on flying such aircraft (Training school).

(ii) for transportation of goods

Example 1 Katraj dairy uses tempo service for delivery of its milk products. In this case as supply of milk products is in course of business, Thus here ITC will be allowed.

Vessel / Aircraft

Vessel / aircraft is used for transportation of person

vessel / aircraft is used for transportation of goods



ITC allowed.

Normally, ITC not allowed

Exceptions

If such vessel / aircraft is used for following taxable supply:

- a) further supply (eg: sale/lease/rent etc).
 - b) Transportation of passenger
 - c) for training on navigation or flying.
- ITC is allowed.

Notified services under clause (ab) not eligible for ITC.

Note : ↓ Eligible for ITC.

ing, repair & maintenance in so far as they relate to motor vehicle, vessel (aa).

Proviso - Provided that the input tax credit in respect of such services shall be available

- i) Where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purpose specified therein;
- ii) Where received by a taxable person engaged -
 - I) In the manufacture of such motor vehicles, vessels, or aircraft or
 - II) In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him.

Let's determine the eligibility of ITC in the following cases:-

Case -1

Manufacturer



1. Car & Bus used for employees transportation (Seating capacity of 10 persons) → NO ITC

2. Truck used for Goods Transportation – ITC allowed .

Case -2



Motor Vehicle purchased by authorised dealer for further supply ITC allowed

Case -3



1. Bus used by travel company for transportation of Passenger Allowed

2. Motor car (seating capacity of 5 persons) used by supplier of taxi service Allowed

3. Aircraft purchased by Indigo for passenger transportation Allowed .

Case -4

1. Aircraft used by Institute imparting navigation training to pilots Allowed

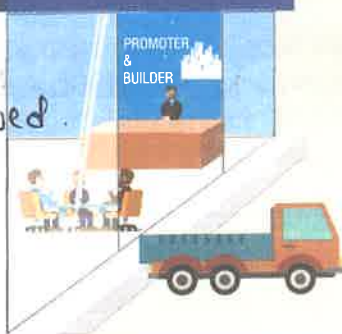
2. Motor vehicle used by motor driving school Allowed .



Case -5

1. Truck used by GTA for transportation of goods Allowed .

2. Truck used by builder contractor for transportation of goods Allowed .



Goods Transport

GOODS TRANSPORT CO.



(b) the following supply of goods or services or both

- (i)
 - ⇒ food and beverages,
 - ⇒ outdoor catering,
 - ⇒ beauty treatment,
 - ⇒ health services,
 - ⇒ cosmetic and plastic surgery
 - ⇒ Leasing, renting or hiring of motor vehicles, vessels or aircraft referred in clause (a) or (aa) *except when used for purposes specified therein,*
 - ⇒ life insurance & health insurance

Proviso -

Provided that the input tax credit in respect of such goods or services or both shall be available where in inward supply of such goods or services or both is used by a registered person for

- ◆ making an outward taxable supply of the same category of goods or services or both or
- ◆ as an element of a taxable composite or mixed supply



Inward Supply of Food & Beverages by Reliance Fresh who is further supplying Food & Beverages ITC Allowed



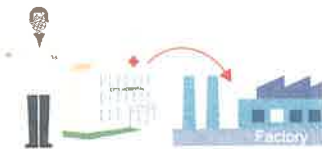
Inward Supply of Food & Beverages to a supplier is providing restaurant service Allowed



Inward supply of food packets to Airline. The packets are used for in-flight catering which is considered as part of the composite supply of air travel services. Allowed



Inward supply of Health care service to a Hospital who is providing healthcare services Allowed.



Inward supply of Health care service to a Manufacturer/ Trader/ Service Provider Not Allowed
Its not for same category of outward supply.



Factory

Inward Supply of outdoor catering to a manufacturing company for celebrating its 25 years of success Not Allowed.

My note: Business ke andar use kiya hai



Inward Supply of beauty treatment services by a Film Production Company. Not allowed.



Inward Supply of rent a Cab service taken by software company. No ITC.



Inward Supply of rent-a-cab service to supplier who himself is into same line of business providing rent-a cab service Allowed.



Inward Supply of rent-a-cab service to a Tour Operator Allowed.

Tour operator using rent-a-cab for his composite outward supply.

(ii) membership of a club, health and fitness centre

Example 1 Smart pvt ltd takes an annual membership of a fitness centre, Hi Fi, for the use of its employees. Here, Smart pvt ltd cannot avail ITC on the GST paid on membership charges.



(iii) travel benefits extended to employees on vacation such as leave or home travel concession

Example 1 VB Ltd reimburses its senior employees on travel expenses as part of LTA (Leave Travel Allowance). VB Ltd cannot avail ITC on the GST component of the travel fare reimbursed.

Proviso - Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force. *Hot fav.*

CBIC Clarification

Clarification on various issues of section 17(5) of the CGST Act [Circular No. 172/04/2022 -GST]

Issue 1	Whether the proviso at the end of clause (b) of section 17(5) of the CGST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b)?
Legal Provision	Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.
Clarification	It had been clarified "that scope of input tax credit is being widened, and it would now be made available in respect of Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force." Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of section 17(5) of the CGST Act is applicable to the whole of clause (b) of section 17(5) of the CGST Act
Issue 2	Whether the provisions of section 17(5)(b)(i) of the CGST Act bar availment of ITC on input services by way of "leasing of motor vehicles, vessels or aircraft" or ITC on input services by way of any type of leasing is barred under the said provisions?
Legal Provision	section 17(5)(b)(i) of the CGST Act provides that ITC shall not be available in respect of following supply of goods or services or both— " (I) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance: Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply"
Clarification	It is clarified that "leasing" referred in section 17(5)(b)(i) refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items. Accordingly, availment of ITC is not barred under section 17(5)(b)(i) of the CGST Act in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.

(Inward supply)

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) **except where it is an input service for further supply of works contract service**

Tutorial Notes

As per section 2(119) of CGST act 2017 works contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract

Case : 1



Works Contract Service used construction of building of manufacturer/trader or service provider **NOTTC.**

Case : 1



Works Contract Service used construction of Plant & Machinery of manufacturer/trader or service provider **Allowed.**

Inward

(d) **goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery)**

- ⇒ on his own account
- ⇒ including when such goods or services or both are used in the course or furtherance of business.

Explanation 1 For the purposes of clauses (c) and (d), the expression "construction" includes **re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property**

Your notes

Blank lined area for taking notes.

Explanation 2 For the purposes of this Chapter and Chapter VI, **the expression "plant and machinery" means** apparatus, equipment, and machinery

- ⇒ fixed to earth by foundation or structural support
- ⇒ that are used for making outward supply of goods or services or both and

includes such foundation and structural supports

but excludes

- Land, building or any other civil structures
- Telecommunication towers; and
- Pipelines laid outside the factory premises

Sec. 17(5) Blocked credit

(c)

works contract

(d)

Goods or services
(eg: cement / brick / steel, etc)

construction of immovable property

other than plant & machinery

NO ITC

Explanation 1.

- construction includes
- Re-construction
- Renovation
- Addition or alteration
- Repairs
- ↳ To the extent of capitalisation.

It means, if any work contract service or goods or service is purchased for construction of plant & machinery then, ITC is available.

Explⁿ 2: Definition of plant & machinery.

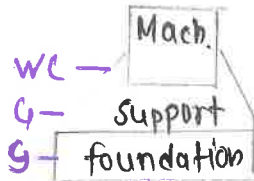
Note: If cost of such construction is not capitalised but, treated as revenue expenses then ITC is allowed.

Means

- apparatus
- Equipment
- Machinery.

fixed to the earth by foundation or structural support

used for making outward supply.



ITC allowed.

Includes

such foundation & structural support

Excludes

- i) Land & building or other civil structures
- ii) Telecommunication towers
- iii) Pipeline laid outside the factory.

Imp. Note: If works contract, goods / services purchased for construction of above then, ITC is not allowed.



Construction Service & Construction Material used construction of plant & machinery of manufacturer/trader or service provider



Construction Service & Construction Material used construction of building of manufacturer/trader or service provider



Construction Service & Construction Material used construction of tele-communication tower
Not allowed

Construction Service by Contractor



Allowed
Construction Service & Construction Material used builder for further supply intended for sale.

(e) **Inward**
goods or services or both on which tax has been paid under section 10 C.L.



Tutorial Notes

A Registered person who has opted for composition scheme shall not be eligible to claim input tax credit it's an absolute restriction.

NRTP

(f) **goods or services or both received by a non-resident taxable person except on goods imported by him.**



Non resident taxable person used following goods or services
(a) Imported Toolkit - **ITC Allowed**
(b) Hotel service in India - **Not allowed**

Note:

- ⇒ ITC on goods imported by NRTP is allowed whereas ITC on service imported by him is blocked
- ⇒ CTP is eligible for full ITC

(g) **goods or services or both used for personal consumption**

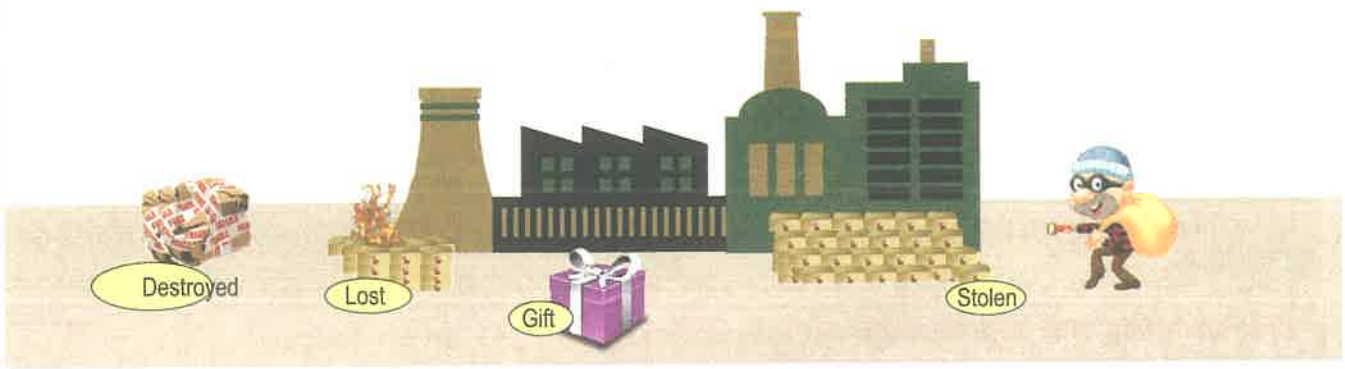


Bike of showroom is used for personal purpose
No ITC

Inward

~~Hot Fav.~~ Hot Fav.

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and



Goods (purchased) → Lost - destroyed - stolen - w/off — Gift / sample.

1) No ITC is available or
 2) If ITC is taken then it is required to be reversed.

if ITC is taken on such goods
 ↓
 1) As per para 1 of sch 1, it would be treated supply.
 2) on such supply GST is payable & also ITC is available.

if ITC is not taken on such goods
 ↓
 [Already R.P knows it is free sample / gift] then as per sec 17(5)(h), ITC is not available.

P17:- ABC pvt ltd is an electronic goods dealer. On 1st Nov, 20XX, purchased 20 computers @ ₹ 25,000 each from the manufacturer. GST charged is ₹90,000 @ 18%. On 2nd Nov, 20XX, While on transit 1 of the computer gets destroyed completely and cannot be used any more. Determine eligibility of ITC. 102

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130. Not imp.

Sec 74	IT deals with recovery of tax not paid or short paid by reason of fraud, willful misstatement or suppression of facts	Tax paid is not eligible as ITC
Sec 129	It deals with detention, seizure and release of goods in transit which had been removed in contravention of legal provisions	Tax paid is not eligible as ITC
Sec 130	It deals with confiscation of goods in certain circumstances	Tax paid is not eligible as ITC

Important Clarifications


Clarification on Taxable Persons offering various promotional schemes to increase sales volume and to attract new customers for their products. Some of these schemes like

- Free samples and gifts,
- Buy one get one free offer,
- Discounts including 'Buy more, save more' offers
- Secondary discount etc.

in respect of tax treatment of this have been examined by the CBIC vide Circular No. 92/11/2019-GST dated 07/03/2019

Free samples and gifts treatment under GST :-

Not a supply except in case of Schedule I	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.
No Credit	Further as per provisions of 17(5)(h) of act, ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. However, where the activity of distribution of gifts or free samples falls within the scope of "supply" on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.
Example	Pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration.



Gift or Sample

If ITC is not taken

↓

Don't take ITC
v/s 17(5)(h)


If ITC is taken.

↓

It will be continued but
Gift or free sample treated as
supply under sch. I & para 1 on
which GST is payable.

Buy One, Get One Offer ~~XXXXX~~

Supply in of goods for single price (no free Supply involved)	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.
Full Credit is available	ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.
Example	"buy one soap and get one soap free" or "Get one tooth brush free along with the purchase of tooth paste"



RP.

Value 500	shirt 1
GST 12% 60	
value 500	shirt 2
GST 12% 60	

Note: In buy one get one free scheme, value of shirt 1 includes the value of shirt 2 also. Hence it would be treated as sale of 2 shirt in single price. Therefore ITC of both the shirts are available even though.

Buy one Get one free.

Tax Invoice

sale of shirt	1400
free shirt 2	-
	1400
GST@12%	168

Discount Including Buy More ,Save More

Discount allowed	As per sec 15(3) of CGST Act - Discounts offered by the suppliers to customers (including staggered discount under 'Buy more, save more" scheme and post supply/ volume discounts established before or at the time of supply) shall be excluded to determine the value of supply
Credit reversal by recipient for discount	reversal of ITC shall be made by the recipient of the supply as is attributable to the discount on the basis of document(s) issued by the supplier.
Full credit to the supplier	Supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts
Example	XYZ Ltd offers staggered discount to his customers (increase in discount rate with increase in purchase volume) i.e. get 10 % discount for purchases above ₹ 5000/-, 20% discount for purchases above ₹10,000/- and 30% discount for purchases above ₹20,000/-. Such discounts are shown on the invoice itself & hence as per sec 15(3) of CGST Act are allowed to be excluded from the value of supply.



Secondary Discount

No deduction from value	such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the <u>time of supply</u> and the conditions laid down in section 15(3)(b) of the said Act are not satisfied.
No GST Credit note	No GST credit note can be issued, there will be no credit reversal
Financial credit note may be issued	Financial /Commercial credit note (s) can be issued by supplier for financial accounting to give credit but, GST will not be reduced.
Example	M/s A supplies 10000 packets of biscuits to M/s B at ₹10/- per packet. Afterwards M/s A re-values it at ₹9/- per packet. Subsequently, M/s A issues credit note to M/s B for ₹1/- per packet.

Summary of ITC in respect of Sales promotional Scheme

1	Free Samples & Gifts: ⇒ ITC shall not be available to the supplier on the Inputs, IS & CG to the extent they are used in relation to the gifts or free samples distributed without any consideration ⇒ However, where the activity of distribution of gifts or free samples falls within the scope of "supply" on account of the provisions contained in Sch I, ITC will be available
2	Buy one, Get one free offer: ITC shall be available to the supplier for the inputs, IS & CG used in relation to supply of goods or services or both as part of such offers
3	Discount including 'Buy more, save more' offers: ITC shall be available to the supplier for the inputs, IS & CG used in relation to supply of goods or services on such discounts
4	Secondary Discounts: ⇒ Such discount shall not be excluded Value of supply & thus GST is leviable on such discounts ⇒ These are the discount which are not known at the time of supply ⇒ ITC shall be available to supplier

Apportionment of ITC

[Sec 17(1) to Sec 17(5) read with Rule 42 and 43]

The situations requiring apportionment are as follows:

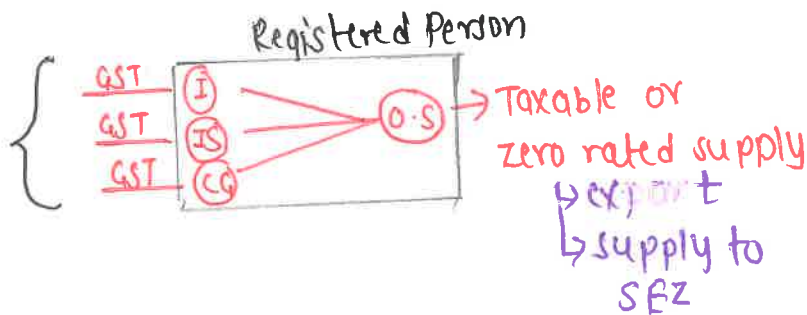
- (a) when the goods and / or services are used by the registered person partly for the purpose of business and partly for other purposes [Section 17(1)] and
- (b) when the goods and / or services are used by the registered person partly for making taxable supplies including zero-rated supplies and partly for making exempt supplies [Section 17(2)].

Methodology of apportionment of credit on inputs and input services and reversal thereof [Rule 42 of the CGST Rules]

1. If inputs and inputs services exclusively used for making taxable supply then full ITC of such inputs or inputs services is available.
2. If inputs and inputs services exclusively used for making exempt supply/non business purposes then ITC of such inputs or inputs services is not available.
3. In many situations, the amount of input tax involved in exempt /nonbusiness use is not easily discernible, as common goods and/or services are used for
 - (i) making taxable supplies including zero rated supplies and exempt supplies and
 - (ii) business and non-business purposes.

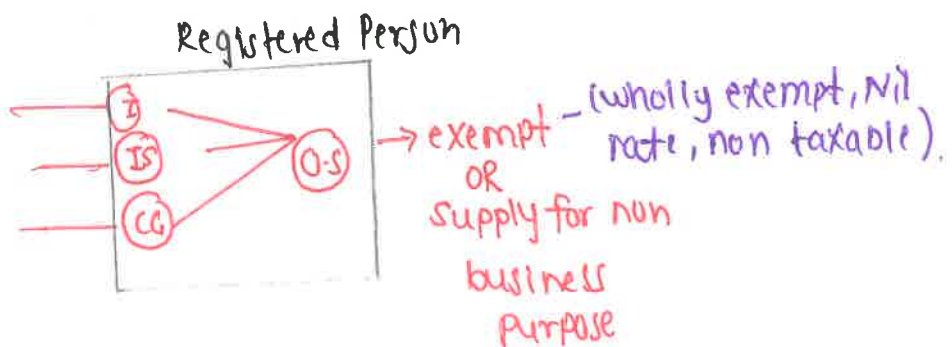
case 1

I, CG, IS
exclusively used in
Taxable supply are
eligible for ITC



case 2

I, CG, IS
exclusively used for
exempt or non
business purpose
No ITC is available



Special option of ITC to banking and financial institutions Sec 17(4) Read with Rule 38

A banking company or a financial institution including a non-banking financial company,

engaged in supplying services by way of accepting deposits, extending loans or advances

irrelevant

shall have the option

⇒ to either comply with the provisions of sub-section (2), or

⇒ avail of, **every month**, an amount equal to **50%** of the eligible input tax credit on inputs, capital goods and input services in that month

and the rest shall lapse

- a) Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year
- b) Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number. (i.e. 100% ITC is available)
- c) Credit of tax paid on inputs and input services that are used for nonbusiness purposes and items mentioned u/s section 17(5) [blocked credits] cannot be availed.

P 18: HDFC Bank provides the following information for the month of November, 2018

Particulars	CGST paid(₹)	SGST paid(₹)
Inputs received (eligible for ITC)	18,000	18,000
Inputs services availed (eligible for ITC)	11,340	11,340
Value of taxable supply of services (GST rate is 18%)=10,00,000		
Value of exempted supply of services (interest on loan & advances) = 9,00,000		

Determine the amount of ITC available under 50% credit option Sec 17(4) and 17(2)

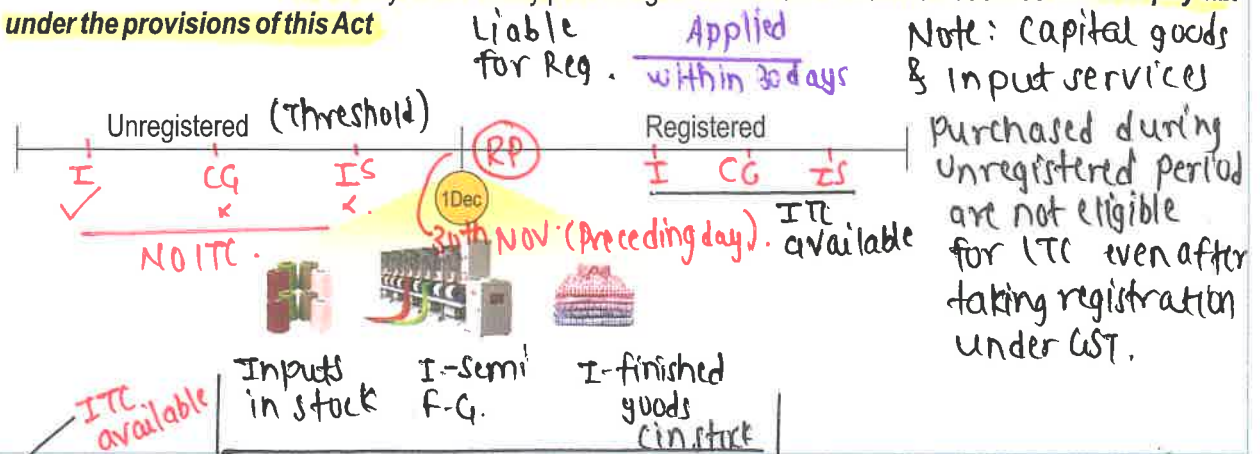
Summary of Apportionment of Credit (Sec 17)

17(1)	Goods/services partly for business & partly for other purposes ⇒ ITC proportionate to business purpose shall be allowed (Non Business: No ITC)
17(2)	Goods/services partly for making taxable supplies (including zero rated supply) & partly for making exempt supplies ⇒ Goods/services used for making taxable & zero rated supplies: ITC allowed ⇒ No ITC on goods/services used for making exempt supplies
17(3)	Value of Exempt supplies u/s 17(2) shall include ⇒ Supply made under RCM ⇒ Transactions in securities ⇒ Sale of Land, Sale of building (Subject to clause (b) of Para 5 of Schedule II) Explanation: Value of exempt supply shall not include the value of securities transactions specified in Sch III (Negative list) except those specified in Para 5 of Said Schedule
17(4)	Banks/FIs/NBFCs engaged in supply of services of accepting deposits, giving loans/advances shall have 2 options: Option 1: To comply with the provision of Sec 17(2) Option 2: Avail 50% eligible ITC on Inputs, IS & CG in that month & rest shall lapse

Sec 18 : Availability of credit in special circumstances.

1 Subject to such conditions and restrictions as may be prescribed

- (a) a person who has
- applied for registration under this act within thirty days from the date on which he becomes liable to registration **and**
 - has been granted such registration
- shall be entitled to take credit of input tax in respect of
- inputs held in stock and
 - inputs contained in semi-finished or (WIP)
 - finished goods held in stock
- on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act



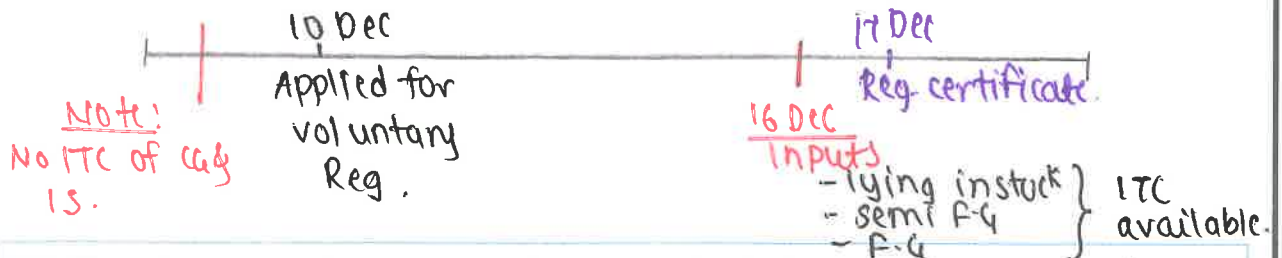
P19: Mr. Mohan has started his business of trading of goods on 01.04.20XX. His aggregate turnover exceeds 20 Lakhs on 16th May 20XX. He applied for registration on 18th May 20XX and got registration certificate on 22nd May 20XX. On 15th May 20XX, Input lying in stock of Mr. Mohan for which GST is attributable worth ₹30,000. In the month of May, Mr. Mohan has made an outward supply of ₹15 Lakhs after his aggregate turnover exceeds ₹20 Lakhs. Mr. Mohan has also purchased some inputs on 20th May on which GST amount is ₹20,000.

- Calculate GST payable for the month of May, if GST rate is 18%.
- Discuss the eligibility of ITC, in the above case, if the capital goods are purchased on
 - 10th April of ₹15 Lakhs (GST @ 12%) &
 - 25th May of ₹20 Lakhs (GST @ 12%)
- What would be your answer, if Mr. Mohan has applied for registration on 20th June 20XX?

- (b) a person who takes registration under section 25(3) (Voluntary Registration) shall be entitled to take credit of input tax in respect of

- inputs held in stock and
- inputs contained in semi-finished or
- finished goods held in stock

on the day immediately preceding the date of grant of registration



P20: Sony Pvt Ltd a dealer of electronic products who due to their business operations, has voluntarily applied for registration, even though the threshold limit has not been crossed. Sony Pvt Ltd was granted registration on 10th September 20XX and as on date electronic products worth ₹5,00,000 in stock, on which GST @ 18% (₹90,000) has been paid. Can Sony Pvt. Ltd. claim ITC of stock.

Yes - 90000 ITC

(c) where any registered person ceases to pay tax under section 10^(Composition Scheme),

he shall be entitled to take credit of input tax in respect of

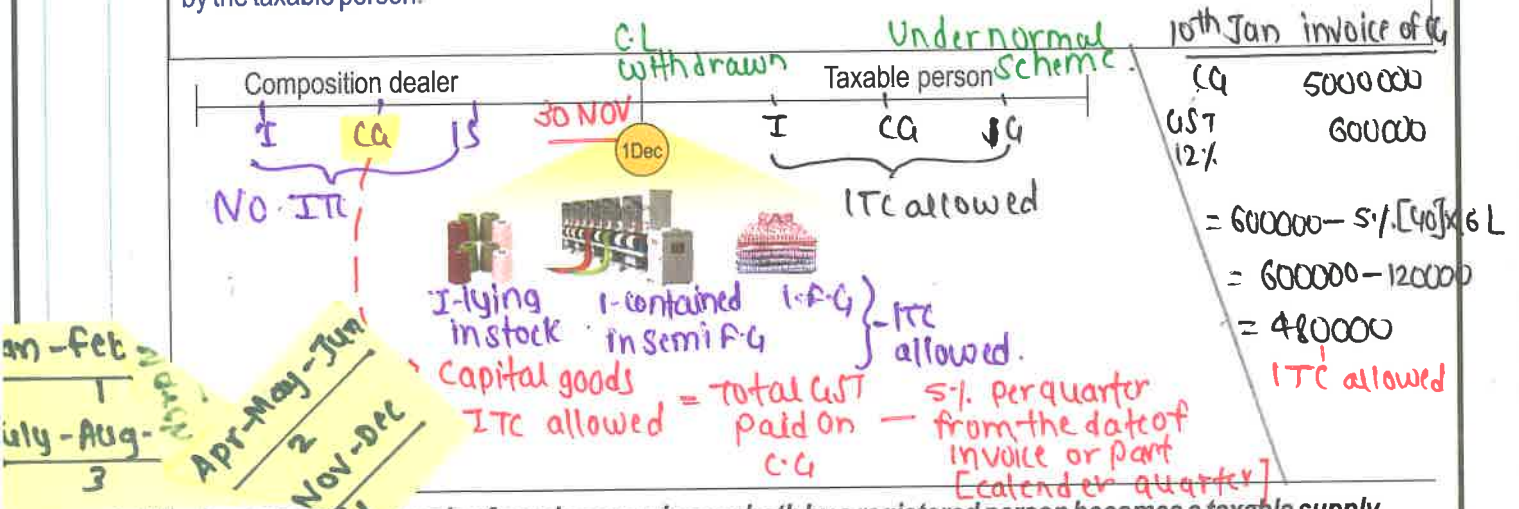
- ⇒ inputs held in stock,
- ⇒ inputs contained in semi-finished or
- ⇒ inputs contained finished goods held in stock and
- ⇒ on capital goods

on the day immediately preceding the date from which he becomes liable to pay

tax under section 9:

Proviso Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed

Note:- the input tax credit on capital goods, in terms of clauses (c) and (d) of section 18(1), shall be claimed **after reducing the tax** paid on such capital goods by **five percentage points per quarter of a year or part thereof** from the date of the invoice or such other documents on which the capital goods were received by the taxable person.



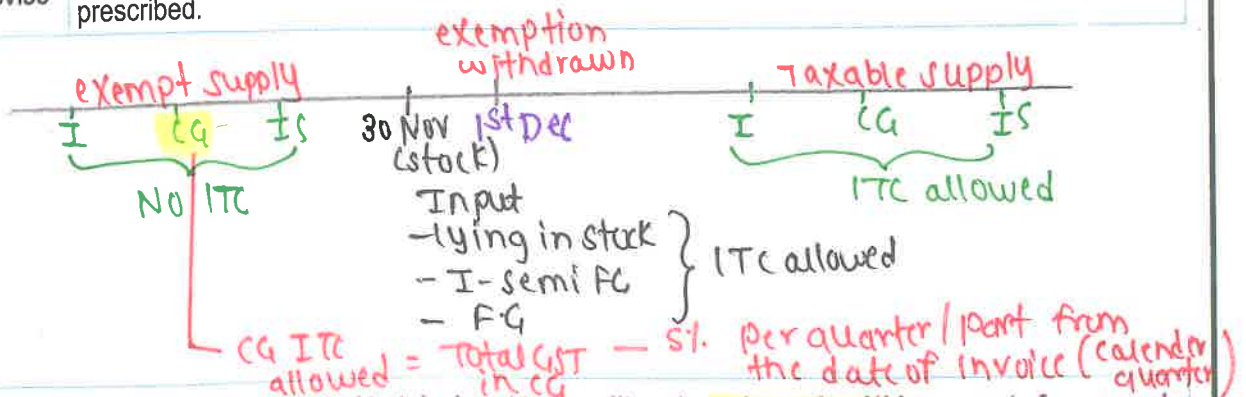
(d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply,

such person shall be entitled to take credit of input tax in respect of

- ⇒ inputs held in stock and
- ⇒ inputs contained in semi-finished or
- ⇒ inputs contained in finished goods held in stock relating to such exempt supply and
- ⇒ on capital goods exclusively used for such exempt supply

on the day immediately preceding the date from which such supply becomes taxable

Proviso Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.



2 A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply. i.e. ITC of stock of I/CG under above (a)(b)(c)(d) is available if it was purchased in last 1 year of switching.

Summary of Sec 18(1) :-

Sub-sec	Person eligible to take credit	As on	Condition
(a)	Person who has applied for registration within 30 days from date on which he becomes liable to registration & has been granted such registration	Day immediately preceding date from which he becomes liable to pay tax	ITC to be availed within 1 year from the date of issue of invoice by supplier [Sec 18(2)]
(b)	Person who obtains Voluntary registration	Day immediately preceding date of grant of registration	
(c)	RP who ceases to pay tax u/s 10 & switches to regular scheme	Day immediately preceding date from which he becomes liable to pay tax under regular scheme	a) ITC to be availed within 1 year from the date of issue of invoice by supplier [Sec 18(2)]
(c)	RP whose exempt supplies become taxable supplies	Day immediately preceding the date from which such supply becomes taxable	b) ITC on CG will be reduced by 5% per Qtr of a year or part from the date of invoice

Q.: Vinay Steels Limited is a manufacturer of iron & steel. It procures raw materials and inputs such as iron ore, chemicals, gases, etc. and capital goods including plant & machinery, for the manufacture of such iron & steel. In this example, it has been assumed that iron & steel (which is the outward supply of Vinay Steels Ltd) is exempt from payment of taxes until 31-Mar-20XY. Iron & steel become taxable with effect from 01-Apr-20XY. The method of availment of input tax credits on inputs contained in stock and capital goods as on 31-Mar-20XY is covered by this illustration

	Particulars	Amount
1	Value of inputs in stock on 31-Mar-20XY	1,00,000
	IGST @18%	18000
	All inputs were procured after 01-Jul-20XX [within last 1 year]	
2	Value of inputs contained in semi-finished goods held in stock on 31-Mar-20XY	4,00,000
	CGST @ 6%	24000 ✓
	SGST @ 6%	24000 ✓
3	All inputs contained in semi-finished goods were procured after 01-May-20XX [within 1 yr]	
4	Value of inputs contained in finished goods held in stock on 31-Mar-20XY	50000
	CGST @ 6%	3000
	SGST @ 6%	3000
	Only inputs worth Rs 40,000 in finished goods were procured after 01/04/20XX	
5	Value of capital goods used exclusively in relation to exempted goods held on 31-Mar-20XY (Date of invoice of capital goods 22 Jan 20XY)	20,00,000
	IGST @ 18%	3,60,000

Note :

- 1) All inputs were procured after 1st July 20XX
 - 2) Only inputs worth ₹ 40000 in FG were procured after 01/04/20XX
 - 3) Date of invoice of CG is 22 Jan 20XY
- CGST, SGST & IGST rates are 6%, 6% & 18% respectively

Ans.:

As per sec. 18(1)(d) in case where exempt supply become taxable then, person is entitled to take ITC of inputs in stock or contained in semi F.C or contained in F.C which held in stock.

Also he is eligible to take ITC of C.G by reducing 5% per quarter or part thereof from date of invoice.

Also as per sec 18(2) ITC of stock of I.C.G is available only if it was purchased in last 1 year of switching.

Computation of eligible ITC on 31/3/20XY as per sec 18(1)(d)

	IGST	CGST	SGST
Input in stock	18000	-	-
Input in semi F.C.	-	24000	24000
Inputs in F.C [only related to 40000]		2400 (40000 × 6%)	-
Capital goods [Refer WN1]	342000	-	-
Total eligible ITC	360000	26400	26400

WN1: Computation of eligible ITC on C.G u/s 18(1)(d)

1) Date of invoice of C.G - 22 Jan 20XY.

2) Preceding date of goods become taxable : 31 March 20XY.

3) No. of quarter : 1.

$$\text{Eligible ITC} = 360000 - 1 \text{ quarter} \times 5\% (360000)$$

$$= 342000$$

Sec18(3) : Transfer of credit on sale, merger, amalgamation, etc.

(B)

Where there is a change in the constitution of a registered person on account of

- ⇒ sale,
- ⇒ merger,
- ⇒ demerger,
- ⇒ amalgamation,
- ⇒ lease or transfer of the business

with the specific provisions for transfer of liabilities,

the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

Note:-

In the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- For the purpose of this sub-rule, "Value of assets" means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. (N/N 16/2019-CT dt 29/03-2019)

Analysis of Sec 18(3):-

In case of	The registered person shall
Sale, Merger, Amalgamation, Lease or Transfer of Business	Transfer his unutilised ITC lying in E-credit ledger
Demerger	apportion unutilised ITC in ratio of Value of asset transferred to demerged unit

HW

P21 : Vijay sales pvt Ltd sold its business to Rahul Trading Co. Pvt. Ltd. At the time of sale, Vijay Pvt. Ltd .had unutilized ITC of ₹ 2,50,000. In the sale agreement, it was agreed that all liabilities and assets of Vijay sales Pvt. Ltd. will be transferred to Rahul Trading Private Ltd. In this case, Vijay sales Private Ltd. can transfer the unutilized ITC of ₹ 2,50,000 to Rahul trading Co. Private Ltd. *yes → write 18(3) provision*

Clarification in respect of transfer of input tax credit in case of death of sole proprietor - Circular no. 96/15/2019 dt 28/03/2019

In case of death of sole proprietor if business is transfer to successor or any other person

than it is treated as transfer under sec 18(3) and

successor or other person can take ITC which remain unutilized in the electronic credit ledger (deceased person) on a condition that all liabilities are transfer and also follow the prescribed condition

Sec18(4) : Reversal of Credit under special circumstances *(Reverse switching)*

4 Where any registered person who has availed of input tax credit

⇒ opts to pay tax under section 10 (Composition Scheme) or,

⇒ where the goods or services or both supplied by him become wholly exempt,

he shall pay an amount, by way of *(reverse)* debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of

- ⇒ inputs held in stock and
- ⇒ inputs contained in semi-finished or
- ⇒ inputs contained in finished goods held in stock and
- ⇒ on capital goods, reduced by such percentage points as may be prescribed,

on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

*Normal → C-L
Taxable → exempt*

(B)

Proviso

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

5

The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

P22:- Aspire Ltd. a registered person supplying taxable goods in Gujarat has opted to pay tax on composition scheme under Section 10 with effect from 01-04-20XY. It provides following information relating to balance of input tax credit lying as on 31-03-20XY :

- (1) Inputs lying in stock as such valued at ₹ 2,50,000 (inclusive of CGST & SGST @ 12%)
 - (2) Inputs contained in finished goods where tax invoice is not available relating to such inputs (The market price of such inputs (inclusive of CGST & SGST @ 12%) on 31-03-20XY is ₹ 1,20,000)
 - (3) Input tax on capital goods purchased on 25-10-20XX is ₹ 75,000 (IGST)
 - (4) Balance in Electronic credit ledger is ₹ 1,30,000.
- Determine the amount payable by Aspire Ltd on 31/03/20XY under sec 18(4).

Reverse Switching

1) Normal Tax

1st April

Composition Levy.



Case 1

E credit ledger bal.

Preceding day

31 March

Reversal 1000000 | ITC 1000000

Extra Payable: 200000

- 1) Input's
 - lying in stock
 - I-Semi FG
 - P-G.
- 2) Capital Goods

calculate ITC for payment / reversal,

ITC Case 1 : 1200000

OR

Case 2 : 600000

OR.

Case 2

E-credit ledger

Reversal 600000 | ITC = 1000000

Lapsed 400000

(i.e cannot be C/F).

Sec18(6) : Supply of Capital goods or Plant & Machinery on which ITC taken

In case of **supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to**

- ⇒ the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or i.e. 5% per quarter or part thereof.
- ⇒ the tax on the **transaction value** of such capital goods or plant and machinery determined under section 15, **whichever is higher**

Proviso Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

Note:-

The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of section 18(6), shall be calculated by reducing the input tax on the said goods at the rate of **5% points for every quarter** or part thereof from the date of the issue of the invoice for such goods.

Supply of CG or Plant & Machinery on which ITC is taken, [Supply as a second hand machinery]

CG or Plant & machinery



Amount payable ⇒ a) ITC - 5% per quarter or part thereof

OR

b) Tranⁿ value × GST rate

whichever is higher

moulds / bricks / dies / jigs / fixtures.



Sold as scrap

Amt Payable = T.V × GST rate.

Example : S Ltd provides the following information

Particulars	Date/Amount ₹
Date of invoice in respect of purchase of plant and machinery	10-01-2018
Value of Plant and Machinery excluding GST	1500000
GST charged in respect of Plant and Machinery @12%	180000
Date of supply of Plant and Machinery as second hand machinery	12-10-2019
Value of supply of Plant and Machinery	900000

Determine GST payable or reversal at the time of supply?

Legal Provision: As per sec 18(b)
 ITC on Plant & machinery
 sold after availing ITC
 then amount payable is
 higher of following:
 a) ITC - 5% per quarter or
 part thereof or
 b) GST on transaction value.

$$a) 180000 - 5\% \times 8 \text{ quarter} \times 180000 \\ = 108000$$

$$b) 900000 \times 12\% \\ = 108000$$

$$\therefore \text{Amt payable} = 108000$$

Note : calⁿ of quarter.

Date of invoice of CG : 10/1/18

Date of sale of CG : 12/10/19.

\therefore No of quarters : 8.

Example : R Ltd provides the following information

Particulars	Date/Amount ₹
Date of invoice in respect of purchase of mould and dies	10-01-2018
Value of Moulds and Dies excluding GST	400000
GST charged in respect of Moulds and Dies @ 5%	20000
Date of supply of Moulds and Dies as scrap.	12-10-2019
Value of supply of Moulds and Dies	100000

Hint: Amt payable :

$$100000 \times 5\% = 5000.$$

Question : 1

ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July. (ICAI Material)

Sr. No.	Items	GST paid (₹)	
1.	Electrical transformers to be used in the manufacturing process	5,20,000	ITC ✓
2.	Trucks used for the transport of raw material	1,00,000	✓
3.	Raw material	2,00,000	✓
4.	Confectionery items for consumption of employees working in the factory	25,000	No ITC.

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note:

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) ABC Co. Ltd. is not eligible for any threshold exemption.

Solution :

Determination of ITC available to ABC Ltd for the month of July.

Particulars	Eligible for ITC (Amt ₹)	Remark
1) electrical transformer	520000	Any capital goods used or intended to be used in the business, is eligible for ITC.
2) Truck used for transportation of material	100000	ITC of motor vehicle used for transportation is not restricted. i.e. is eligible for ITC.
3) Raw material	200000	Any inputs used or intended to be used in the course of business is eligible for ITC.
4) confectionery item used for employees	Nil.	As per sec-17(5)(b) any food or beverages is not eligible for ITC unless, it is used for some category of outward supply or composite or mixed supply.
<u>Total ITC</u>	<u>820000.</u>	

Question : 2

XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 20XY from the following particulars:-

Sr.No.	Inward supplies	GST (₹)	Remarks
1.	Inputs 'A'	1,00,000	One invoice on which GST payable was ₹ 10,000, is missing
2.	Inputs 'B'	50,000	Inputs are to be received in two installments. First installment has been received in October, 20XY.
3.	Capital goods	1,20,000	XYZ Ltd. has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
4.	Input services	2,25,000	One invoice dated 20.01.20XY on which GST payable was ₹ 50,000 has been received in October, 20XY.

- Note:
- (i) All the conditions necessary for availing the ITC have been fulfilled.
 - (ii) XYZ Co. Ltd. is not eligible for any threshold exemption.
 - (iii) The annual return for the financial year 20XX-XY was filed on 15th September, 20XY.

Solution: Determination of eligible ITC of XYZ Ltd for Oct. 20XY.

Particulars.	Eligible ITC (Amt ₹)	Remark
1) Input 'A'	90000	Inputs used in the business are eligible for ITC, one of the condition of sec. 16(2) is that invoice or debit note must be in possession hence, invoice involving amt 10000 is not eligible for ITC.
2) Input B.	—	As per proviso 1 to sec. 16(2), if goods are received in a lot or installment, then ITC is available on last lot. In given case, only 1st lot is received in October hence no ITC is taken.
3) Capital Goods	—	As per sec. 16(3) if depreciation is claimed on tax component of CG under IT Act, 1961 then ITC is not available.
4) Input service	175000	As per sec. 16(4) time limit for availment of ITC is earlier of the: a) 30 th Nov. of subsequent FY. b) Date of furnishing Annual return i.e. 15 th Sep.

In given case, Invoice of Jan 20XY, involving GST amount is received in Oct 20XY after 15th Sep. Hence, this invoice is not eligible for ITC.

Question : 3HW - Questionaire - § 22 - (Refer)

Mr. X, a supplier of goods, pays GST under regular scheme. Mr. X is not eligible for any threshold exemption. He has made the following outward taxable supplies in a tax period:

Particulars	₹
Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	₹
Intra-State purchases of goods	3,00,000
Inter-State purchases of goods	50,000

Mr. X has following ITCs with him at the beginning of the tax period:

Particulars	₹
CGST	30,000
SGST	30,000
IGST	70,000

Op. bal.

Note:

- (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
 - (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
 - (iii) All the conditions necessary for availing the ITC have been fulfilled.
- Compute the net GST payable by Mr. X during the tax period. Make suitable assumptions as required.

Solution :

Rule 86A- Conditions of use of amount available in electronic credit ledger

- (1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as
- a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
 - i) issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
 - ii) without receipt of goods or services or both; or
 - b) ITC avail in respect of any supply, the tax charged in respect of which has not been paid to the Government; or (37A).
 - c) The registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
 - d) The registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,

may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.
- (2) The Commissioner, or the officer may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.
- (3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction."

Rule 86B- Restrictions on use of amount available in electronic credit Ledger

Notwithstanding anything contained in these rules,

the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, (i.e. output tax liability)

in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹50 lakhs: (Taxable supplies = total taxable supplies – (exempt supplies + zero rate supplies)).

Exceptions: Provided that the said restriction shall not apply where –

mug up

a) Payment of income tax	<ul style="list-style-type: none"> ☞ the said person or ☞ karta or ☞ any of its two partners, ☞ whole-time Directors, ☞ Members of Managing Committee of Associations or ☞ Board of Trustees, 	<ul style="list-style-type: none"> ☞ the proprietor or ☞ the managing director or 	<p>have paid more than ₹1 lakh</p> <ul style="list-style-type: none"> ☞ as income tax under the Income-tax Act, ☞ in each of the last two financial years within normal time limits under income tax act; or
b) Refund of ITC in case of ZRS	The registered person has received a refund in the preceding financial year on account of unutilised ITC under clause (i) of first proviso of sub-section (3) of section 54; or (i.e. zero rated supplies made without payment of tax;)		amount of more than ₹1 lakh
c) Refund of ITC in case of ITS (Inverted Tax Structure)	The registered person has received a refund in the preceding financial year on account of unutilised ITC under clause (ii) of first proviso of sub-section (3) of section 54; or (i.e. where the credit has accumulated on account of Inverted Tax Structure)		amount of more than ₹1 lakh
d) Payment of Tax through E-cash Ledger	The registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or		
e) Notified Person	the registered person is –		
	(i)	Government Department; or	
	(ii)	a Public Sector Undertaking; or	
	(iii)	a local authority; or	
	(iv)	a statutory body	

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

P23 :- The total value of Interstate supply of Mr. A for the month of Feb 20XX is ₹100 Lakhs on which IGST is @18%. Thus total output tax liability of Mr. A is ₹18 Lakhs. Amount available in electronic credit ledger is ₹20 Lakhs (IGST)

Total output tax liability (for Feb) : 1800000
 ITC utilisation restricted to : 1782000
 (99% of 18L)

Net GST payable : 18000

ITC clf : 218000 (18L - 1782L)

Taxable supply is more than 50 Lakh



ITC op. bal
↓
2 lakh

ITC availed

↓
7 Lakh

Total ITC = 9 lakh

(-) ITC taken = 7.128

CF = 1.872

Total value of taxable supply (July) 60 L

output tax @ 12% 7.2L

(-) ITC 7.128

E-cash ledger 0.072

ITC restricted 9% of output tax



Central Goods and Services Tax Act, 2017

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Extra Supporting Material Demo videos, Digital Books & PDFs

Questionnaire



Questioner Discussion



Questioner Digital Smart Book



MCQ PDF

Amendments



Amendment Discussion



Amendment PDF

/ Correction If any



Correction in books if any

GST Chapter Wise Revision



Chapterwise Chart Revision Discssion Video



Wall Chart Marathon Revision



Chapterwise Chart Revision Smart Book

Instagram Channel



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Telegram Channel





CHAPTER - 10

EXEMPTION FROM GST

Introduction :

The Central or the State Governments are empowered to grant exemptions from tax, subject to the following conditions:

- (i) Exemption should be in public interest
- (ii) By way of issue of notification
- (iii) On recommendation from the Council
- (iv) Absolute / conditional exemption may be for any goods and / or services
- (v) Exemption by way of special order (and not notification) may be granted by citing the circumstances which are of exceptional nature.

The chapter of exemption deals with powers to grant exemption from tax under CGST / IGST act and provides a list of services exempt from GST in detail and also a glimpse of goods exempt from tax.

- order to determine the liability to pay tax on any supply of goods or services falling under the ambit of charging section of GST, it is essential to identify whether such supply of goods / services are exempt from tax.
- "Not all supply of goods / services are taxable", this is stated keeping in mind the exempt category of goods or services. Exempt supply has been defined as supply of any goods or services or both which attracts 'Nil rate of tax' or which may be wholly exempt from tax and includes non-taxable supply.
- Section 11 of CGST Act and section 6 of the IGST Act designates the power to grant exemption from GST also the State GST Acts contain identical provisions granting power to exempt SGST.
- Unlike the earlier Indirect Tax regime, where larger exemptions were enjoyed by the taxpayers now as under GST the exemption list is compressed and also area based exemptions have been excluded.
- Based on the necessity and essentiality certain goods/ services have been exempted i.e. as follows:-
 - > Public consumption products/services have been exempted
 - > Daily needs goods like unbranded atta/maida/besan, milk, curd, lassi, fresh vegetables etc.
 - > Services like health care, education etc.

Section 11 - Power to grant exemption from tax (Sec 6 of IGST Act)

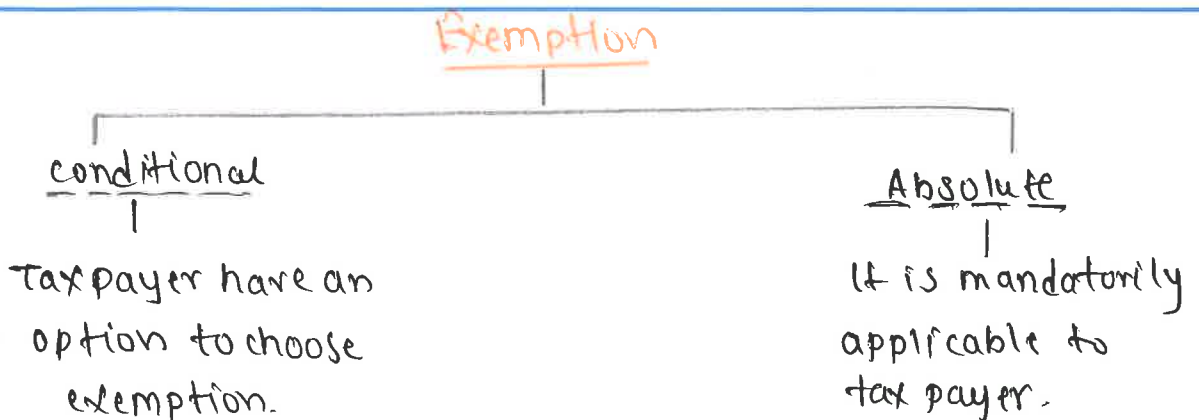
1	<p>General Exemption</p> <p>Where the Government is satisfied that <i>it is necessary in the public interest so to do,</i></p> <p style="padding-left: 40px;">it may, on the recommendations of the Council, by notification, exempt generally,</p> <ul style="list-style-type: none"> ⇒ either <i>absolutely or subject to such conditions</i> as may be specified therein, ⇒ <i>goods or services or both</i> of any specified description ⇒ from the whole or any part of the tax leviable thereon ⇒ with effect from such date as may be specified in such notification
2	<p>Special Exemption</p> <p>Where the Government is satisfied that <i>it is necessary in the public interest so to do,</i></p> <p style="padding-left: 40px;">it may, on the recommendations of the Council, by special order</p> <ul style="list-style-type: none"> ⇒ in each case, ⇒ under circumstances of an exceptional nature to be stated in such order, ⇒ exempt from payment of tax any goods or services or both on which tax is leviable.
3	<p>Explanation to Exemption</p> <p>The Government may, if it considers necessary or expedient so to do</p> <ul style="list-style-type: none"> ⇒ for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), ⇒ insert an explanation in such notification or order, as the case may be, by notification ⇒ at any time within one year of issue of the notification under subsection (1) or order under sub-section (2), and ⇒ every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Refer table.

Mandatory Exemption

Explanation – For the purposes of this section, *where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely,*

the registered person supplying such goods or services or both **shall not collect the tax,** in excess of the effective rate, on such supply of goods or services or both.



Difference betⁿ General exemption & special exemption

General exemption

- 1) It is issued by govt. by notification in official gazette.
- 2) It is applicable generally i.e. to all members of particular industry.
- 3) It is generally in public interest.

Special exemption

- 1) It is issued by govt by specific order.
- 2) It is applicable to specific person to whom order is given.
- 3) It is given in exceptional circumstances like to promote charitable purpose or defence, etc.

Common points:

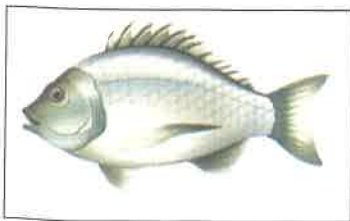
- 1) Exemption may be absolute or conditional.
- 2) Exemption may be partly or wholly.

GOODS EXEMPT FROM TAX

A list of items have been notified under section 11(1) of the CGST Act, 2017/section 6(1) of the IGST Act, 2017. These items have been exempted from whole of the tax. Since GST is a tax for common man, everyday items used by the common man have been included in the list of exempted items.

Items such as unbranded atta/maida/besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST.

Some of the examples of the goods exempted from tax have been provided herein:



Live Fish (0301)



Fresh Milk (0401)



Potatoes (0701)



Grapes (0806)



Indian National Flag (63)



Plastic Bangles (3926)

List of Services exempt from GST

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Exemption Related to Health Care

Sl.No. 74 Health Care Services (Heading 9993)

of notification

(a) Health care services by

- a clinical establishment,
- an authorized medical practitioner or
- paramedics.

Provided that nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU) /Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services."

Newly Inserted by N/N 4/2022 CT (R) dt 13/07/2022

(b) Services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.



Definition as per Para 2(zg)

Health Care Service Means

any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India

Include

services by way of transportation of the patient to and from a clinical establishment, (Ambulance)



Does not Include

- hair transplant or
- cosmetic or plastic surgery.

except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Tutorial Notes

1) Are all health care services exempt?

No. only services in recognized systems of medicines in India are exempt. In terms of the Clause (h) of section 2 of the Clinical Establishments Act, 2010, the following systems of medicines are recognized systems of medicines:

- Allopathy
- Yoga
- Naturopathy
- Ayurveda
- Homeopathy
- Siddha
- Unani
- Any other system of medicine that may be recognized by Central Government

2) MEANING OF PARAMEDICS

The term "paramedics" has not been defined under the Exemption Notification.

"Paramedics are trained health care professionals, for example nursing staff, physiotherapists, technicians, lab assistants etc.

CASUAL READING

MEANING OF CLINICAL ESTABLISHMENT as per Para 2(S)

A clinical establishment mean

- a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India or
- a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases

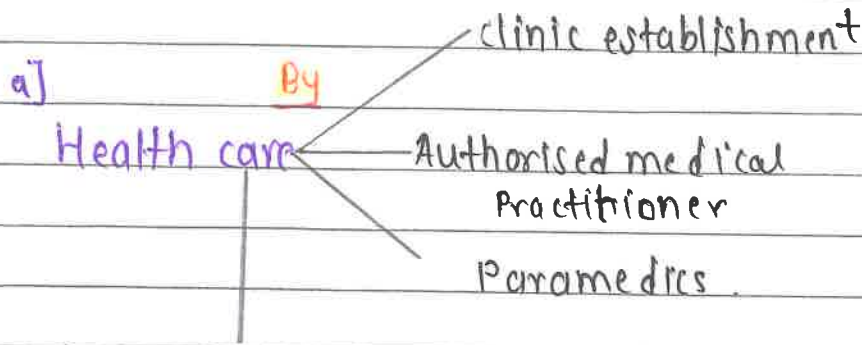
Pathological lab

MEANING OF AUTHORIZED MEDICAL PRACTITIONER as per Para 2 (k)

An authorized medical practitioner

- means a medical practitioner registered with any of the Councils of the recognized system of medicines established or recognised by Law in India and
- includes medical professional having the requisite qualification to practice in any recognized system of medicines in India as per any law for the time being in force.

Health Care



b) Ambulance service provided by other also exempted.

y of
CU)
alth
(a)

Means

Diagnosis or Treatment or care

for

- illness
- Injury
- Pregnancy abnormality deformity

Includes

↓
Transportation of patient [i.e ambulance service]

Does not include

- Plastic surgery
- hair transplant
- Just beauty treatment.

y or
cts.

Except

- ↳ to restore or to reconstruct
- Anatomy
- function of body affected due to
- congenital defects
- Development abnormalities
- Injury or trauma

ent or

Renting of room by clinical establishment

exemption is available to hair transplant & plastic surgery

If room rent is 5000 or less per day

↓
exemption

If room rent exceeds ₹ 5000 per day

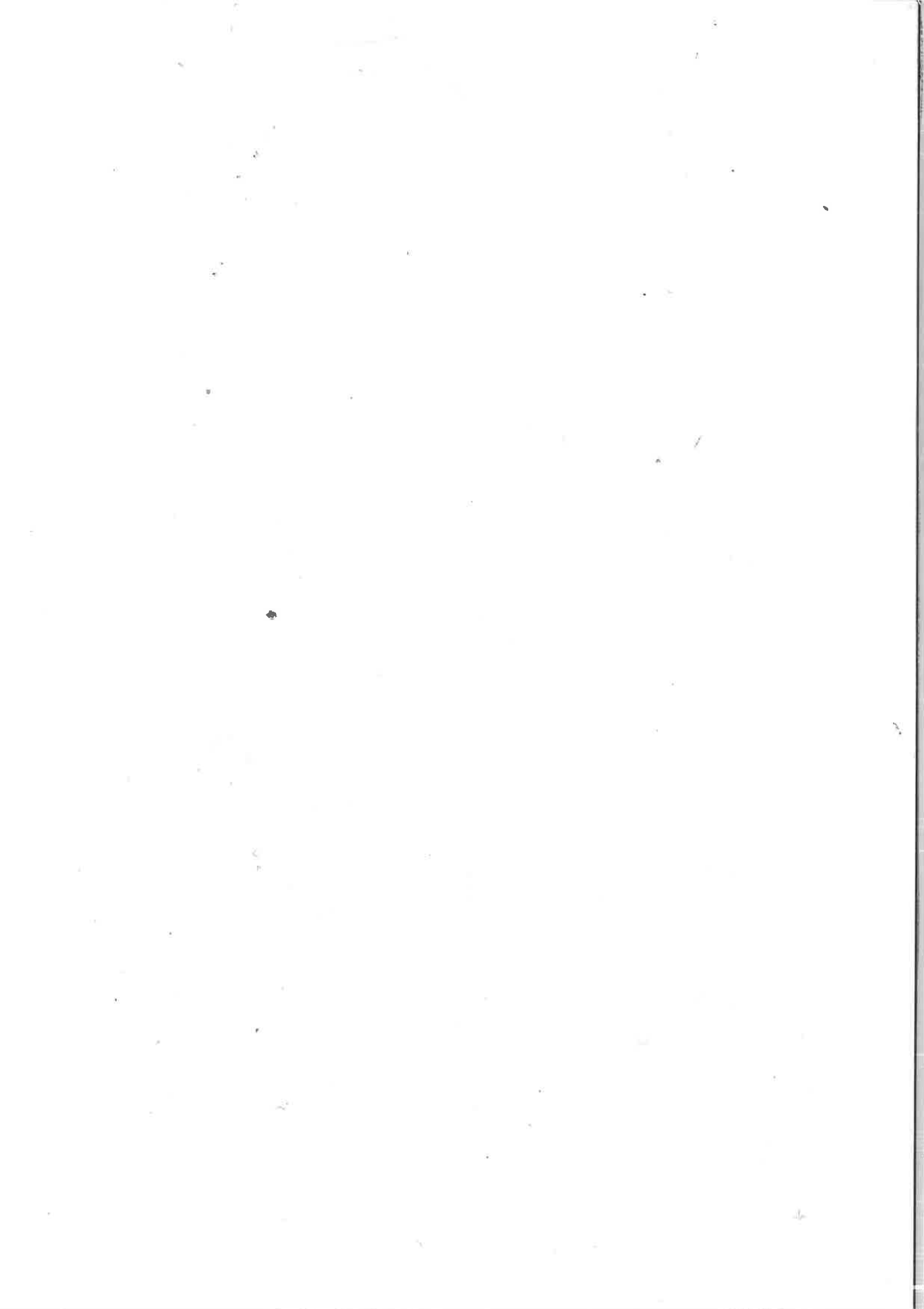
ICU/CCU/
NICU

↓
exemption

Normal room

↓
Taxable

sing in



Circular No. 177/09/2022- GST

Issue	Applicability of GST on services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF)
Clarification	It is clarified that services by way of IVF are also covered under the definition of health care services and thus exempt.

2 **Sl.No. 46** of notification **Health Care of Animals or Birds Services (Heading 9983)**

Services by a **veterinary clinic** in relation to health care of animals or birds.

VET
clinic



3 **Sl.No. 74A** of notification **Service provided by rehabilitation professionals(Heading 9993) (B)**

Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of

- **rehabilitation,**
- **therapy or**
- **counselling**

and such other activity as covered by the said Act

at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income tax Act, 1961

charitable trust

Illustration 1: Calculate the service tax amount payable in respect of following Health care services provided by a clinical establishment.

Particulars	
Services rendered by a clinical establishment in respect of diagnosis for injuries	Exempt
Plastic surgery services provided to restore the functions due to injury	E
Services provided in respect of transportation of patients to & from the clinical establishment	E
Hair transplantation undertaken not connected with any restoration or reconstruction of anatomy	T
Health & fitness service provided for physical well being	
Renting of room (where rent per room more than ₹5000 per day)	T
	3,00,000
	10,00,000
	1,20,000
	4,00,000
	3,50,000
	9,00,000

Solution: ;

Particulars		
Services rendered by a clinical establishment in respect of diagnosis for injuries		Exempt
Plastic surgery services provided to restore the functions due to injury		Exempt
Services provided in respect of transportation of patients to & from the clinical establishment		Exempt
Hair transplantation undertaken not connected with any restoration or reconstruction of anatomy	400000	Taxable
Health & fitness service provided for physical well being	350000	Taxable
Renting of room (where rent per room more than ₹5000 per day)	900000	Taxable
Total taxable services	1650000	
GST @ 18%	297000	

Clarifications on certain issue related to Health Care via Circulars

Circular no. 27/01/2018 dt 04/01/2018		
Subject	Issues	Clarifications
Room Rent to patients	Whether rent on rooms provided to patients is exempted?	Room rent in hospitals is exempted [Note:- If room rent more than ₹5000 per day then it is taxable]
Circular no 32/06/2018 dt 12/02/2018		
Hiring of senior doctors / consultants/ technicians independently by Hospitals	Hospitals hire senior doctors/ consultants/ technicians independently, <ul style="list-style-type: none"> ➤ Without any contract of such persons with the patient; and pay them consultancy charges, ➤ Without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? 	Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.
Retention money	Hospitals charge the patients, say, ₹10000/- and pay to the consultants/ technicians only ₹ 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities etc	The entire amount charged by them from the patients including the retention money and the Fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.
Food supplied to the patients	food prepared by the canteens run by the hospitals	<p>Food supplied to admitted patients: Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable <i>i.e exempt.</i></p> <p>Food supplied to non-admitted patients: supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.</p> <p>Supply food to the doctors and their staff: such supplies, even when not charged, may be subjected to GST.</p>
	outsourced by the Hospitals from outdoor caterers	The suppliers shall charge tax as applicable and hospital will get no ITC.



Exemption Related to Charitable and Religious Sector

4 **Sl.No. 1** of notification **Charitable Activities (Chapter 99)**

Service by an entity registered under section 12AA or 12AB of the Income tax Act, 1961 by way of charitable activities

Definition as per Para 2(r)

“Charitable Activities” means activities relating to - *Just read*

- i) Public health by way of -
 - A) Care or counseling of (i) terminally ill persons or persons with severe physical or mental disability, (ii) persons afflicted with HIV or AIDS, or (iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - B) Public awareness of preventive health, family planning or prevention of HIV infection;
- ii) Advancement of religion or spirituality **or Yoga** ★

Note: GST will not be payable on fee charged for yoga camps conducted by charitable trusts.
- iii) Advancement of educational programs or skill development relating to, -
 - A) Abandoned, orphaned or homeless children;
 - B) Physically or mentally abused and traumatized persons;
 - C) Prisoners; or
 - D) Persons over the age of 65 years residing in a rural area; ★
- iv) Preservation of environment including watershed, forests and wildlife.

CBIC Clarifications on certain issue related to Charitable Trust via Circulars

Circular no 32/06/2018 dt 12/02/2018

Subject	Issues	Clarification
Hostel accommodation provided by Trusts to students	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt?	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT (Rate). <i>But exemption can be claimed for hostel accommodation under entry relating to residential dwelling.</i> However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having Value of supply of a unit of accommodation below one thousand rupees per day or equivalent are exempt.

Circular no 66/40/2018- dt 26/09/2018

Exemptions: Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt

Subject	Issues	Clarification
lodging and boarding provided by Charitable Trust	Residential programmes or camps meant for advancement of religion, spirituality or yoga, where the fee charged includes cost of lodging and boarding	Exempt. Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.
	if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation	such activities will be taxable
fitness camps or classes provided by Charitable Trust	activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc	such activities will be taxable

Services by a person by way of

a) Conduct of any religious ceremony [Pandit, etc services]

CASUAL READING



Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorised by such religious texts. Occasions like birth, marriage and death involve elaborate religious ceremonies.

b) Renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under

⇒ Section 12AA or 12AB of the Income-tax Act, 1961

or

⇒ A trust or an institution registered under sec 10 (23C) (v)

or

⇒ A body or an authority covered under sec 10 (23BBA) of the Income-tax Act



Exemption under (b) is not available in following cases

Renting	Exemption not available
Renting of Rooms (Dharma-shala)	where charges are ₹ 1000 or more per day
Renting of Premises, Community halls, kalyanmandapam or open area and the like meditation hall.	where charges are ₹ 10,000 or more per day
Renting of Shops or other spaces for business or commerce	where charges are ₹ 10,000 or more per month

Service provided with respect to Kailash Mansarovar and Haj pilgrimage exempted (Heading 9991)

Services provided by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement,

Para 2 (zzg) Specified organisation means: Priority © .

- Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or
- Haj Committee of India and State Haj Committees constituted under the Haj Committee Act, 2002, for making arrangements for the pilgrimage of Muslims of India for Haj.

Question

The Shirdi Sai Baba Trust is a religious trust under Section 12 AA of the Income Tax Act 1961. The trust has a number of rooms, community halls and shops which it gives out on rent.

Calculate the value of taxable service taking into consideration the relevant notification.

For the month of June 2019 it furnishes the following details:

Sr.No.	Particulars	Amount in ₹
1)	Renting of Rooms (i) 2 Rooms were rented for ₹ 900 each per day (ii) 5 Rooms were rented for ₹ 1,100 each per day	₹ 1,800 ₹ 5,500
2)	Renting of Community Halls (i) 3 Community Halls for performance of wedding ceremonies for ₹ 25,000 per day (ii) 1 Community Hall for performance of various religious ceremonies for ₹ 8,000 per day	₹ 75,000 ₹ 8,000
3)	The trust has 5 shops located just across the temple which it has rented to individuals for running their business. These are retails mainly involved in selling goods required for performing various religious ceremonies. Each has been rented for ₹ 15,000 per month.	₹ 75,000
4)	Meditation Hall provided on rent for ₹ 100/day	₹ 3,000

Solution

Sr.No.	Particulars	Amount in ₹
1)	Renting of Rooms [Note 1] (i) 2 Rooms were rented for ₹ 900 each per day (ii) 5 Rooms were rented for ₹ 1,100 each per day	Exempt 5500
2)	Renting of Community Halls (i) 3 Community Halls for performance of wedding ceremonies for ₹ 25,000 per day each (ii) 1 Community Hall for performance of various religious ceremonies for ₹ 8,000 per day	₹ 5000 Exempt
3)	5 Shops given on rent. Each has been rented for ₹ 15,000 per month.	₹ 5000
4)	Meditation Hall provided on rent for ₹ 100/day	Exempt
	Value of supply of service	155500

Exemption in Legal Sector

7

Sl.No. 45
of notification

Legal Services (Heading 9982 or 9991)



Exemption

a) Services provided by an *arbitral tribunal* to -

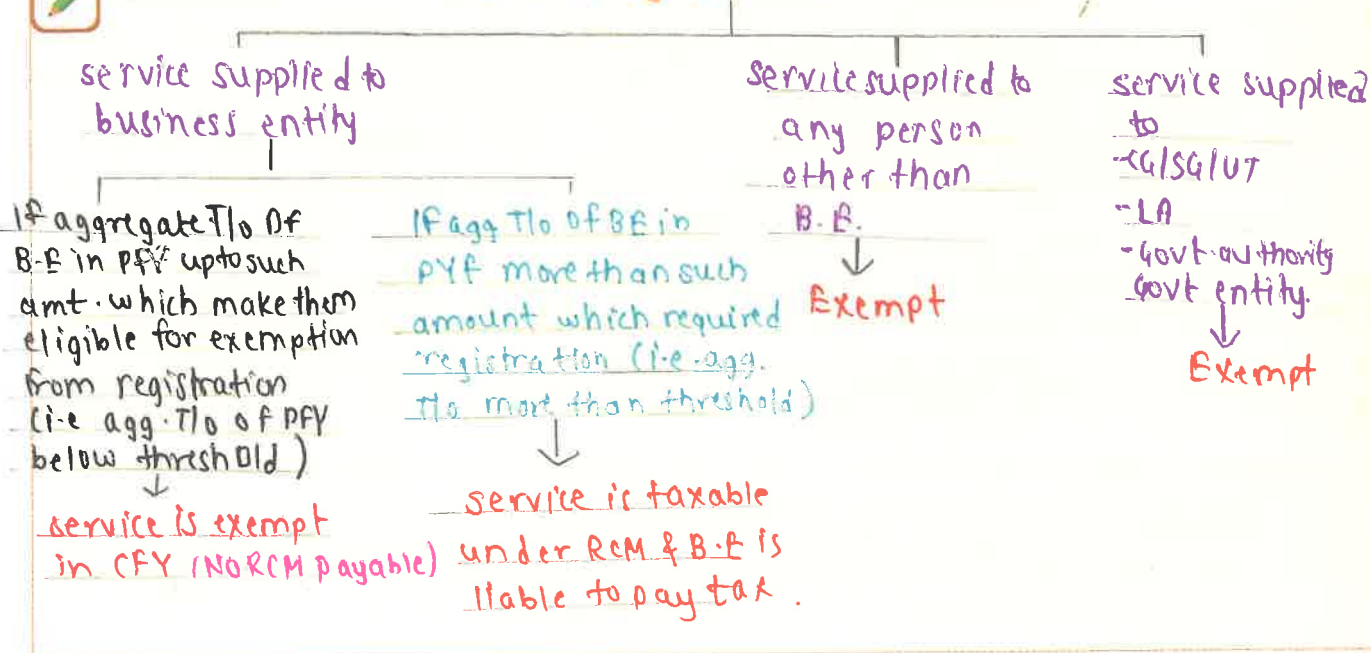
- i) Any person other than a business entity; or
- ii) A business entity with an aggregate turnover up to *such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017*
- iii) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

Para 2(i) "arbitral tribunal" has the same meaning as assigned to it in clause (d) of section 2 of the Arbitration and Conciliation Act, 1996



Tutorial Notes

Services by Arbitral Tribunal.



b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-

- i) an advocate or partnership firm of advocates providing legal services;
- ii) any person other than a business entity; or
- iii) A business entity with an aggregate turnover up to *such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017*
- iv) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

Individual Advocates



Partnership Firm



Definition

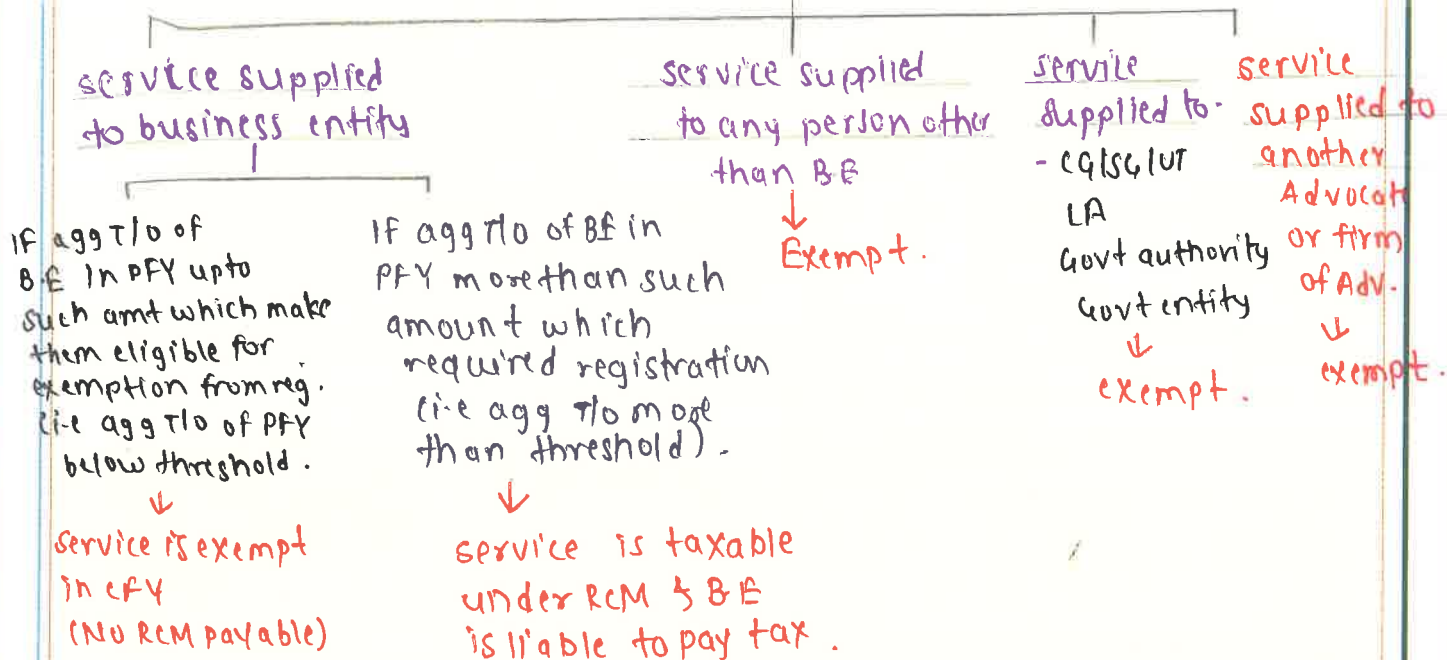
Para 2(zm) "LEGAL SERVICE" means any service provided -

- ⇒ 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.



Tutorial Notes

Legal service by Individual advocate or firm of Advocate other than senior advocate



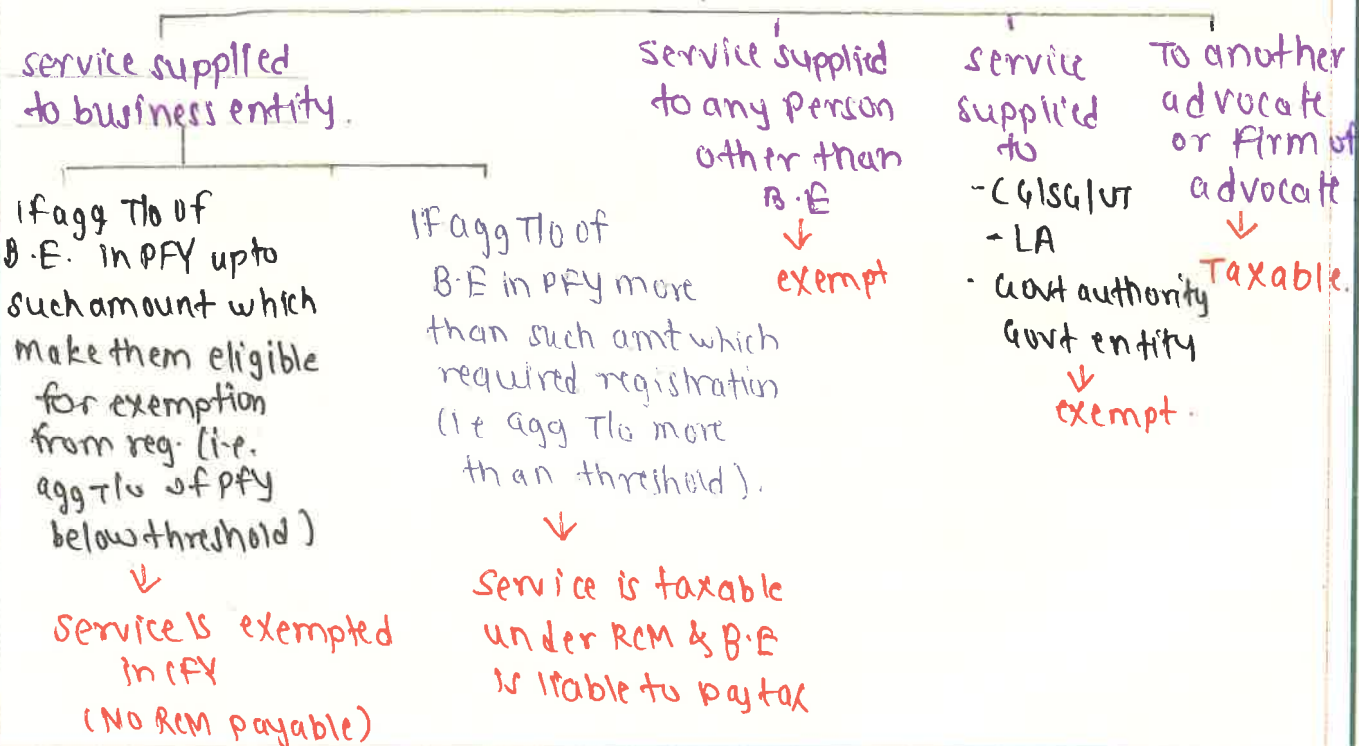
c) a senior advocate by way of legal services to

- Any person other than a business entity or
- A business entity with an aggregate turnover up to *such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017*
- The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

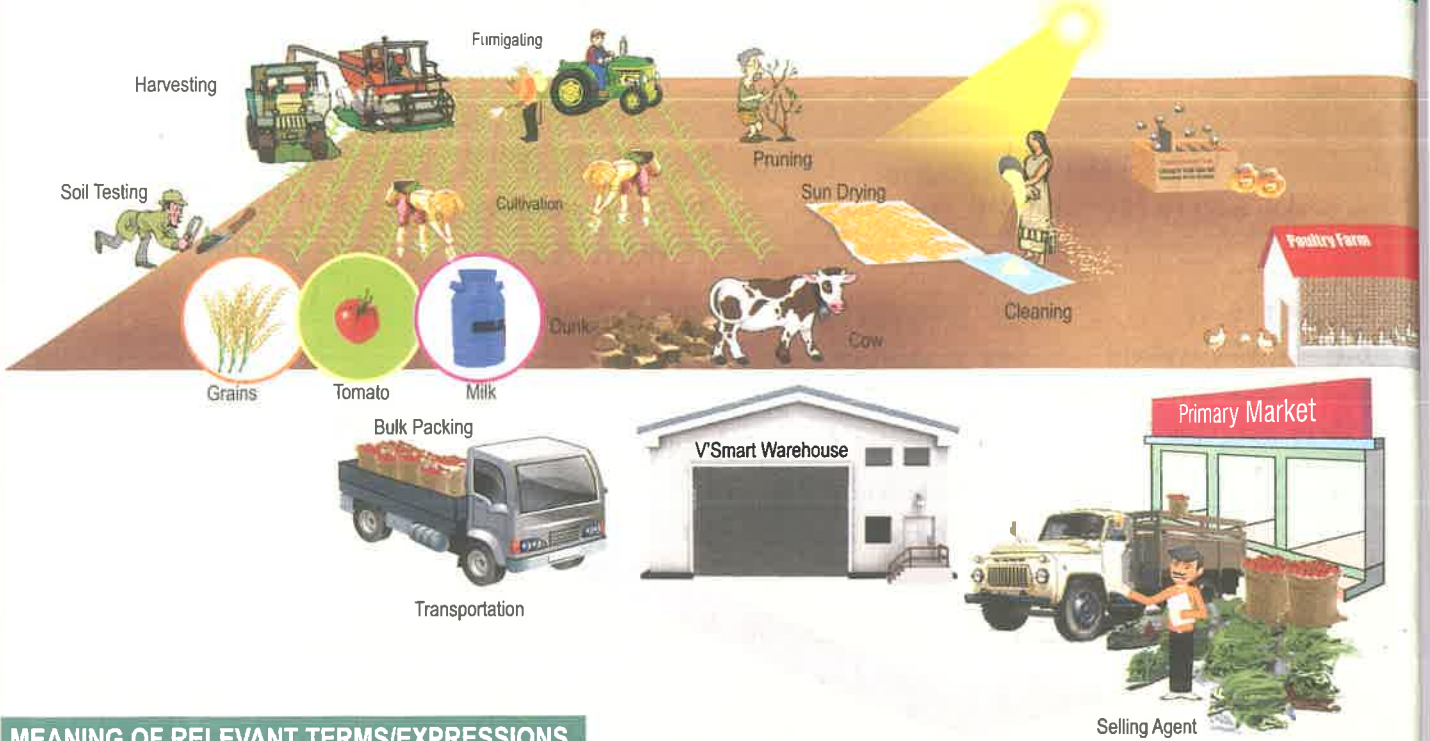


Tutorial Notes

Legal service by senior Advocate.



AGRICULTURE SERVICES



MEANING OF RELEVANT TERMS/EXPRESSIONS

Agricultural Activity

- The cultivation of plants and
- Rearing of all life-forms of animals, for food, fibre, fuel, raw material or other similar products.
- Except the rearing of horses,

Para 2(d) "AGRICULTURAL PRODUCE"

Any produce of agriculture on which

- Either no 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.

Agriculture Produce	Non-Agriculture Produce
Tomato	Tomato Ketchup
Potato	Potato Chips
Raw Cotton	Ginned Cotton
	Cotton Baled

Rearing of Animals	Agriculture Produce
Cow	Dunk
	Milk

Agriculture Produce	Processing
Grains	Processing

Note: Usually done by producer & does not essential character

Agriculture Produce	Non-Agriculture Produce
Sugar Cane	Sugar & jaggery
Grams	Pulses
Paddy	RICE

Processing	Non-Agriculture Produce
Milk Pasteurization Note: Usually not done by producer	Pasteurized Milk

Processing	Non-Agriculture Produce
Wheat Note: Usually not done by producer	Flour

Exemption Related to Agriculture Sector

8 **Sl. No.54**
of notification **Agricultural Services (Heading 9986)**

Exemption

Services relating to

- ☞ The cultivation of plants and
- ☞ Rearing of all life-forms of animals, for food, fibre, fuel, raw material or other similar products.
- ☞ Except the rearing of horses,

} Agriculture activities

or Agriculture Produce by way of

- a) Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
- b) Supply of farm labour;
- c) Processes carried out at an agricultural farm including

☞ tending,	☞ harvesting,	☞ curing,	☞ trimming,	☞ cooling or
☞ pruning,	☞ drying,	☞ sorting,	☞ sun drying,	☞ bulk packaging and such
☞ cutting,	☞ cleaning,	☞ grading,	☞ fumigating,	like operations

 which do not alter essential characteristics of agricultural produce but make it only marketable for the primary market;
- d) Renting or leasing of
 - ☞ agro machinery or
 - ☞ vacant land with or without a structure incidental to its use;
- e) Loading, unloading, packing, storage or warehousing of agricultural produce;
- f) Agricultural extension services; (Research service)
- g) Services by
 - ☞ any Agricultural Produce Marketing Committee (APMC) or Board or
 - ☞ services provided by a commission agent
 for sale or purchase of agricultural produce.

CASUAL READING

Para 2 (c): "AGRICULTURAL EXTENSION" means application of scientific research and knowledge to agricultural practices through farmer education or training;

Comment: Thus, agricultural extension service is a system whereby people are motivated through a proper approach to help them by applying science in their daily lives in farming.

Para 2(e) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;

IMPORTANT READING

following activities are covered within the scope of agriculture:

➤ Pisciculture - Breeding of fish;	➤ Sericulture - Rearing of silk worms;
➤ Floriculture - Cultivation of ornamental flowers;	➤ Horticulture;
➤ Forestry.	

9 **Sl. No.24**
of notification **Loading, unloading of rice (Heading 9967 OR 9985)**

Services by way of loading, unloading, packing, storage or warehousing of rice.

only these activities are exempted on rice. i.e. other services like com-agent, APMC are taxable.

10 **Sl. No.24A**
of notification **Warehousing of minor forest produce (Heading 9967 OR 9985)**

Services by way of warehousing of minor forest produce

11 **Sl. No.24B**
of notification **Storage or Warehousing of Pulses, Fruits, Vegetables etc. (Heading 9967 or 9985)**

Newly Inserted by N/N 4/2022 CT (R) dt 13/07/2022

"Services by way of storage or warehousing of cereals, pulses, fruits and vegetables."

12 **Sl.No. 57**
of notification **Packing, Cooling etc. of Vegetable or Fruits** (Heading 9988 or any other heading of Section 8 and Section 9)

Services by way of

exempted.

- ⇒ pre-conditioning,
- ⇒ pre-cooling,
- ⇒ ripening,
- ⇒ waxing,
- ⇒ retail packing,
- ⇒ labelling

of

fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables

13 **Sl. No.55**
of notification **Process of Job Worker** (Heading 9986)

Carrying out an **intermediate production process** as **Job Work**

- ⇒ in relation to 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 or agricultural produce.

14 **Sl. No.55A**
of notification **Services by Way of Artificial insemination** (Heading 9986)

Services by way of artificial insemination of livestock (other than horses).

↳ sperm donor

Agriculture Services

Services Exempted

a) services directly related to production of A.P. like cultivation, Harvesting, testing, etc.

B) supply of farm labour.

c) Processes at an agriculture farm like tending, curing, pruning, sun-drying, bulk packaging, etc.

*D) Renting / Leasing of:-

Agro machinery or vacant land with or without incidental structure.

* E) Loading, unloading, packing, storage or warehousing of A.P.

F) Agriculture extension services (research services).

G) Services by - APMC

* - services provided by commission agent for sale / purchase of A.P.

Agriculture Activities:

services relating to:

- The cultivation of plant }
- Rearing of all life forms } for

of animal.
↳ Except rearing of Horses. (stud farm)

- Food

- Fibre

- R.M

- Fuel

- other

similar product.

(A.P.) Agriculture product.

Any product of agriculture

- that on which:

- either no processing is done or

- such processing is done as usually done by cultivator or producer.

→ which does not

alter essential

characteristics

But make it

marketable for

primary market

Other Exemption:

1) Rice - Loading / unloading / packing storage & warehousing

2) Minor forest produce - warehousing

3) Cereals, pulses, fruits & vegetables: storage, warehousing

4) Fruit & vegetables: Pre-conditioning, waxing, retail packing, labelling, etc.

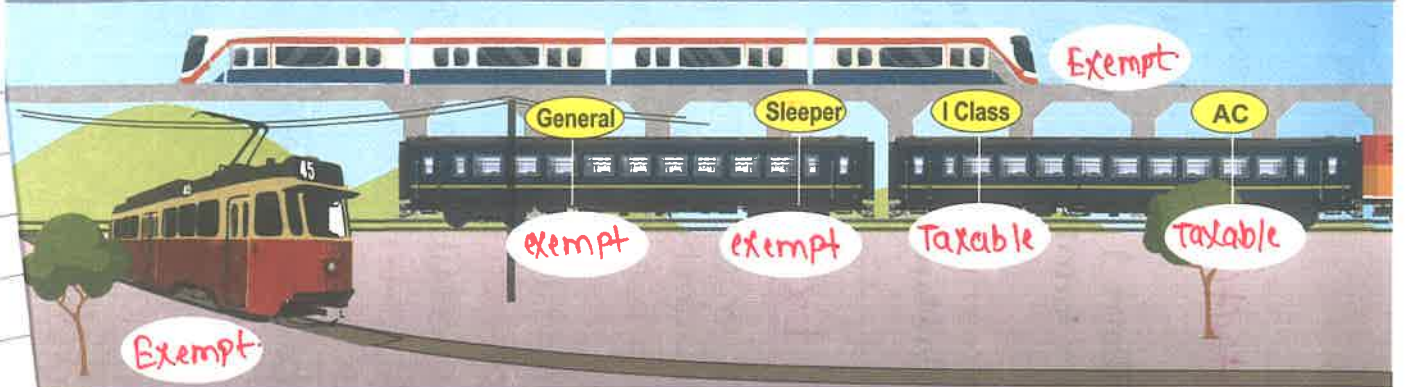
5) Job work intermediate production process of agriculture.

6) Artificial insemination of livestock. (eg. sperm donor)

Road Transport



Rail Transport



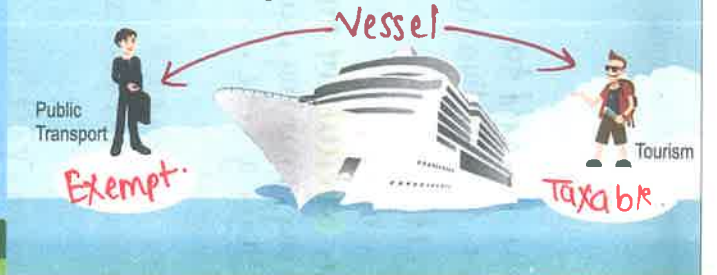
Air Transport



Land Waterway



Vessel Transport

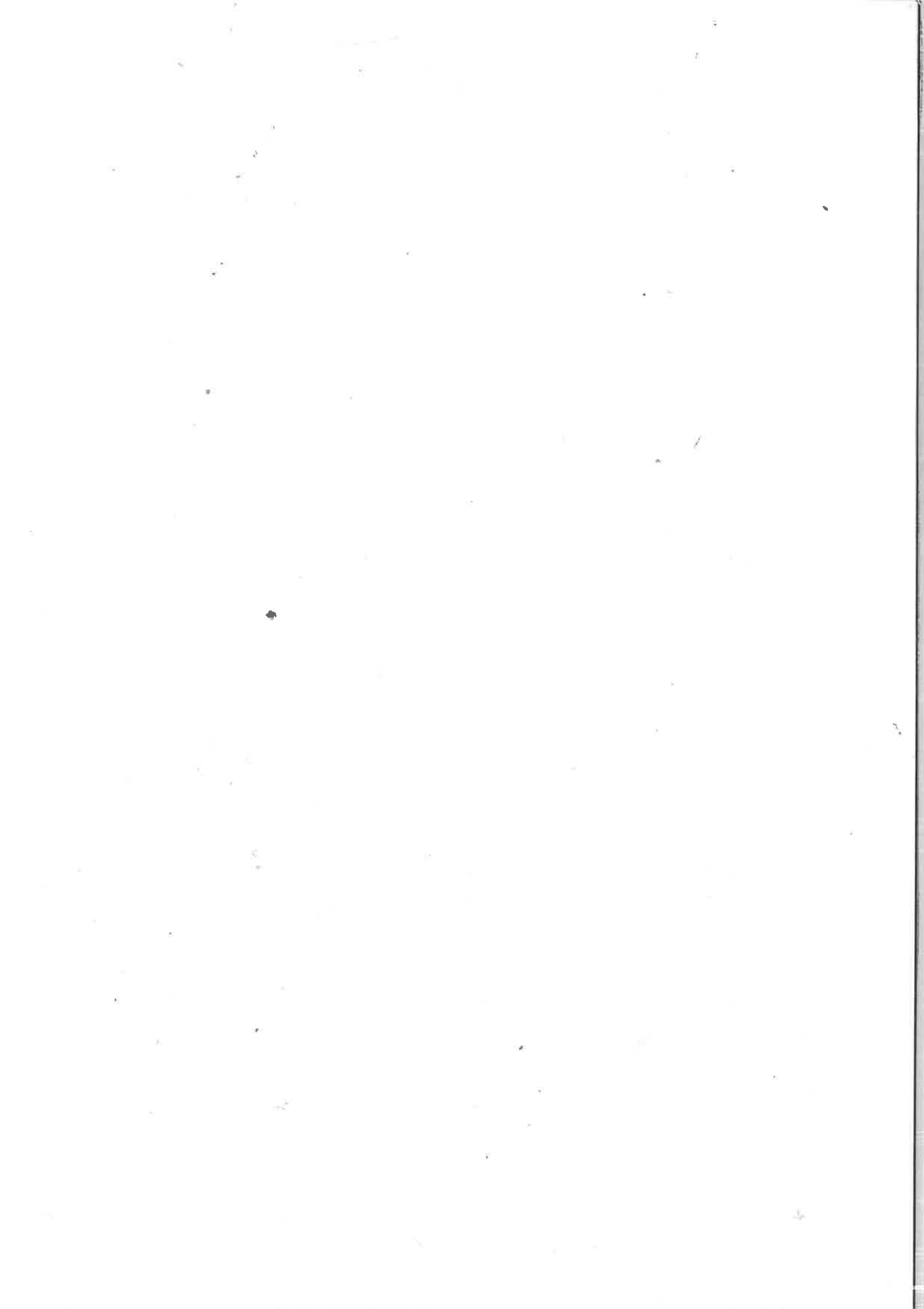


Cable Car or Rope Way Transport



Passenger Transport Service





Exemption Related to Transport Sector

15 **Sl. No.17** of notification **Passenger Transport Service (Heading 9964)**

Exemption

Service of transportation of passengers, with or without accompanied belongings, by –

- | | |
|----|---|
| a) | Railways in a class other than – |
| | i) First class; or |
| | ii) An air conditioned coach; |
| b) | Metro, monorail or tramway; |
| c) | Inland waterways; (River transport) |
| d) | Public transport, other than predominantly for tourism purpose , in a vessel between places located in India; and ship transport in a sea |
| e) | Metered cabs, or auto rickshaws (including e-rickshws) |

However, nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified under section 9(5) of the CGST, 2017.

If Auto/meter cab is booked through ola/uber, etc. then it is taxable. GST is payable by ola/uber.

Circular No. 177/09/2022- GST

Issue	Applicability of GST on tickets of private ferry used for pa.
Clarification	"Transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India" is exempted. It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.

16 **Sl. No.15** of notification **Passenger Transport Service (Heading 9964)**

Exemption

Transport of passengers, with or without accompanied belongings, by –

Substituted by N/N 4/2022 CT (R) dt 13/07/2022

- | | |
|----|---|
| a) | Air in economy class, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; boarding |
| b) | non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or → Pvt buses |
| c) | stage carriage other than air-conditioned stage carriage. → Govt buses |

However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under section 9(5) of the CGST, 2017.

Circular No. 177/09/2022- GST

Issue	Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt under Sr. No. 15(b) of Notification No. 12/2017-Central Tax (Rate) transport of passengers by non-air conditioned contract carriage
Clarification	It is clarified that the said exemption would apply to passenger transportation services by non-air conditioned contract carriages falling under Heading 9964 where according to explanatory notes, transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

My note: Saari Service by road - exempt but except GTA - Taxable.

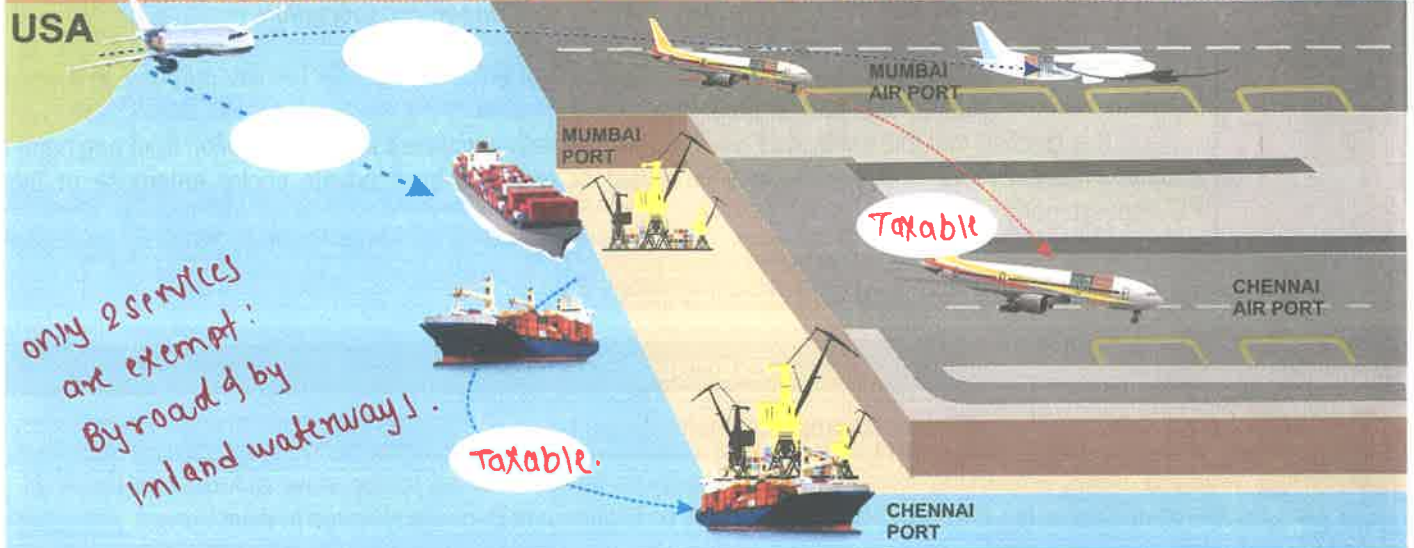
Goods Transport Service by Road



Goods Transport Service by Rail



Goods Transport Service by Vessels/Aircraft from outside/into India



Goods Transport by Inland waterways (River)



17 Sl. No. 18 of notification Transportation of Goods by Road (Heading 9965)

Services by way of transportation of goods-

- (a) by road except the services of— (i) a goods transportation agency; (ii) a courier agency;
 (b) by inland waterways.

CASUAL READING

- Para 2(u) "courier agency" means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles
- Para 2(ze) "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called

18 Sl. No. 20/21 of notification Transportation by Rail, Vessel & GTA (Heading 9965)

Transportation of following goods by Rail, Vessel & GTA

a)	agricultural produce AP.
b)	Milk, Salt and food grain including flours pulses and rice.
c)	organic manure (fertilizers).
d)	Newspaper or magazines registered with the Registrar of Newspapers
e)	Relief materials meant for victims of natural or man-made disasters, calamities, Accidents or mishap
f)	Defence or military equipments

D ↓ Defence or military equipments
 R ↓ Relief material
 M ↓ Milk, salt, Pulses, Flour, Rice
 O ↓ organic manure
 N ↓ Newspaper & magazine
 A ↓ A.P.

19 Sl. No. 21B of notification Service Provided by GTA (Heading 9965 or 9967) (B)

Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, -

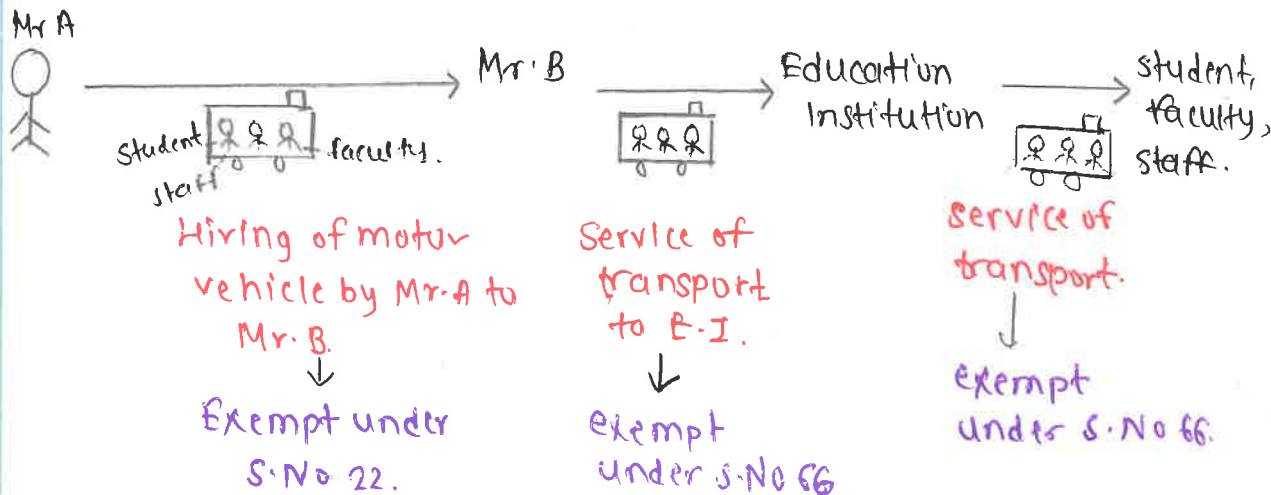
a)	a Department or Establishment of the Central Government or State Government or Union territory; or
b)	local authority; or
c)	Governmental agencies,

which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.

TDS

Services by way of giving on hire - Rent

- a) to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers. (i.e. Bus)
- aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers.
- b) to a goods transport agency, a means of transportation of goods
- c) Motor vehicle for transport of students, faculty and staff,
 - to a person providing services of transportation of students, faculty and staff
 - to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.



Circular No. 177/09/2022-GST ©

Issue	Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers
Clarification	<p>It is clarified that where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under Heading 9966, and the body corporate shall be liable to pay GST on the same under RCM.</p> <p>However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under Heading 9964 and the body corporate shall not be liable to pay GST on the same under RCM.</p>

Exemption Related to Renting of Immovable Property

21 Sl. No. 12
of notification

Renting of Residential Dwelling (Heading 9963 or Heading 9972)

Services by way of **renting** of **residential dwelling** for use as residence except where the residential dwelling is rented to a registered person

Newly Inserted N/N by
N/N 4/2022 CT (R) dt 13/07/2022

***** (A) Amendment

Explanation :- For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, -

exemption cover.

- ➔ the registered person is proprietor of a proprietorship concern & rents the residential dwelling in his personal capacity for use as his own residence and
- ➔ such renting is on his own account and not that of the proprietorship concern

Also refer chart on pg. no 105.

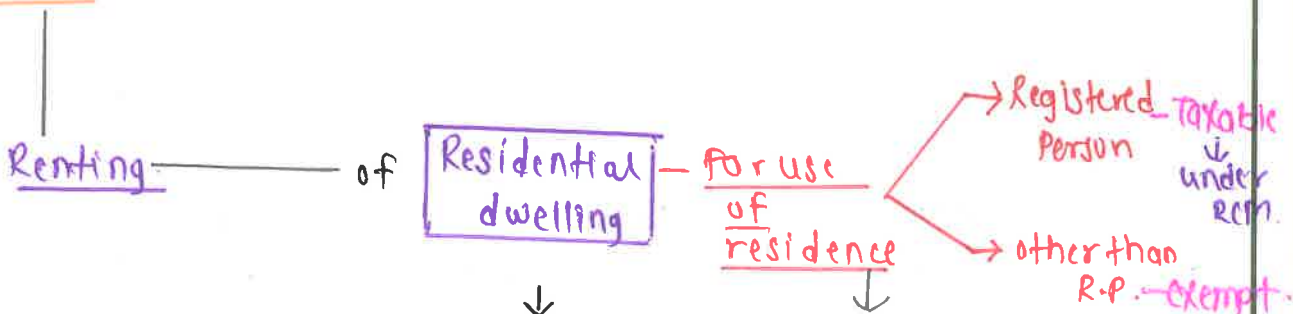
Newly Inserted N/N. 15/2022-CT
(Rate) Dt. 30/12/2022



CASUAL READING

3. Para 2 (zz) "renting in relation to immovable property" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property;

exemption
Service



↓
Accommodation used for residence for long term use where rent is charged on monthly basis
eg. Flat, PG / bungalow.

If flat, house, bungalow is given for office / other commercial purpose then taxable.

Note: It does not includes hotels / lodge / Guest house or any other commercial place.

Exemption Related to Entertainment Sector

22 **Sl. No.78** Classical or folk Artist (Heading 9996)
of notification

Services **by an artist** by way of a performance in **folk or classical art forms of-**
(a) **music, or**
(b) **dance, or**
(c) **theatre,**

This exemption is available only for folk / classical art. & not for western or other dance or music

if the consideration charged for such performance is not more than ₹ 1,50,000

Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.



Tutorial Notes

- ⇒ Para 2(m) "brand ambassador" means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person;
- ⇒ All other activities by an artist in other art forms e.g. western music or dance, modern theatres, performance of actors in films or television serials would be taxable.
- ⇒ Services provided by an artist as brand ambassador is taxable.

23 **Sl. No.81** Admission to Entertainment Event (Heading 9996)
of notification

Services by way of **right to admission** to -- *Ticket charges*

- | | |
|----|--|
| a) | circus, dance, or theatrical performance including drama or ballet |
| b) | award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event |
| c) | recognised sporting event, |
| d) | Planetarium |

where the consideration for admission is not more than ₹ 500 per person as referred to in (a), (b) (c) or (d) above.

Note:

1) This exemption is available only for aforesaid events. Thus, ticket charges of amusement park, water park, etc are taxable.

2) IF for aforesaid event ticket charges is more than 500, then it is fully taxable.

24 **Sl. No.79A** Protected Monuments under Ancient Monuments Act, 1958
of notification (chapter 9996)

Services by way of **admission to** *ticket charges*

a protected monument so declared under the Ancient Monuments and Archaeological Site and Remains Act 1958 or any of the State Acts, for the time being in force eg Taj mahal / Ajanta Ellora, etc

Note: For this exemption, restriction of ₹ 500 is not applicable. Thus entire ticket value is subject to exemption.

25 **Sl. No.79** Admission to Museum, National Park etc (Heading 9996)
of notification

Services by way of **admission to** Ticket charges

- ➔ museum,
- ➔ national park,
- ➔ wildlife sanctuary,
- ➔ tiger reserve or zoo.

The full ticket value is exempt & restriction of 500 is not applicable.



26 **Sl. No.80** Service by way of Training or coaching in recreational activities (Heading 9996)
of notification

Services by way of **training or coaching** in eg - dance/music/painting classes etc.

- (a) **Recreational activities** relating to arts or culture **by an individual** or **amended FA 22**
- (b) Sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.

Substituted by N/N 4/2022 CT (R) dt 13/07/2022



CASUAL READING

- ➔ Services by way of training or coaching in recreational activities relating to arts or culture shall be nil rated irrespective of the service provider. In other words, such services shall be 'Nil' rated even if the service provider is a non-charitable entity
- ➔ Services by way of training or coaching in recreational activities relating to sports shall be 'nil' rated, only if such services are provided by a charitable entity, registered u/s 12AA of the Income-tax Act. Thus, if such services are provided by a non-charitable entity, then those would be taxable

Exemption Related to Banking and Financial Sector

27 **Sl. No.27** Banking & Financial Services (Heading 9971)
of notification

Services by way of—

- (a)
- ➔ extending deposits,
 - ➔ loans or advances

in so far as the consideration is represented by way of **interest or discount** (other than interest involved in credit card services);

- (b) inter se sale or **purchase of foreign currency**
- ➔ amongst banks or authorised dealers of foreign exchange or
 - ➔ amongst banks and such dealers.

Taxable
Bill discounting
cheque "

CASUAL READING

As per Para 2 (zk) the term interest has been defined as follows:

"Interest" means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.

As per Para 2 (zaa) the term financial institution has been defined as follows:

"financial institution" has the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934)



28 **Sl. No.27A** Service Provided by Banking Company (Heading 9971)
of notification

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

29 **Sl. No.34** Service by an acquiring bank (Heading 9971)
of notification

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.

Explanation For the purposes of this entry, "**acquiring bank**" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

Education and Training

30 Sl. No.66 of notification Education and Training (Heading 9992 or Heading 9963)

Any service provided **BY** an **educational institution**
 (a) to its *students, faculty and staff*
 (aa) by way of *conduct of entrance examination* against consideration in the form of entrance fee

- (b) Service Provided **TO** an **educational institution**, by way of
- (i) **transportation** of students, faculty and staff
 - (ii) **Catering**, including any mid-day meals scheme sponsored by the Central Government, State Government or Union Territory
 - (iii) **Security or cleaning or house-keeping** services performed in such educational institution
 - (iv) Services relating to **admission to, or conduct of examination** by such institution.
 - (v) Supply of **online educational journals or periodicals**

Provided that nothing contained in sub-items (i), (ii) & (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Provided further that nothing contained in sub-item(v) of items(b) shall apply to an institution providing services by way of-

- i) Pre-school education and education up to higher secondary school or equivalent*
- ii) Education as a part of an approved vocational education course.*

DEFINITION OF EDUCATIONAL INSTITUTE As per Para 2(y)

Educational Institutes means an institution providing services by way of

- (i) **Pre-school education** and education up to **higher secondary school** or equivalent
- (ii) Education as a part of a curriculum for obtaining a **qualification recognized by law**
- (iii) Education as a part of an **approved vocational education course**.
- (iv) *For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.*

Explanation to No.12/2017-CT (Rate), dt. 28th June, 2017 [N/No. 01/2023-CT (Rate) Dt. 28/02/2023]:-

It is clarified that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.

Analysis

Education

Preschool & higher & Secondary School

Service by way

Education

As a part of a curriculum
 → For obtaining a **qualification**
 → **Recognized by law;**

If normally covered service provided by Colleges, Universities or Institutes

Qualification must be recognized by Indian Law and not by foreign Law. Thus any Education Service provided under qualification recognized by foreign law is taxable

Education

Approved vocational education course."

Para 2(h) "approved vocational education course" means, -

- (i) **a course run by an industrial training institute or an industrial training centre** ^{ITC} ^{ITC} affiliated to the National Council for Vocational Training (NCVT) or State Council for Vocational Training (SCVT) offering courses in designated trades notified under the Apprentices Act, 1961 or
- (ii) **a Modular Employable Skill Course**, approved by the National Council of Vocational Training (NCVT), run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship
- (iii) education as a part of an approved vocational education course

Educational Institution

Services by E-I

Exempt Service

Any service to:

- student
- faculty
- staff

(eg- tuition fees, transport service etc)

b) Entrance fees for entrance examination.

Taxable Services

All other services supplied by such E-I are taxable. eg:

- a) placement service to corporate
- b) Auditorium given to various coaching classes
- c) franchises etc.

1) Pre-school / Higher secondary school [Public / Private]

2) colleges / universities or institute providing education as a part of curricular for obtaining qualification.

3) Institute providing education in approved vocation courses

4) central/state board to the extent of conduct of examination.



Imp Note: private coaching classes are not E-I & taxable.

Services by any person to E-I. → exemption

- 1) transportation of student/faculty or staff
- 2) catering
- 3) security/cleaning/ Housekeeping

Exempt only if given to school. colleges etc

- 4) online educational Journal/Periodical

- services in relation to:
- Admission or
 - conduct of examination.

Exempt if supplied to (eg) (colleges)

Note: All other services provided to E-I. → Taxable.

Clarification regarding applicability of GST on supply of food in Anganwadis and Schools (149/05/2021-GST Dated the 17th June, 2021)



Issue:-

Whether serving of food in schools under Mid-Day Meals Scheme would be exempt if such supplies are funded by government grants and/or corporate donations?

Legal provision:-

Serving of food in schools under mid -day meal scheme is exempt if such supplies are funded by Government grants under Entry 66

The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school. Further, an Anganwadi interalia provides pre-school non-formal education. **Hence, anganwadi is covered by the definition of educational institution (as pre-school).**

Clarification:-

- it is clarified that 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.
- The definition of Educational institutions includes anganwadi and hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

Circular No. 177/09/2022- GST

Issue	<i>Applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions</i>
Clarification	It is clarified that the amount or fee charged from prospective students for entrance or admission, or for issuance of eligibility certificate to them in the process of their entrance/admission as well as the fee charged for issuance of migration certificates by educational institutions to the leaving or ex-students is covered by exemption under Sl. No. 66.

31 **Sl. No.68** **Service Provided to Recognized Sport Body by Sportman**
of notification (Heading 9992 or Heading 9996)

Services provided **TO** a recognised sports body **BY**-

- a) An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;
- b) Another recognised sports body;

CASUAL READING

Not imp

Para 2(zx) "RECOGNIZED SPORTS BODY" MEANS -

- (i) The Indian Olympic Association,
- (ii) Sports Authority of India,
- (iii) A national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations,
- (iv) National sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government,
- (v) The International Olympic Association or a federation recognised by the International Olympic Association or
- (vi) A federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India;

Illustration : State in each of the following cases whether the services are subject to GST or not.

- A) Services provided by a recognised sports body to another recognised sports body **E**
- B) Services provided by Mr. X to Indian Olympic Association directly as an umpire **E**
- C) Services provided by Mr. Y as a team manager to an event organised by Sports Authority of India which is recognised sports body. **E**
- D) Services of Mr. D as a selector to sports body **T (Not covered in above exemption)**.
- E) Services of Mr. E who is a player to an unrecognised sports body **T**.

32 **Sl. No.9A** **Services provided by and to FIFA (chapter 99)**
of notification

Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 World Cup 2017 to be hosted in India.

Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2017."

33 Sl. No. 9AA of notification Service provided by and To FIFA

Services provided by and to Federation Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under **FIFA U-17 Women's World Cup 2020** to be hosted in India **whenever rescheduled**.

Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020

34 Sl. No. 9AB of notification Service provided by and To Asian Football Confederation

Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under **AFC Women's Asia Cup 2022** to be hosted in India.

Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women's Asia Cup 2022

35 Sl. No.82 of notification FIFA U-17 World Cup 2017 (chapter 9996)

Services by way of right to **admission to the events** organized under FIFA U-17 World Cup 2017

36 Sl. No.82A of notification FIFA U-17 Women World Cup 2020 (chapter 9996)

Services by way of right to **admission to the events** organised under FIFA U-17 Women's World Cup 2020 **[whenever rescheduled]**

Newly Inserted N/N 4/2022 CT (R) dt 13/07/2022

37 Sl. No.82B of notification AFC Women's Asia Cup 2022 (chapter 9996)

Services by way of right to **admission to the events** organised under AFC Women's Asia Cup 2022

38 Sl. No.53 of notification Sponsorship of certain Sport Events (Heading 9985)

Services by way of sponsorship of sporting events organised -

- by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
- by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
- by the Central Civil Services Cultural and Sports Board;
- as part of national games, by the Indian Olympic Association; or
- under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.

Exemption in Government Sector

39 Sl. No.23 of notification Access to Road or bridge on Payment of toll (Heading 9967)

"Service by way of access to a road or a bridge on payment of toll charges"



Tutorial Notes

Toll is a matter listed (under serial number 59) in List-II (State List), in the Seventh Schedule of the Constitution of India and therefore Central Government is not empowered to levy GST on toll charges.



Circular No. 177/09/2022- GST ✖ ✖

Issue	Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST <i>my.</i>
Clarification	It is clarified that 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.

41 Sl. No.61A of notification Service by way of granting national permit (Heading 9991)

Services by way of Granting National Permit

- to a goods carriage
- to operate through-out India / contiguous States.

42 Sl. No.59 of notification Services by Foreign Diplomatic Missions (Heading 9999)

"Service by a Foreign Diplomatic Mission Located in India" (foreign embassy)



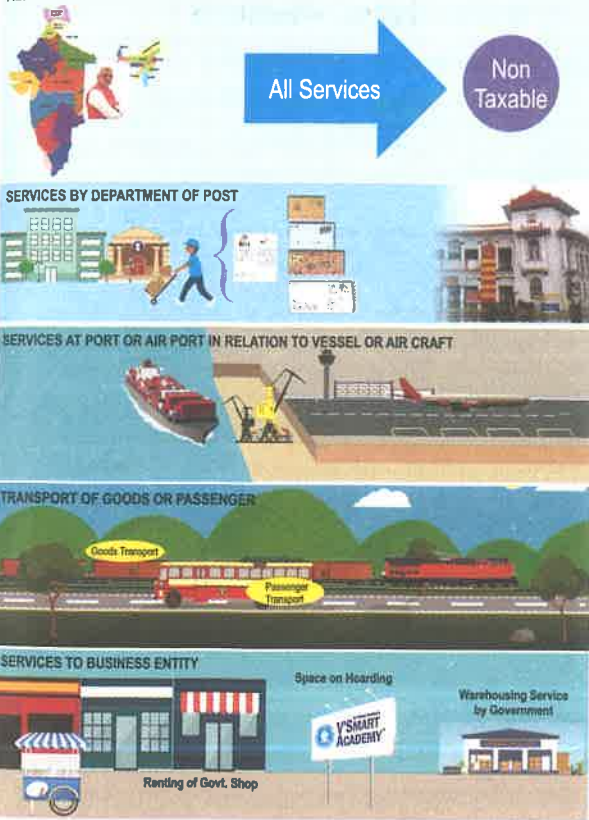
GOVERNMENT RELATED SERVICES

Let's understand some important definitions *not imp.*

"Government"	Governmental Authority	Local Authority	Government Entity
<p>Sec 2(53) of CGST - "Government" means Central Government</p> <p>Sec 2(53) of SGST - "Government" means State Government</p>	<p>As per para 2(zf) : an authority or a board or any other body (i) Set up by an Act of Parliament or a State Legislature, or (ii) Establish by 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 or to a Panchayat under Article 243G of the Constitution</p>	<p>Sec 2(69) Means A : ➤ Panchayat ➤ Municipality ➤ Municipal Committee & District Board, ➤ Cantonment Board, ➤ Regional Council and ➤ Development Board</p>	<p>As per Para 2(zfa) means an authority or a board or any other body including a society, trust, corporation, (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.</p>

43 Sl. No.6 of notification Service Provided by Govt. (chapter 99)

ALL SERVICES BY GOVERNMENT/LOCAL AUTHORITY



Exemption :- All services by the Central Government, State Government, Union territory or local authority **excluding the following services— (i.e. following services are taxable)**

- | | |
|-----|---|
| (a) | services by the Department of Posts |
| (b) | services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; |
| (c) | transport of goods or passengers; or |
| (d) | any service, other than services covered under entries (a) to (c) above, provided to business entities. |

Note :

- As per para 2(n) business entity means any person carrying out business.

Clarification on applicability of GST on accommodation services supplied by Air Force Mess to its personnel [Circular No. 190/02/2023-GST Dt. 13/01/2023]:-

Explanation:-

All services supplied by CG, SG, UT or local authority to any person **other than business entities (barring a few specified services** such as services of postal department, transportation of goods and passengers etc.) **are exempt from GST** vide Exemption Notification.

Clarification:-

➤ It is clarified that 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 covered by the exemption notification,**

- **provided** the services supplied by such messes qualify to be considered as services supplied by CG, SG, UT or local authority.

Services by the department of post by way of

- post card,
- inland letter,
- book post and
- ordinary post (envelopes weighing less than 10 grams).

} exempted.

Service provided by Govt to Business Entity where its T/O less than 20 lacs (chapter 99)

Supplier of service	Exemption										
<ul style="list-style-type: none"> ➤ Central Government, ➤ State Government, ➤ Union territory or ➤ local authority 	<p>Services provided to a business entity with an aggregate turnover of such amount in the preceeding financial year as makes it eligible for exemption from registration under the CGST Act 2017 (below threshold)</p> <p>Explanation For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to- (i.e. this exemption is not applicable in following cases)</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 5%;">a)</td> <td>services,</td> </tr> <tr> <td style="width: 5%;">i)</td> <td>by the Department of Post</td> </tr> <tr> <td style="width: 5%;">ii)</td> <td>in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</td> </tr> <tr> <td style="width: 5%;">iii)</td> <td>of transport of goods or passengers; and</td> </tr> <tr> <td>b)</td> <td>services by way of renting of immovable property.</td> </tr> </table>	a)	services,	i)	by the Department of Post	ii)	in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;	iii)	of transport of goods or passengers; and	b)	services by way of renting of immovable property.
a)	services,										
i)	by the Department of Post										
ii)	in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;										
iii)	of transport of goods or passengers; and										
b)	services by way of renting of immovable property.										

Special case

Service provided by Govt where consideration is less than 5000 (chapter 99)

Supplier of service	Exemption						
<ul style="list-style-type: none"> ➤ Central Government, ➤ State Government, ➤ Union territory or ➤ local authority 	<p>Services provided by where the consideration for such services does not exceed five thousand rupees: (i.e Invoice value does not exceed 5000)</p> <p>Proviso Provided that nothing contained in this entry shall apply to- (i.e. this exemption is not applicable in following cases)</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 5%;">i)</td> <td>services by the Department of Posts</td> </tr> <tr> <td style="width: 5%;">ii)</td> <td>services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</td> </tr> <tr> <td style="width: 5%;">iii)</td> <td>transport of goods or passengers:</td> </tr> </table> <p>Proviso Provided further that in case where continuous supply of service, as defined in section 2 (33) is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.</p>	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:
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:						

X

47 Sl. No.47 of notification Government Services Related to registration or Certification (Heading 9983 or 9991)

Supplier of service	Exemption
<ul style="list-style-type: none"> ⇒ Central Government, ⇒ State Government, ⇒ Union territory or ⇒ local authority 	<p>Services provided by way of-</p> <p>a) registration required under any law for the time being in force;</p> <p>b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.</p>

48 Sl. No.61 of notification Government Services Related to issue of Passport etc. (Heading 9991)

Supplier of service	Exemption
<ul style="list-style-type: none"> ⇒ Central Government, ⇒ State Government, ⇒ Union territory or ⇒ local authority 	<p>Services way of issuance of</p> <ul style="list-style-type: none"> ⇒ passport, ⇒ visa, ⇒ driving licence, ⇒ Birth certificate or death certificate.

49 Sl. No.63 of notification Government Services for right to use natural resources for Agriculture (Heading 9991)

Supplier of service	Exemption
<ul style="list-style-type: none"> ⇒ Central Government, ⇒ State Government, ⇒ Union territory or ⇒ local authority 	<p>Services provided by way of assignment of right to use natural resources to an individual farmer for 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.</p>

Following 2 entries (Sl.No. 42 & 64) are not so important for Exam

50 Sl. No.42 of notification Government Services related to Radio Frequency Spectrum X NA (Heading 9973 or Heading 9991)

Supplier of service	Exemption
<ul style="list-style-type: none"> ⇒ Central Government, ⇒ State Government, ⇒ Union territory or ⇒ local authority 	<p>Services provided by way of allowing a business entity to operate as a telecom service provider for use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.</p>

51 Sl. No.64 of notification Government Services for rights to use natural resources X NA (Heading 9991 or Heading 9973)

Supplier of service	Exemption
<ul style="list-style-type: none"> ⇒ Central Government, ⇒ State Government, ⇒ Union territory or ⇒ Local authority 	<p>Services provided by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016:</p> <p>Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource.</p>

53 Sl. No.9D Service Provided by an old age home run by Government
(Chapter 99)

Newly Inserted by N/N 07/2021
CT dt 30/09/2021

Services by an **old age home** run by Central Government, State Government or by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 **to its residents (aged 60 years or more) against consideration upto ₹ 25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.**

54 Sl. No.8 Service provided by Govt to govt (chapter 99)

(B)

Supplier of service	Exemption
↻ Central Government, ↻ State Government, ↻ Union territory or ↻ local authority	<p>Services provided to another Central Government, State Government, Union territory or local authority</p> <p>Provided that nothing contained in this entry shall apply to services- (i.e. this exemption is not applicable in following cases)</p> <p>i) by the Department of Posts</p> <p>ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>iii) of transport of goods or passengers.</p>

55 Sl. No.65 Government Services of MOT charges on Import/Export
(Heading 9991)

(C)

Supplier of service	Exemption
↻ Central Government, ↻ State Government, ↻ Union territory	<p>Services provided by way of</p> <ul style="list-style-type: none"> ↻ deputing officers after office hours or on holidays for inspection or container stuffing or ↻ such other duties <p>in relation to import export cargo on payment of Merchant Overtime charges.</p>

56 Sl. No.34A Service supplied by way of Guaranteeing the loans (Heading 9971)

Supplier of service	Exemption
↻ Central Government, ↻ State Government, ↻ Union territory	<p>Service supplied to their undertakings or Public Sector Undertakings(PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the Banking company and financial institutions.</p>

57 Sl. No.62 Liquidated Charges by Govt. (Heading 9991 or Heading 9997)

**** (A)

Supplier of service	Exemption
↻ Central Government, ↻ State Government, ↻ Union territory or ↻ local authority	<p>Services provided by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.</p>

52 Sl. No.9C of notification Service Provided by Govt. Entity (Chapter 99) 8

Supplier of service	Exemption
⇒ Government Entity	Supply of service in the form of grants to ⇒ Central Government, State Government, Union territory, local authority or ⇒ any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority,

58 Sl. No.5 of notification Service provide by Governmental Authority for 243W (chapter 99) 6

Supplier of service	Exemption
⇒ Governmental Authority	Services by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.

59 Sl. No.65A of notification Right to Information Act, 2005 (Heading 9991) 7

Services by way of providing information under the Right to Information Act, 2005

Clarification regarding applicability of GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them:-

Issue:- Whether GST is applicable on supply of service by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them?

Clarification:- It is clarified that guaranteeing of loans taken from the banking companies and financial institutions by Central or State Government for their undertaking or PSU is specifically exempt under said entry No. 34A as above.

60 Sl. No.65B of notification Services Supplied by a State Government to Excess Royalty Collection Contractor (ERCC) (Heading 9991) 6

Supplier of service	Exemption
⇒ State Government	Service Supplied to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.

Explanation "**mining lease holder**" means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government under sub-section (1) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957

Condition Provided that at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of GST exempted, **the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders** and the ERCC shall pay the **difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.**

Services Provided to Government

61 Sl. No.11A Services provided by Fair Price Shop (Heading 9961 or Heading 9962)
of notification

Service provided by Fair Price Shops to Central Government by way of sale of food grains, Kerosin, Sugar, Edible Oil etc. under Public Distribution System(PDS) against consideration in the form of commission or margin.

62 Sl. No.3 Service to Govt. of article 243G (chapter 99)
of notification

Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

63 Sl. No.3A Service to Govt. by way of any Activity in relation to article 243G or 243W(chapter 99)
of notification

Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply

➤ provided to the Central Government, State Government or Union territory or local authority or

➤ a Government or Union territory or local authority or

by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.

64 Sl. No.4 Service to Govt. of article 243W (chapter 99)
of notification

Services provided to a Governmental authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.

65 Sl. No.40 Insurance Scheme for Government Services (Heading 9971 OR 9991)
of notification

Services provided to the Central Government, State Government, Union territory under any **insurance scheme for which total premium is paid by the Central Government**, State Government, Union territory.

66 Sl. No.72 Training Program for Government (Heading 9992)
of notification

Services provided to the Central Government, State Government, Union territory administration under any training programme for which **75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration.**

67 Sl. No.16 Transport by Air to Central Govt. (Heading 9964)
of notification

Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding:

Provided that nothing contained in this entry shall apply on or after the expiry of a period of **three years** from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

Other Government Sector

- 68 Sl. No.30 of notification Services provided by Employees State Insurance Corporation (Heading 9971 OR 9991) (E)

Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948.

- 69 Sl. No.31 of notification Services provided by Employees Provident Fund (Heading 9971) (C)

Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.

- 70 Sl. No.31A of notification Services provided by Coal Mines Provident Fund Organisation (Heading 9971 or 9991) (C)

Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.

- 71 Sl. No.31B of notification Services provided by National Pension System (NPS) (Heading 9971 or 9991) (C)

Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.

- 72 Sl. No.38 of notification Pension Scheme of State Government (Heading 9971 OR 9991) (C)

Services by way of collection of contribution under any pension scheme of the State Governments.

- 73 Sl. No.58 of notification Service Provided by National Centre for Cold Chain Development (Heading 9988 or 9992) (G)

Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.

- 74 Sl. No.41 of notification Service by State Government Industrial Development Corporations (Heading 9972) (C)

"Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more) of industrial plots or plots for development of infrastructure for financial business,

provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having **20 % or more** ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.

- 75 Sl.No. 19C of notification Service Provided by Satellite Services (A)

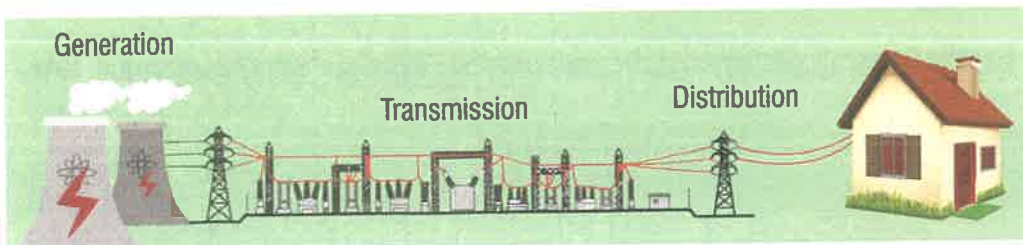
Satellite launch services supplied by Indian space research organisation, Antrix Corporation Limited or new space India Limited
ISRO

76 Sl. No.25
of notification

Transmission or Distribution of Electricity (Heading 9969)

ETDU

"Transmission or distribution of electricity by an electricity transmission or distribution utility"



By Electricity Transmission or Distribution Utility (ETDU)

An 'electricity transmission or distribution utility' has also been defined in Para 2(z). It includes the following:

- > The Central Electricity Authority
- > A State Electricity Board
- > The Central Transmission Utility (CTU)
- > A State Transmission Utility (STU) notified under the Electricity Act, 2003
- > A distribution or transmission licensee licensed under the said or
- > Any other entity entrusted with such function by the central or state Government.

Exempt

Important Comments

- 1) If charges are collected by a developer or a housing society for distribution of electricity within a residential complex
- 2) services provided by way installation of gensets or similar equipment by private contractors for distribution of electricity

Taxable

77 Sl. No.37
of notification

Collection of Contribution under Atal Pension Yojana (Heading 9971 OR 9991)

Ⓢ

Services by way of collection of contribution under the Atal Pension Yojana.

78 Sl. No.70
of notification

Service Provided under SDI Scheme (Heading 9983 or Heading 9985 or Heading 9992)

Ⓢ

Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.

79 Sl. No.71
of notification

Training Service under Deen Dayal Upadhyaya Grameen Kaushalya Yojana (Heading 9992)

Ⓢ

Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.

80 Sl. No.44
of notification

Service Provided by Incubatee (Heading 9981)

Ⓢ

Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-

- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and
- (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee.

CASUAL READING

Para 2(zh) "incubatee" means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognised 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 and innovative products

Exemption in Govt Sector - service provided by govt/LA.

General Activities

service supplied to general public.

S.No.6: All services supplied by govt/LA are exempted.

Note: Even though services supplied by govt/LA as a public authority is covered in definition of business, but exempted here.

services supplied to business entity

All services supplied to business entity are taxable.

Exception to s.No.6

Who will pay the tax?

All services to B-E

RCM is applicable.

Renting to R-P

RCM.

Renting of immovable property.

Renting to UP

FC.

Special activities

* services supplied by dept. of post.

Exempt (s.no.24c).

- Post card
- Inland letter book post
- ordinary post (weight less than 10gm).

Taxable (All other services)

- i) Speed post
- ii) Express parcel Post
- iii) IFA insurance
- iv) Agency services, etc.

services in relation to aircraft or vessel inside or outside the precincts of port or airport.

Transport of goods/Passenger

All above services supplied by govt/LA to Any person (general public/business entity) are taxable.

Who will pay tax? - Tax is payable under forward charge i.e. by govt/LA.

Other Exemption - (Service provided by Govt/LA)

Other exemptions:

- S.No. 63:** Rights of natural resources to farmer for agricultural activity.
- S.No. 81:** Service provided by one dept of Govt/LA to another dept of Govt/LA. **Exception: Special cases.**
- S.No. 65:** Merchant overtime charges charged by custom dept for inspection of cargo.
- S.No. 62:** Liquidated damages charged for non-performance of contract.

Registration/Testing/ Certificate based exemption

S.No. 47: (a) Reg. under Any Act
 b) Testing, calibration, safety check or certification for

- consumers
- public at large.
- Protection or safety of workers

S.No. 61: Service by way of issuance of passport, visa, Driving licence, Birth/Date certificate.

No based or value based exemption.

S.No. 7: Agg To of B.F. in P.F.Y below Threshold **exempt (NORM)**.

Exception: 1) Special cases
 2) Renting of immovable property.

S.No. 9: If invoice value upto ₹ 5000 - **exempt**. **Exception: special cases.**

Exemption in Construction Sector

81 **Sl. No.10** Construction etc or Original Work to Pradhan Mantri Awas Yojana
of notification (Heading 9954)

Services provided by	By way of		
way of pure labour contracts of	Construction	Installation	Repair Maintenance
	Erection	Completion	Renovation or
	Commissioning	Fitting out	Alteration of

⇒ civil structure or ⇒ any other **original works** pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.

CASUAL READING Para 2 (zs) "**original works**" means- all new constructions;

- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
- (ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;

82 **Sl.No.10A** Services Supplied by Electricity Distribution Utilities (Heading 9954)
of notification

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.**

83 **Sl. No.11** Construction etc or Original Work to Single Residential Unit
of notification (Heading 9954)

	Services By way of		
Pure labour contracts of	Construction	of	Original Work pertaining to
	Erection		
	Commissioning		
	Installation		

A single residential unit otherwise than as a part of a residential complex

Tutorial Notes
 Construction of Bungalow or house having more than one rooms in a unit and cannot be separated or sold individually as per municipal record, then it would be treated as single residential unit & no GST is payable on aforesaid activities.

IMPORTANT READING

1. Para 2(zz) "**single residential unit**" means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.
2. Para 2(zzb) "**Residential Complex**" means any complex comprising of a building or buildings, having more than one single residential unit

84 **Sl.No. 41A/41B** Supply of TDR, FSI, long term lease (premium)
of notification

Supply of TDR, FSI, long term lease (premium) of land **by a landowner to a developer** have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.

Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses.

This will achieve a fair degree of taxation parity between under construction and ready to move property [Effective from 01.04.2019]

Circular No. 177/09/2022- GST

Issue	Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment.
Clarification	It is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption.

Exemption in Life/ General Insurance Sector

85 Sl. No.28 Services of life Insurance Business (Heading 9971 OR 9991) of notification

Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013.

Note :

Para 2(zn) "life insurance business" has the same meaning as assigned to it in clause (11) of section 2 of the Insurance Act, 1938 ;

86 Sl. No.29 Services of Life Insurance Business (Heading 9971 OR 9991) of notification

Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.

87 Sl. No.29A Services of Life Insurance Business (Heading 9971 OR 9991) of notification

Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.

88 Sl. No.29B Services of Life Insurance (Heading 9971 OR 9991) of notification

Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.

89 Sl. No.35 Specified General Insurance Scheme (Heading 9971 OR 9991) of notification

Services of general insurance business provided under following schemes –

- (a) Hut Insurance Scheme;
- (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
- (c) Scheme for Insurance of Tribals;
- (d) Janata Personal Accident Policy and Gramin Accident Policy;
- (e) Group Personal Accident Policy for Self-Employed Women;
- (f) Agricultural Pumpset and Failed Well Insurance;
- (g) premia collected on export credit insurance;
- (h) Restructured Weather based Crop Insurance Scheme (RWCIS)
- (i) Jan Arogya Bima Policy;
- (j) Pradhan Mantri Fasal Bima Yojana (PMFBY)
- (k) Pilot Scheme on Seed Crop Insurance;
- (l) Central Sector Scheme on Cattle Insurance;
- (m) Universal Health Insurance Scheme;
- (n) Rashtriya Swasthya Bima Yojana;
- (o) Coconut Palm Insurance Scheme;
- (p) Pradhan Mantri Suraksha Bima Yojana;
- (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).
- (r) Bangla Shasya Bima

Note :

Para 2(zb) "general insurance business" has the same meaning as assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 ; Para 2(zj) "insurance company" means a company carrying on life insurance business or general insurance business;

90 **Sl. No.36** Life Insurance Services (Heading 9971 OR 9991)
of notification

Services of life insurance business provided under following schemes-

- (a) Janashree Bima Yojana;
- (b) Aam Aadmi Bima Yojana;
- (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹ 2 Lacs;
- (d) Varishtha Pension Bima Yojana;
- (e) Pradhan Mantri Jeevan Jyoti Bima Yojana;
- (f) Pradhan Mantri Jan Dhan Yojana;
- (g) Pradhan Mantri Vaya Vandana Yojana.

CASUAL READING

Para 2(zo) "life micro-insurance product" shall have the same meaning as assigned to it in clause (e) of regulation 2 of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005;

91 **Sl. No.36A** Re Insurance Services (Heading 9971 OR 9991)
of notification

Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40

Miscellaneous

92 **Sl. No.2** Transfer of a Going Concern (chapter 99)
of notification

Services -

- ⇒ By way of transfer of a going concern,
- ⇒ As a whole or an independent part thereof;



Tutorial Notes

- ⇒ TRANSFER of a going concern means transfer of a running business which is capable of being carried on by the purchaser as an independent business,
- ⇒ Such sale of business as a whole will comprise comprehensive sale of immovable property, goods and transfer of unexecuted orders, employees, goodwill etc.

93 **Sl. No.52** Organization of Business Exhibition outside India (Heading 9984)
of notification

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

94 **Sl. No.77** Service by an unincorporated Body or a Non-Profit Entity (Heading 9995)
of notification

Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, **to its own members by way of reimbursement of charges or share of contribution**

- | | |
|----|---|
| a) | as a trade union; |
| b) | for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or |
| c) | up to an amount of ₹ 7500 per month per member 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. |

Clarification on whether GST on monthly subscription / contribution charged by a Resident Welfare Association (RWA) from its members (Circular no. 109/28/2019-GST dt 22/07/2019)

Issue 1:-

- 1) Are the maintenance charges paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST and
- 2) if yes, is there an upper limit on the amount of such charges for the exemption to be available?

Clarification:-

Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of *Rs. 7500 per month per member* for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.

Issue 2:-

State whether a RWA is required to take registration and pay GST on maintenance charges where the amount of such charges is more than Rs. 7500/- per month per member but the aggregate turnover of such RWA is Rs.20 lakh or less in a financial year.

Clarification:-

Scenario No.	Aggregate turnover society	Monthly maintenance per member	Exemption from registration	Remarks
1.	Less than ₹ 20 Lakhs	₹ 7,500 or less	Exempt	
2.		₹ 7,500 or more	Exempt	
3.	More than ₹ 20 Lakhs	₹ 7,500 or less	Exempt	
4.		₹ 7,500 or more	Not Exempt	

Issue 3:-

- 1) Whether RWA entitled to take input tax credit of GST paid inward supply of capital goods, input and input services used by it for making outward supplies to its members and
- 2) use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than Rs. 7,500/- per month per member?

Clarification:-

RWAs are entitled to take ITC of GST paid by them on
capital goods such as generators, water pumps, lawn furniture etc.,
goods such as taps, pipes, other sanitary/hardware fillings etc. and
input services such as repair and maintenance services.

Issue 4:-

Where a person owns two or more flats in the housing society or residential complex, whether the ceiling of Rs. 7500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?

Clarification:-

As per general business sense, a person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately.

The ceiling of Rs. 7500/- per month per member shall be applied separately for each residential apartment owned by him.

Example:- If Mr. X owns two residential apartments in a residential complex and pays Rs. 15000/- (7500 x 2) per month as maintenance charges towards maintenance of each apartment to the RWA the exemption from GST shall be available to both apartment.

Issue 5:-

- 1) How should the RWA calculate GST payable where the maintenance charges exceed Rs. 7500/- per month per member?
- 2) Is the GST payable only on the amount exceeding Rs. 7500/- or on the entire amount of maintenance charges?

Clarification:-

The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed Rs. 7500/- per month per member.

In case the charges exceed Rs. 7500/- per month per member, the entire amount is taxable.

Example, if the maintenance charges are Rs. 9000/- per month per member, *GST @18% shall be payable on the entire amount of Rs. 9000/- and not on [Rs. 9000 - Rs. 7500] = Rs. 1500/-*

95 Sl. No.77A of notification Service by an unincorporated Body or a Non-Profit Entity (Heading 9995)

Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-

- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or
- (ii) 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 one thousand rupees (Rs 1000/-) per member per year**

96 Sl. No.39 of notification Intermediary Service (Heading 9971 OR 9985)

Services by the following persons in respective capacities –

- (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch
- (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or
- (c) business facilitator or a business correspondent to an insurance company in a rural area.

CASUAL READING

Para 2(o) "business facilitator or business correspondent" means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India;

Para 2(zl) "intermediary" has the same meaning as assigned to it in sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017

Para 2(zzc) "rural area" means the area comprised in a village as defined in land revenue records, excluding- the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government;

96 **Sl. No.48** **Services recognised by Biotechnology Industry Research Assistance Council**
of notification (Heading 9983 or any other Heading of Chapter 99)

Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.

97 **Sl. No.49** **News Services** (Heading 9984)
of notification

Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.

98 **Sl. No.50** **Public Library Service** (Heading 9984)
of notification

Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.

99 **Sl. No.76** **Public Services** (Heading 9994)
of notification

Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

100 **Sl. No.9B** **Exempting Supply of Services associated with Transit**
of notification **Cargo to Nepal & Bhutan** (Chapter 99)

Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).

Exempt certain supplies to NPCIL

Exemption for intra state supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of the central tax leviable thereon under section 9 of the Central Good and Services Tax Act, 2017.

Exemption in Training Sector

101 **Sl. No.69** **Service by NSDC etc.** (Heading 9992 or Heading 9983 or Heading 9991)
of notification

Any services provided by, _

- (a) the National Skill Development Corporation set up by the Government of India;
- (b) a Sector Skill Council approved by the National Skill Development Corporation;
- (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-
 - (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or
 - (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
 - (iii) any other Scheme implemented by the National Skill Development Corporation.

Note:- Exemption relating to the construction will be discussed in detail in chapter Levy of GST on construction Sector

Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India:

Proviso 1	<p>Provided that value of the tour operator service performed outside India shall be</p> <p>⇒ such proportion of the total consideration charged for the entire tour which is equal to the proportion which the number of days for which the tour is performed outside India has to the total number of days comprising the tour, or</p> <p>⇒ 50% of the total consideration charged for the entire tour,</p> <p>whichever is less</p>
Proviso 2	<p>Provided further that in making the above calculations, any duration of</p> <p>⇒ time equal to or exceeding 12 hours shall be considered as one full day and</p> <p>⇒ time less than 12 hours shall be taken as half a day.</p>
Explanation	<p>“foreign tourist” means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.</p>
Illustrations	<p>A tour operator provides a tour operator service to a foreign tourist as follows:-</p> <p>(a) 3 days in India, 2 days in Nepal; Consideration Charged for the entire tour: ₹1,00,000 Exemption: ₹40,000 (₹1,00,000 x 2/5) or, ₹50,000 (50% of ₹1,00,000) whichever is less, i.e., ₹40,000 (i.e., Taxable value: ₹60,000);</p> <p>(b) 2 days in India, 3 nights in Nepal; Consideration Charged for the entire tour: ₹1,00,000 Exemption: ₹60,000 (₹1,00,000 x 3/5) or, ₹50,000 (50% of ₹1,00,000) whichever is less, i.e., ₹50,000 (i.e., Taxable value: ₹50,000);</p> <p>(c) 2.5 days in India, 3 days in Nepal; Consideration charged for the entire tour: ₹1,00,000 Exemption: ₹54,545 (₹1,00,000 x 3/5.5) or, ₹50,000 (50% of ₹1,00,000) whichever is less, i.e., ₹50,000 (i.e., Taxable value: ₹50,000)</p>

Other Important Clarification

Clarifications regarding applicable GST rates & exemptions on certain services [Circular No. 177/09/2022-GST]

Issue	Applicability of GST on payment of honorarium to the Guest Anchors
Clarification	It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability subject to registration requirement as per the provisions of the law.
Issue	Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST
Clarification	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. It is clarified that sale of such developed land is also sale of land and accordingly does not attract GST.
Issue	Whether supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis constitutes a composite supply of works contract service and is eligible for concessional rate of GST prior to 18.07.2022.
Clarification	It is clarified that a contract of the nature described here for construction, installation and commissioning of a dairy plant constitutes supply of works contract and was eligible for concessional rate of GST.



CHAPTER - 11

REGISTRATION

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CGST rules pertaining to Registration

No need to remember.

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Important Definitions

Other Important Definition

2(108) : Taxable Supply	means a supply of goods or services or both which is leviable to tax under this Act
2(78) : Non-Taxable Supply	means a supply of goods or services or both which is not leviable to tax ⇒ under this Act (i.e. CGST Act) or } Petroleum product, ⇒ under the Integrated Goods and Services Tax Act } Al-lig.
2(26) : Common portal	means the common goods and services tax electronic portal referred to in section 146 GST N - www.gst.gov.in
2(85) : Place of business	i) 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 eg: cold storage.
	ii) a place where a taxable person maintains his books of account ; or
	iii) a place where a taxable person is engaged in business through an agent , by whatever name called. Agent at place - POB ✓.
2(47) : Exempt supply	means supply of any goods or services or both ⇒ which attracts nil rate of tax or ⇒ which may be wholly exempt from tax and includes non-taxable supply
2(50) : Fixed establishment	means a place (other than the registered place of business) which is ⇒ characterised 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
2(89) : Principal place of business	means the place of business specified as the principal place of business in the certificate of registration
2(94) : Registered person	means a person who is registered under section 25, but does not include a person having a Unique Identity Number
2(106) : Tax period	means the period for which the return is required to be furnished
2(109) : Taxable territory	means the territory to which the provisions of this Act apply
2(107) : Taxable person	means a person who is registered or liable to be registered under section 22 or section 24

Sec 22 : Persons liable for registration

Sec	Legal Provision																				
Sec 22 (1) General threshold limit	<p>Every supplier of goods &/or services is required to obtain registration in the State or UT from where he makes taxable supply, if his aggregate turnover exceeds specified threshold limit in a FY as under:-</p> <p>General threshold limit is ₹20 lakhs but, by notification government has prescribed following different threshold</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;">Indian State</th> <th style="width: 20%;">If exclusively engaged in SOG</th> <th style="width: 20%;">If engaged in SOS or SOG + SOS</th> </tr> </thead> <tbody> <tr> <td> Tri Mani wala Naag Mujhe Dikha ↻ Manipur ↻ Mizoram ↻ Nagaland ↻ Tripura </td> <td style="text-align: center;">10 lakhs</td> <td style="text-align: center;">10 lakhs</td> </tr> <tr> <td> ↻ Pondicherry ↻ Uttarakhand ↻ Meghalaya ↻ Arunachal Pradesh ↻ Telangana ↻ Sikkim </td> <td style="text-align: center;">20 lakhs</td> <td style="text-align: center;">20 lakhs</td> </tr> <tr> <td> All the other States incl. following Sp. category state - Assam, J& K, Himachal Pradesh </td> <td style="text-align: center; border: 1px solid red; border-radius: 50%;">40 lakhs</td> <td style="text-align: center;">20 lakhs</td> </tr> </tbody> </table> <p>Notification No. 10/2019 CT dated 07.03.2019:-</p> <p>A person who is engaged in exclusive supply of goods & whose aggregate turnover in the financial year does not exceed ₹ 40 lakhs is exempted from obtaining registration.</p> <p>Exceptions to ₹40 Lakhs threshold:-</p> <ol style="list-style-type: none"> (a) Persons required to take compulsory registration u/s 24. (b) Persons engaged in making supplies of following goods:- <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 50%;">Ice cream and other edible ice, whether or not containing cocoa</td> <td style="width: 50%;">Fly ash bricks; Fly ash aggregates; Fly ash blocks</td> </tr> <tr> <td>Pan masala</td> <td>Building bricks</td> </tr> <tr> <td>Tobacco and manufactured tobacco substitutes</td> <td>Bricks of fossil meals or similar siliceous earths</td> </tr> <tr> <td></td> <td>Earthen or roofing tiles</td> </tr> </tbody> </table> <p>Note:- In case of above items, 40 Lakh threshold is not available. But R.P. can claim threshold of ₹10 Lakhs/20 lakhs</p> (c) Person who has opted for voluntary registration u/s 25(3) or such registered persons who intend to continue with their registration under the GST Act. <p>Explanation For Threshold limit ₹40 lakhs :- A person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services of extending deposits, loans or advances where the consideration is interest or discount.</p> <p>Comments:-</p> <ul style="list-style-type: none"> ↻ A person is required to obtain registration for each of his place of business in every State/UT from where a taxable supply has taken place. However, he is not liable to obtain registration in a State/UT from where he makes only an exempt/non-taxable supply. ↻ If a person with places of business in different States has 1 branch in a Special Category State from which it makes a taxable supply, the threshold limit will be reduced to ₹ 10 lakh. But if he makes exempt/non-taxable supply from a Special Category State & taxable supplies from a State other than Special Category State, threshold limit shall not be so reduced. 	Indian State	If exclusively engaged in SOG	If engaged in SOS or SOG + SOS	Tri Mani wala Naag Mujhe Dikha ↻ Manipur ↻ Mizoram ↻ Nagaland ↻ Tripura	10 lakhs	10 lakhs	↻ Pondicherry ↻ Uttarakhand ↻ Meghalaya ↻ Arunachal Pradesh ↻ Telangana ↻ Sikkim	20 lakhs	20 lakhs	All the other States incl. following Sp. category state - Assam, J& K, Himachal Pradesh	40 lakhs	20 lakhs	Ice cream and other edible ice, whether or not containing cocoa	Fly ash bricks; Fly ash aggregates; Fly ash blocks	Pan masala	Building bricks	Tobacco and manufactured tobacco substitutes	Bricks of fossil meals or similar siliceous earths		Earthen or roofing tiles
Indian State	If exclusively engaged in SOG	If engaged in SOS or SOG + SOS																			
Tri Mani wala Naag Mujhe Dikha ↻ Manipur ↻ Mizoram ↻ Nagaland ↻ Tripura	10 lakhs	10 lakhs																			
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	Earthen or roofing tiles																				

P1 :- A dealer 'Ram' has two offices from where he makes taxable supply, one in Delhi and another in Maharashtra. The aggregate turnover of both the offices is ₹ 30 lakh, Determine whether Mr. Ram requires a registration under GST?

P2:- M/s Janhavi enterprises is engaged in trading of various Stationary materials, on a whole sale basis. It has a place of business located in Mumbai (MH). Apart from it, there is also an income in form of interest earned from investment. The turnover from sale of Stationary material is ₹35 lakh and income from interest is ₹2,40,000. State whether M/s Janhavi enterprises is required to obtain registration.

STEPS:

1) Sec. 22-20L

2) But MW-40L

3) calcn of Agg Tlo.

4) Threshold available.

5) Telanganu- 20L-Reg ✓

P3:- M/s Tiger Trading corp is engaged in supply of variety of products located in state of Maharashtra & its turnover from the sale of following products is as follows:-

Microwave	₹5,10,000
Refrigerator	₹7,95,000
T.V stand	₹ 1,05,000
Washing Machine	₹ 7,90,000
Office portable chair	₹ 6,54,000

M/s Tiger trading corp needs an advice as regard for whether it should obtain registration under GST act or is there any exemption available to him.

Also state whether your answer will change, if M/s Tiger trading corp makes such supply from State of Telengana. You are required to advise him on this stating relevant provision of GST act.

1) Sec. 22

2) MW-40L

3) WA to Pan masala.

P4:- Happy Ltd. of Delhi is exclusively engaged in intra-State supply of pan masala. It's aggregate turnover in the current financial year is ₹24 lakh. Can he take threshold limit of ₹40 lakhs for registration?

No, only threshold of 20L is available.

22 (2)

Migration of Registration

Person who is registered or holds a license under an existing law on the day immediately preceding appointed day shall be liable to be registered under GST Act w.e.f. the appointed day.

22(3)

Transfer of Business due to succession or otherwise

If business carried on by a registered person is transferred due to succession or any other reason (including transfer/change in ownership of business due to death of sole proprietor), to another person as a going concern, the transferee or the successor shall be liable to be registered w.e.f. the date of such transfer or succession.

Circular No.96/15/2019 GST dt 28.03.2019:-

It is clarified that transfer/ change in ownership of business will include transfer/change in the ownership of business due to death of sole proprietor and also as per section 29(1) of CGST Act, the reason of transfer of business includes "death of the proprietor".

22(4)

Transfer of business due to amalgamation, etc.:-

Notwithstanding anything contained in section 23(1)/(3), if business is transferred, pursuant to sanction of a scheme/ arrangement for amalgamation/ de-merger of two or more companies, pursuant to an order of a High Court/Tribunal or otherwise, transferee is to be registered w.e.f. the date on which Registrar of Companies issues a certificate of incorporation giving effect to such order.

Your Notes :- Implication of interest on loan advances on deposit (exempt supply service)

for calcn of c-l

for all calcn i.e. agg Tlo or Tlo in state it is excluded.

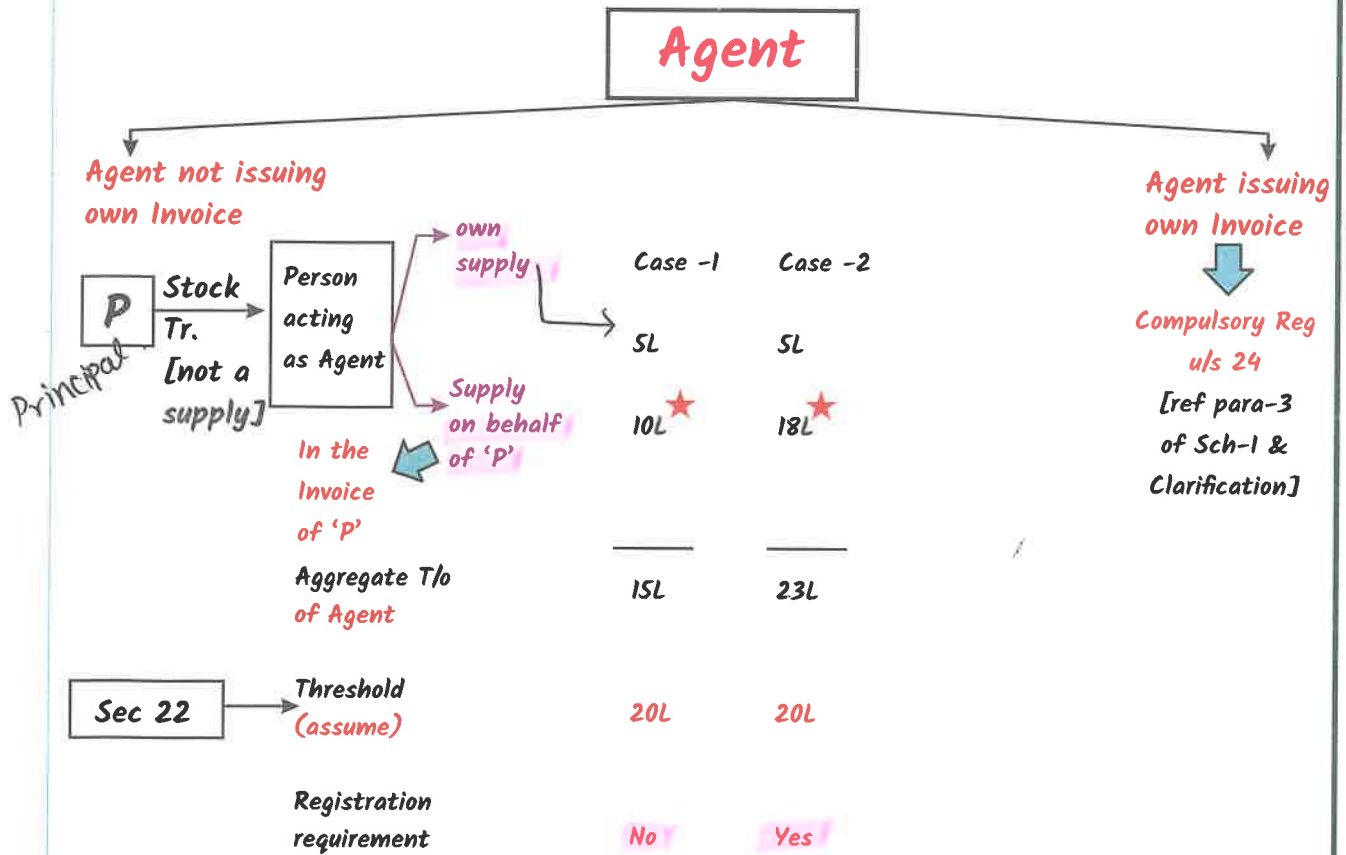
for calcn of threshold

(10L/20L/40L) for registration

for calcn of agg Tlo for threshold it is included but for person who is opting for 40L threshold only this service is allowed.

Explanation:-

i) Aggregate turnover to include all supplies made by the ^{eg: Agent} taxable person, whether on his own account or made on behalf of all his principals.



Undue Hardship T/o of 10L/18L is includible in principal's Agg T/O as well as Agent's Aggregate T/O for deciding eligibility of registration.

Q5:- Mr. Sharma of Bihar is engaged in trading of taxable goods on his own account and also acting as an agent of Mr. Raj Kundra of Delhi. His turnover in the financial year 20XX-XY is of ₹ 12 lakhs on his own account and ₹ 9 lakhs on behalf of principal. Both turnovers are Intra-State supply. State with brief reason, whether suppliers of taxable goods are required to register under the GST Law. Would your answer differ if agent issues his own invoice for further supply?

Q6 :- Saurabh Enterprises- a sole proprietorship firm started restaurant business in Pune, Maharashtra in the month of February. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading in alcoholic liquor for human consumption. (20L)
Determine whether Saurabh Enterprises is liable to be registered under GST law with the help of the following information:

Particulars	February (₹)*	March (₹)*
Serving of cooked food in restaurant in Pune	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Uttarakhand	-	5,00,000
Interest received from banks on the fixed deposits	1,00,000	1,00,000
Export of packed food items from restaurant in Maharashtra	1,50,000	2,00,000

* excluding GST, You are required to provide reasons for treatment of various items given above

Sec. 23 - Person not liable for Registration

1 The following persons shall **not be liable to registration**, namely:-

- a any person engaged **exclusively** in the business of supplying goods or services or both that are
- not liable to tax or
 - wholly exempt from tax
- under this Act or under the Integrated Goods and Services Tax Act

P7:- 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 as it is engaged exclusively in supplying goods not leviable to tax.

- b **an agriculturist, to the extent of supply of produce out of cultivation of land.**

As per sec 2(7) of CGST act "agriculturist" means an individual or a Hindu Undivided Family who undertakes cultivation of land -

- (a) by own labour, or
- (b) by the labour of family, or
- (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

Comments:-

- Exemption from registration is only available to agriculturists who are **individuals or HUFs**.
- 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.

P8:- Sameer is an agriculturist engaged in cultivation of wheat in his field in the State of Punjab. He was exclusively engaged in supply of wheat cultivated in his field in the previous year & current year. Whether he is require to take registration under GST if, his aggregate turnover of C.F.Y. is ₹80 lakhs?

☆☆☆
3/1

Would your answer differ if in the current year, he decides to start trading in rice apart from supplying his wheat produce? His turnover in the current year is ₹ 32 lakh from supply of wheat produced and ₹ 9 lakh from trading of rice.

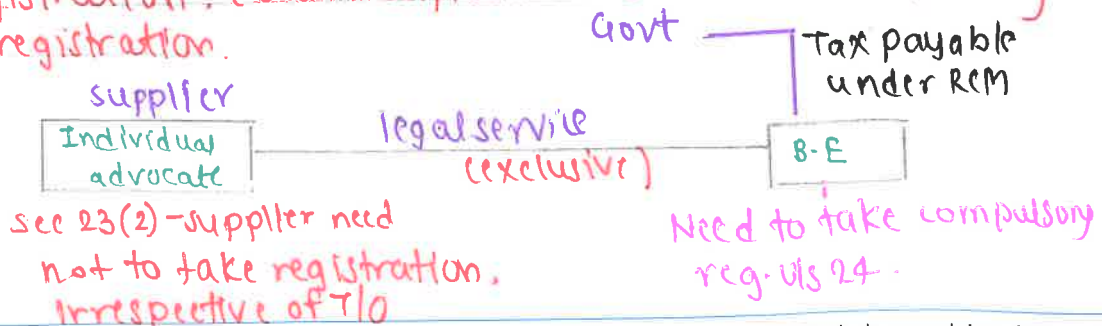
2 The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

Exemption from Registration (Vide Notification No.5/2017)

The Central Government has specified the persons who are engaged in supply of taxable goods or services,

★ **the total tax on which is liable to be paid by the Recipient of such goods/services under section 9(3) of the CGST Act 2017, as the category of person exempted from obtaining registration under GST.** RCM

Thus we can say that, any person who is exclusively engaged in supply of such goods/services which is under RCM then supplier need not to take registration. (But recipient need to take compulsory registration.



P9 :- Manikaran Transporters is a Goods Transport Agency (GTA) engaged exclusively in supplying GTA services to Diwakar Manufacturing Pvt. Ltd. which is liable to tax under reverse charge [since tax is being paid on GTA services @ 5% in the given case]. Explain the registration liability in given case. Manikaran (GTA) - NO reg. vs 23(2)
Diwakar → compulsory reg. vs 24.

Sec. 24 - Compulsory Registration in Certain Cases

Compulsory Registration:- Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—

(i) **persons making any inter-State taxable supply**



This restriction is only applicable to supply of goods.

Exception from Compulsory Registration (Threshold limit u/s 22 is available in following cases)

➔ **Persons making inter-State supplies of taxable services [N/No. 10/2017 IT dt. 13.10.2017]:-**

Threshold limit of ₹ 20 lakh (₹ 10 lakh for Special Category States of Mizoram, Tripura, Manipur & Nagaland) in a F.Y. is available in case of inter-State supply of **taxable services**.

P10:- Smart & Co., located in Maharashtra, is engaged in supply of taxable goods in the neighboring States of Goa and Karnataka. Its aggregate turnover in current FY is ₹10 lakh. Whether company require to get registered under GST?

Would your answer differ if, Smart & Co. is engaged in inter- State supply of taxable services instead of goods.

➔ **Persons making inter-State taxable supplies of following goods [N/No. 3/2018 IT dt 22.10.2018]:-**

- Notified handicraft goods &
- Notified products when made by craftsmen predominantly by hand even though some machinery may also be used in the process.

Conditions to be fulfilled:-

1. Aggregate value of such supplies, to be computed on all India basis, is \leq ₹ 20 lakh [₹ 10 lakh in Special Category States of Mizoram, Tripura, Manipur & Nagaland] in a FY.
2. Such persons have obtained a PAN & have generated an e-way bill.

P11 :- Ariza Pvt. Ltd., located in Madhya Pradesh, is a supplier of taxable and notified handicraft goods. It supplies these goods in the neighbouring States of Uttar Pradesh and Orissa. Its aggregate turnover in the month of April is ₹ 15 lakhs. Whther Ariza Pvt. Ltd. require to get registered under GST? *NO, provided that Ariza Pvt Ltd should have PAN & e-way bill.*

(ii) **casual taxable persons making taxable supply**



Exception from Compulsory Registration (Threshold limit u/s 22 is available in following cases)

Casual Taxable Persons making inter-State taxable supplies of:-

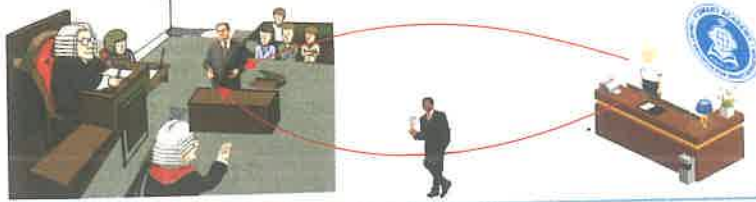
- Notified handicraft goods &
- Notified products when made by craftsmen predominantly by hand even though some machinery may also be used in the process.

Conditions to be fulfilled:-

1. CTPs are availing benefit of N/No. 03/2018 IT dt 22.10.2018 [discussed above].
2. Aggregate value of such supplies, to be computed on all India basis, is \leq ₹ 20 lakh [₹ 10 lakh in Special Category States of Mizoram, Tripura, Manipur & Nagaland] in a FY.
3. Such persons have obtained a PAN & have generated an e-way bill.

(iii) persons who are required to pay tax under reverse charge

Representation By Senior Advocate



(iv) person who are required to pay tax under Section 9(5)



(v) non-resident taxable persons making taxable supply

(vi) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise (Agent who is issuing own invoice).

Clarification (Circular No. 57/31/2018 GST dt 04.09.2018) by CBIC:-

⇒ **Issues:-**

- whether services provided by commission agent as per Agricultural Produce Marketing Committee Act (APMC Act) for sale/ purchase of agricultural produce qualify as supply.
- the registration requirements of such commission agents.

⇒ **Clarification on (a):-**

Mr. A sells agricultural produce by utilizing services of Mr. B (commission agent) as per APMC Act of the State. Mr. B identifies the buyers & sells the agricultural produce on behalf of Mr. A by charging commission from Mr. A.

- If invoice is issued directly by Mr. A to buyer, commission agent (**Mr. B**) is not covered under **Schedule I** to CGST Act.
- If invoice is issued by Mr. B to buyer, **Mr. B is an agent & covered under Para 3 of Schedule I**. Thus, services supplied by Mr. B on behalf of principal without consideration shall be deemed to be a supply.

⇒ **Clarification on (b):-**

i) **U/s 24**, a person is liable for mandatory registration, if he makes taxable supply of goods &/or services on behalf of other taxable persons & thus, a commission agent is liable to get mandatorily registered only when **both following conditions** are satisfied:-

- the principal should be a taxable person &
- the supplies made by commission agent should be taxable.

Generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist who is a non-taxable person if he supplies produce out of cultivation of land & thus, is not liable for compulsory registration.

ii) Further, since services provided by commission agent for sale/purchase of agricultural produce are exempt from GST, such commission agents are **not liable to be registered** u/s 23(1)(a).

iii) but if commission agent is liable to pay tax under reverse charge, he has to get registered compulsorily.

(vii)	such other person or class of persons as may be notified by the Government on the recommendations of the Council	NA
(viii)	Input Service Distributor, whether or not separately registered under this Act	
(ix)	persons who are required to deduct tax under section 51, whether or not separately registered under this Act	
(x)	every electronic commerce operator, who is required to collect tax at source under sec 52	
(xi)	persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52	
(xii)	every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and	



Tutorial Note

The provisions relating to tax deduction at source under section 51, collection of tax at source under section 52, Input Service Distributor, electronic commerce operators and OIDAR services will be discussed in detail at the Final Level. Hence, text shaded in yellow here is only for the purpose of knowledge of the students.

Sec. 25 - Procedure for Registration

Sec	Legal Provision		
25(1) Where and by when to apply for Registration? (zone developed for export)	Particulars	Where	When
	Person who is liable to be registered u/s 22 or 24	shall apply for registration in every such State/UT in which he is so liable	within 30 days from date on which he becomes liable to registration
	CTP or N RTP	is so liable	at least 5 days prior to the commencement of business
	A person having a unit in SEZ or being a SEZ developer	shall apply for a <u>separate registration</u> distinct from his place of business located outside SEZ in same State/UT	within 30 days from the date on which he becomes liable to registration
Comments:- <i>My note: Agar aapka unit SEZ mein hai toh, aapko sep. reg lena padga.</i>			
<ul style="list-style-type: none"> ⇒ If 2 units of a taxpayer are located in same State/UT-1 in SEZ & another outside SEZ, <u>separate registrations</u> are to be obtained for each of the 2 units as separate places of business. ⇒ SEZ is a geographically bound zone where the economic laws relating to export & import are more liberal as compared to other parts of the country. SEZ is considered to be a place outside India for all tax purposes. 			
25(2) State-wise registration	A person seeking registration shall be granted a single registration in a State or UT. Proviso:- Person having multiple places of business in a State or UT may be granted a separate registration for each such place of business, subject to prescribed conditions. Sec 25(2) read with Rule 11:- Rules 9 & 10 relating to verification & grant of registration shall mutatis mutandis apply to an application submitted under this rule [Discussed later].		
(A)	Registration per State:- ⇒ A business entity having its branches in multiple states will have to take separate State-wise registration for its branches in different states. ⇒ Entity with different branches within a State shall be granted single registration by declaring one place as principal place of business & other branches as additional places of business.		
(B)	Separate registration for different places of business within a State/UT may be granted:- ⇒ A taxpayer having multiple places of business in one State/UT has an option to obtain separate registrations for each of them. ⇒ GST is to be paid on supply made between these separately registered places of business of such person & tax invoice/bill of supply shall be issued for such supply. ⇒ Separate registration application is to be filed for each place of business in Form GSTR REG-01 .		
(C)	Composition levy in case of separate registration for multiple places of business within a State/UT:- ⇒ If a person is paying tax for one of his places of business under normal scheme, he shall not pay tax under composition levy for any other place of business. ⇒ If any one place of business [separately registered] of a registered person becomes ineligible to pay tax under composition levy, all other registered places of business of said person would also become ineligible to pay tax under composition levy.		

25(3)
Voluntary
Registration

- ⇒ A person who is not liable to be registered u/s 22 or 24 may get himself registered voluntarily.
- ⇒ Once a person obtains voluntary registration, all provisions of GST Act, as applicable to a registered person, shall apply to such person.
- ⇒ He has to pay tax even if aggregate turnover does not exceed ₹ 40 lakh/ ₹ 20 lakh/ ₹ 10 lakh.
- ⇒ It is usually obtained by business to ensure seamless flow of credit to their customers.

Benefits of Voluntary Registration-

1. In case of inverted tax structure [i.e. output tax rate is lower than in input tax rate], its beneficial to get registered and pay tax liability and avail ITC
2. Customers may prefer, or even insist on, dealing only with other registered business. This particularly when customer is GST registered as such customer will fall under reverse charge if his vendor/supplier is unregistered.
3. Some business such as contractors may decide to register to avoid an embarrassment caused by revealing that their annual taxable supply is below the threshold (Threshold limit is 20 lakhs generally).

25(4)
Distinct
Persons: DDP-

If more than one registration is obtained or is required to be obtained by a person in one or more State or UT, then for each of such registration, it shall be treated as distinct persons.

25(5)
Establishments
of Distinct
Persons:-

If registration is obtained or is required to be obtained by a person for one establishment in a State or Union territory & has an establishment in another State or UT, then such establishments shall be treated as establishments of distinct persons.

25(6)/
25(7)
PAN must
for obtaining
registration

It is mandatory for every person to have Permanent Account Number (PAN) issued under Income-tax Act, 1961 in order to be eligible for grant of registration.

Exceptions:-

- ⇒ Person required to deduct tax u/s 51 may have a Tax Deduction & Collection Account Number (TAN) issued under Income-tax Act instead of PAN for granting registration.
- ⇒ A NRTP may be granted registration on the basis of other prescribed documents (Eg. Passport) (Sec 25(7))

Sec 25(6A), 25(6B), 25(6C) and 25(6D): Aadhaar Authentication (discussed later in this chapter) Proper Officer

25(8) :-
Suo-motu
registration by
the Proper
Officer (PO)
[Section 25(8)
read with
rule 16]:-

- ⇒ If pursuant to any survey, enquiry, inspection, search or any other proceedings under GST, PO finds that a person liable to registration under GST has failed to apply for registration, officer may register that person on a temporary basis & issue an order in prescribed form.
- ⇒ The person who is temporarily registered shall either:-
 - a) submit an application for registration in prescribed form within 90 days from the date of grant of temporary registration or
 - b) file an appeal against such temporary registration.If Appellate Authority upholds the liability to registration, application for registration shall be submitted within 30 days from the date of issue of order of Appellate Authority.
- ⇒ GSTIN granted thereafter shall be effective from the date of order of PO granting temporary registration.
- ⇒ Rules 9 & 10 relating to verification & issue of registration certificate shall, mutatis mutandis, apply to application submitted by person granted temporary registration [Discussed later].

25(9) :
Unique Identity
Number (UIN)
[Sec 25(9) read
with Rule 17]

Short note

- Overriding sec 25(1), following persons shall be **granted a UIN** on GST Portal:-
 - a) Any specialised agency of the United Nations Organization or any Multilateral Financial institution and organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and **(Team)**.
eg USA Visa office.
 - b) any other person or class of persons notified by the Commissioner.
- This UIN is needed for **claiming refund** of taxes paid on notified supplies of goods &/or **services received** by them and for **other notified purposes**. *Inward supply*
- UIN granted is a **centralized UIN** i.e. it shall be applicable to the territory of India.
- A person having UIN is not registered person and thus, is **not a taxable person**.
- On submission/ filling up of an application or after receiving recommendation from Ministry of External Affairs, Govt. of India, PO may assign a UIN to said person & issue certificate in **Form GST REG-06** **within 3 working days** from the date of submission of application.

25(10)	The registration or the UIN shall be granted or rejected after <u>due verification</u> in such manner and within such period as may be prescribed.
25(11)	A certificate of registration shall be issued in such form and with effect from such date as may be prescribed. <i>P.C → REG-06</i>
25(12)	A registration or a UIN shall be deemed to have been <u>granted</u> after the <u>expiry</u> of period prescribed u/s 25(10), if no deficiency has been communicated to the applicant within that period.

Section 25 read with Rule 8,9 & 10:- Procedure for Registration

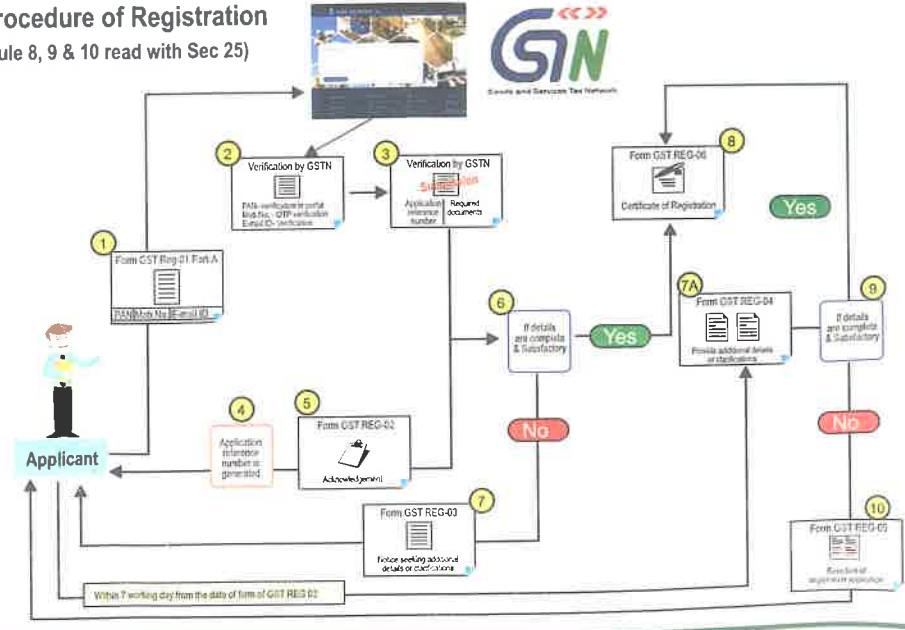
Diagram 1 :-

Documentation for Registration

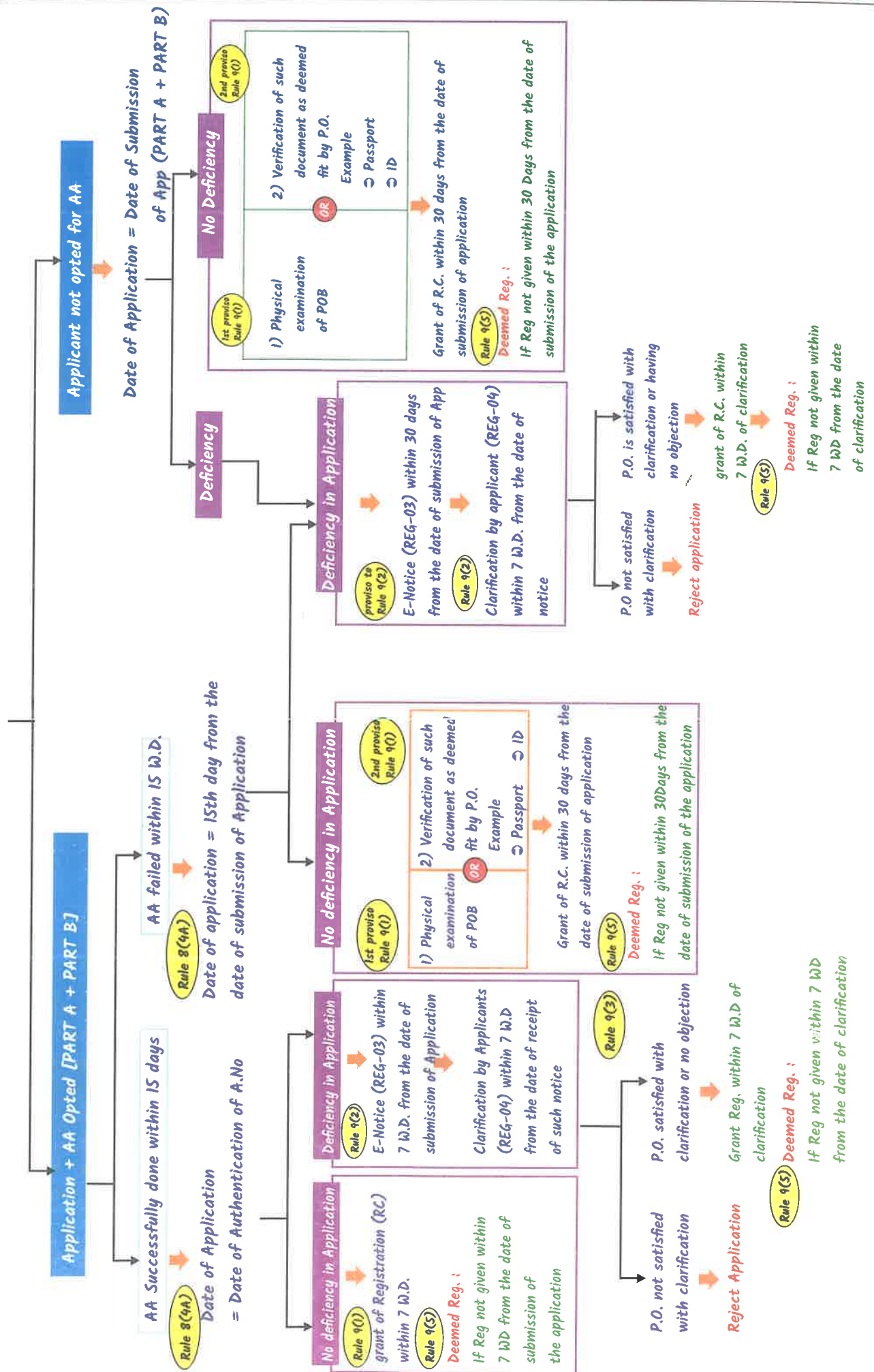


Diagram 2 :-

Procedure of Registration
(Rule 8, 9 & 10 read with Sec 25)



Procedure under Rule 8(4A) & Rule 9: - Registration & Adhar Authentication (AA)



Section 25 read with Rule 8,9 & 10:- Procedure for Registration

- Provisions for procedure for application for registration, verification of application & approval & issue of registration certificate are given in **rules 8, 9 & 10** respectively to be read with sec 25.
- These procedures under rules 8, 9 & 10 **are also applicable** to a person paying tax under composition levy, every person seeking voluntary registration as well as a casual taxable person.
- Persons shall apply for registration in **Form GST REG-01** which has 2 parts – **Part A & Part B**.
- To cater to the needs of taxpayers who are not IT savvy, Facilitation centres are established which help taxpayer in submitting application for registration, amending registration certificate, submitting application for cancellation of registration, revocation of cancellation of registration, etc. Facilitation Centre are responsible for digitization &/or uploading of forms & documents.

Rule 8:- Procedure for Application for Registration

Sub- Rule	Legal Provision	Amended by N/N26/2022 CT dt. 26.12.2022
8(1) Declaration of Part A Information in Reg - 01	<p>Before applying for registration, a person shall declare his PAN, mobile number, e-mail address, State or UT in Part A of FORM GST REG-01 on Common portal either directly or through a Facilitation Centre notified by Commissioner.</p> <p>Proviso:- An Input Service Distributor (ISD) shall make a separate application for registration as ISD.</p> <p>Non-Applicability of Rule 8:- The procedure under this rule will not apply to following persons for whom separate registration forms & procedure are prescribed:-</p> <ul style="list-style-type: none"> ➤ NRTP ➤ Person required to deduct tax at source u/s 51 ➤ Person required to collect tax at source u/s 52 ➤ Person supplying OIDAR services from a place outside India to a NTOR referred to in section 14 of IGST Act. 	
8(2) Validation of Part A information	<p>PAN is validated online by Common Portal from database maintained by CBDT & mobile number & E-mail address declared are verified through a one-time password separately sent on both. and shall also be verified through separate one-time passwords sent to the mobile number and e-mail address linked to the PAN.</p>	Substituted by N/N26/2022 CT dt. 26.12.2022
8(3) Temporary Reference number(TRN)	On successful verification of PAN, mobile number & e-mail address, a Temporary Reference Number (TRN) is generated & communicated to applicant on his mobile number & e-mail address.	
8(4) Validation of Part B Information	<p>Using TRN, applicant shall electronically submit an application in Part B of Form GST REG-01,</p> <ul style="list-style-type: none"> ➤ duly signed or verified through Electronic Verification Code (EVC), ➤ along with documents specified in that Form at the Common Portal <p>Comments:- Part B of application contains details such as constitution of business, option for composition, date of commencement of business, reason to obtain registration, address of PPOB & details of APOB, details of bank account(s), authorized signatory, Aadhaar authentication, etc.</p>	
8(4A) Aadhaar Authentication	<p>Other than a person notified u/s 25(6D), if an applicant opts for authentication of Aadhaar number, he shall undergo such authentication while submitting the application.</p> <p>The date of submission of the application in such cases shall be the EARLIER of:-</p> <ul style="list-style-type: none"> ➤ Date of authentication of Aadhaar number or ➤ 15 days from the submission of application in Part B of FORM GST REG-01 under subrule (4). 	Substituted by N/N 04/2023 CT dt. 31.03.2023 effective from 26.12.2022

	<p>Proviso</p> <ul style="list-style-type: none"> ⇒ If a person [other than a person notified u/s 25(6D)] has opted for authentication of Aadhaar number & is identified on common portal, based on data analysis and risk parameters, then every application made by him under sub-rule 4 shall be followed by:- <ul style="list-style-type: none"> ➤ biometric-based Aadhaar authentication and ➤ taking photograph:- <ul style="list-style-type: none"> ☛ of applicant where the applicant is an individual or ☛ of such individuals in relation to the applicant as notified u/s 25(6C) where applicant is not an individual, ➤ along with the verification of original copy of documents uploaded with application in FORM GST REG-01 at one of the Facilitation Centres notified by Commissioner for this. ⇒ The application shall be deemed to be complete only after completion of this process.
	<p>N/No. 27/2022-CT Dt. 26.12.2022:- Using the power given under Rule 8(4B), CG notified that</p> <ul style="list-style-type: none"> ⇒ the provisions of rule 8(4A) shall not apply in all the States & UTs ⇒ except the State of Gujarat.
<p>8(4B) Non applicability of proviso to sub-rule 4A</p>	<p>On recommendations of Council, CG may by notification specify the States or UTs where the provisions of proviso to sub-rule (4A) shall not apply.</p> <p style="text-align: right; font-size: small;">Substituted by N/No. 04/2023-CT dt. 31.03.2023 effective from 26.12.2022</p>
<p>8(5) Acknowledgement</p>	<p>On receipt of an application under sub-rule (4) or sub-rule (4A), an acknowledgment shall be issued electronically to applicant in prescribed form (i.e. Form GST REG-02).</p> <p style="text-align: right; font-size: small;">Newly inserted by [N/N 26/2022 CT dt. 26.12.2022]</p>
<p>8(6) TRN for CTP</p>	<p>A CTP applying for registration gets a TRN for making an advance deposit of tax in his electronic cash ledger & an acknowledgement is issued only after said deposit.</p>

Rule 9:- Verification of application for registration & approval

Sub- Rule	Legal Provision
<p>9(1) Examination of the Application:-</p>	<ul style="list-style-type: none"> ⇒ Application shall be forwarded to PO to examine application & accompanying documents. ⇒ If the same are found to be in order, then will approve the grant of registration to applicant within 7 working days from the date of submission of the application. <p>Proviso:-</p> <p>The registration shall be granted within 30 days of submission of application after the physical verification of place of business in the presence of the applicant in the manner given under rule 25 & verification of required document, if:-</p> <ul style="list-style-type: none"> (a) a person, other than person notified u/s 25(6D), fails to undergo authentication of Aadhaar number as per rule 8(4A) or does not opt for authentication of Aadhaar number or (aa) a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or (b) PO, with the approval of officer authorised by Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business. <p style="font-size: small;">Newly inserted by [N/N 26/2022 CT dt. 26.12.2022]</p>
<p>9(2) Deficient Application:-</p>	<ul style="list-style-type: none"> ⇒ If the application is found to be deficient or PO requires clarification then, he may issue a notice to the applicant electronically in prescribed form (i.e. FORM GST REG-03) within 7 working days from the date of submission of application. ⇒ Applicant shall furnish such clarification, information, or documents sought electronically in prescribed form (i.e. FORM GST REG-04) within 7 working days from the date of receipt of such notice.

Proviso:-

Above notice may be issued by PO **within 30 days** from the date of submission of application, if:-

- (a) a person, other than person notified u/s 25(6D), fails to undergo authentication of Aadhaar number as per rule 8(4A) or does not opt for authentication of Aadhaar number or
- (aa) a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, 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 PO, with the approval of officer authorised by Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business.

Newly inserted by [N/N 26/2022
CT dt. 26.12.2022]

Explanation:- Clarification includes modification/ correction of particulars declared in application for registration, **other than PAN, State, Mobile No. & E-mail** declared in part A of Form GST Reg-01.

**9(3)
Grant of
Registration**

If PO is satisfied with the clarification, information or documents furnished by applicant, he may approve the grant of registration to the applicant **within 7 working days** from the date of the receipt of such clarification, information or documents.

**9(5)
No response
to Notice**

If no reply is furnished by applicant or the PO is not satisfied with the clarification, information or documents furnished, then PO may reject such application and inform the applicant electronically in prescribed form (i.e. FORM GST REG-05) for reasons to be recorded in writing.

**9(6)
Deemed
approval of
application**

If proper officer fails to take any action in the following cases within the stipulated time, application for grant of registration shall be deemed to have been approved:-

	Cases	Time Limit
1.	where the person is not covered under proviso to sub-rule (1) or	within 7 working days from the date of submission of application.
2.	where a person is covered under proviso to sub-rule (1) or	within 30 days from the date of submission of application.
3.	where proper officer issues notice seeking clarification, information or documents from the applicant under sub-rule (2).	within 7 working days from the date of receipt of clarification, information or documents furnished by the applicant.

Analysis:-

A. In cases where SCN is not issued:-

- If Aadhaar is successfully authenticated, registration is deemed to be approved within 7 working days.
- But if Aadhar authentication is not opted for/ it fails in validation/ PO deems it fit to carry out site verification, registration is deemed to be approved within 30 days by tax official.

B. In cases where SCN is issued:-

- If Aadhaar is successfully authenticated, Tax Officer can issue SCN within 7 working days from the date of submission of application.
- But if Aadhar authentication is not opted for/ it fails in validation/ PO deems it fit to carry out site verification, PO can issue SCN **within 30 days** from the date of submission of application.

In both cases, applicants can submit their reply **within 7 working days** from issue of SCN.

Rule 10:- Issue of Registration Certificate & its effective date

Issuance of Registration Certificate:-

- If application for grant of registration is approved, a certificate of registration showing the PPOB & APoB is made available to the applicant in Form GST REG-06 on Common Portal &
- A Goods & Services Tax Identification Number (GSTIN) i.e. the GST registration no. is communicated to the applicant within 3 days after the grant of registration.
- This certificate is duly signed or verified through EVC by proper officer.
- GSTIN contains the following 15 characters:-

2 Characters for State Code	10 Characters for PAN or TAN
2 Characters for entity code	1 checksum character

Effective date of Registration:-

If applicant submits application for registration:-	Effective date of registration is:-
within 30 days from the date he becomes liable to registration	the date on which he becomes liable to registration
after 30 days from the date he becomes liable to registration	the date of grant of registration.

Rule 18:- Display of registration certificate and GSTIN on the name board

- Every registered person shall display his registration certificate in a prominent location at his Principal place of business (PPOB) and at every Additional Place of Business (APoB) &
- GSTIN is to be displayed on the name board exhibited at the entry of his PPOB & at every APoB.

Rule 10A:- Furnishing of Bank Account details

- A person is required to furnish details of his bank account in Part B of application form for registration.
- **Time Limit:-** A registered person shall furnish the details of bank account, which is in the name of registered person & obtained on PAN of the registered person or any other information required on common portal to comply with any other provision by the earlier of:-
 - after obtaining certificate of registration & a GSTIN but within 45 days from the date of grant of registration or
 - the date on which the return required u/s 39 is due to be furnished.
- **Proviso :** In case of proprietorship concern, the PAN of the proprietor shall also be linked with the Aadhaar number of the proprietor.

Rule 25:- Physical verification of business premises in certain cases

- The PO may get the physical verification done of the place of business of a person in the presence of the said person, if he is satisfied that such verification is required due to:-
 - failure of Aadhaar authentication or
 - not opting for Aadhaar authentication before the grant of registration or
 - any other reason after the grant of registration.
- The verification report along with other documents, including photographs, shall be uploaded in prescribed form on common portal within 15 working days following the date of verification.

Section 25(6A), (6B), (6C) & (6D):- Aadhaar Authentication Process

Aadhaar authentication process is mandatory for new applicants (individual as well as other than individual) to be eligible for grant of registration in FORM GST REG-01. Person who is already registered under GST is also required to undergo this Aadhaar authentication.

Sec	Legal Provision						
25(6A) AA for Registered Person	<p>Every registered person shall undergo authentication or furnish proof of possession of Aadhaar No. in prescribed form and manner and within the prescribed time.</p> <p>Proviso 1:- If an Aadhaar number is not assigned to registered person, he shall be offered alternate and viable means of identification in prescribed manner.</p> <p>Proviso 2:- If person fails to undergo authentication or furnish proof of possession of Aadhaar no. or furnish alternate & viable means of identification, registration allotted to him shall be deemed to be invalid & other provisions of GST Act shall apply as if he does not have a registration.</p>						
25(6B) AA for Individual (Fresh Registration)	<p>On & from the date of notification, every individual shall undergo authentication or furnish proof of possession of Aadhaar no. to be eligible for grant of registration in manner prescribed in rule 8.</p> <p>Proviso:- If Aadhaar number is not assigned to an individual, he shall be offered alternate & viable means of identification in the manner specified in rule 9.</p> <p>Note:- An individual shall undergo authentication of his own Aadhaar number.</p>						
25(6C) AA for person Other than Individual (Fresh Registration)	<p>On & from the date of notification, every person other than an individual shall undergo authentication or furnish proof of possession of Aadhaar number of following persons to be eligible for grant of Registration in manner prescribed in rule 8:-</p> <table border="1"> <tr> <td>Karta</td> <td>Managing Director</td> </tr> <tr> <td>Whole time Director</td> <td>Such number of Partner</td> </tr> <tr> <td>Members of managing committee of Association</td> <td>Board of Trustees</td> </tr> </table> <p>Authorised representative, authorised signatory & other notified class of persons (i.e. Authorised signatory of all types, Managing & Authorised partners of a partnership firm & Karta of a HUF are notified vide N/No. 19/2020 CT dt 23.03.2020).</p> <p>Proviso:- If such person(s) are not assigned Aadhaar Number, it shall be offered alternate & viable means of identification in the manner specified in rule 9.</p>	Karta	Managing Director	Whole time Director	Such number of Partner	Members of managing committee of Association	Board of Trustees
Karta	Managing Director						
Whole time Director	Such number of Partner						
Members of managing committee of Association	Board of Trustees						
25(6D) Non- Applicability of AA	<p>Persons/class of persons exempt from Aadhaar authentication:-</p> <p>On recommendations of council, Govt. may notify person or class of persons or any State or Union territory or part thereof to whom section 25(6A)/(6B)/(6C) shall not apply. The following persons are notified in this regard (N/No. 03/2021 CT dt 23.02.2021):-</p> <ol style="list-style-type: none"> A person who is not a citizen of India A department or establishment of SG or CG A local authority A Statutory body A public sector undertaking A person applying for UIN u/s 25(9) 						

How Aadhaar authentication is done?

- For new registrants:-**

If new registrant opts for Aadhaar authentication while filing registration application:-

 - GST system sends "authentication link" on mobile nos. & email-ids (mentioned in registration application) of atleast 1 Promoter/ Partner/ Karta/ Director/ Member & 1 primary authorized signatory selected by applicant for Aadhaar authentication.
 - On clicking the verification link, Aadhaar Number & OTP received by them on mobile no. & email-id linked with Aadhaar are to be entered.
 - Once Aadhaar authentication is successfully validated, application will be deemed to be approved within 7 working days & the registration application will not be marked for mandatory site visit unless tax official raises a Show Cause Notice (SCN) within stipulated time.

If new registrant does not opt for Aadhaar authentication while applying for registration or the Aadhaar authentication fails in validation:-

 - Registration application will not be deemed approved within **7 working days** & will be marked for mandatory site visit & approval.
- For existing registrants:-**

An existing regular & composition taxpayer have to get himself Aadhaar authenticated on GST portal using either Aadhaar authentication link or uploading E-KYC documents.

Rule 10B:- Aadhaar Authentication mandatory for Registered person

Aadhaar authentication is **mandatory** for new registrants as well as existing registrants as sec 5(6A) states that **every registered person** shall undergo authentication or furnish proof of possession of Aadhaar number in prescribed manner, form & time. **Rule 10A** prescribes manner of doing Aadhaar authentication.

Registered person, **other than notified u/s 25(6D)**, who is issued a certificate of Registration under GST shall undergo authentication of Aadhaar number of **AUTHORIZED SIGNATORY & other persons** as follows:-

In case of:-	Person needs to undergo Aadhaar authentication:-
Proprietorship firm	Proprietor
Partnership firm	Partner
Hindu undivided family	Karta
Company	Managing Director or any whole time director
Association of persons or body of individuals or a Society	Any of the members of managing committee
Trust	Trustee in the Board of Trustees

Aadhaar authentication is required in order to be eligible for the following purposes:-

1. To file application for revocation of cancellation of registration.
2. To file refund application in Form RFD-01.
3. For refund of IGST paid on goods exported out of India.

The manner prescribed for the purpose of 1st proviso to sec 25(6A):-

If Aadhaar number is not assigned to the person required to undergo authentication of Aadhaar number, he shall furnish the following identification documents, namely:-

a.	Her/his Aadhaar Enrolment ID slip and
b.	i) Bank passbook with photograph or ii) Voter identity card issued by the Election Commission of India or iii) Passport or iv) Driving License issued by the licensing authority

Such person shall undergo authentication of Aadhaar number **within 30 days** of allotment of Aadhaar no.

Comment:- This rule is not applicable to persons notified u/s 25(6D) i.e. to persons exempt from Aadhaar authentication.

Sec 25 - Authentication (Aadhar) Process under GST

Object To control fake invoices, dummy address registration & multiple registration at same place.

Sec 25 (6A)

Person already registered under GST (RP)

- RP shall undergo authentication of Aadhar no. for following purposes:-
- 1) application for revocation of cancellation of registration
 - 2) For filing of refund application
 - 3) refund for export goods

Person Applying for fresh Registration

Sec 25 (6B): Individual

- 1) **Authentication:** Individual shall undergo
 - ➔ Authentication or
 - ➔ Furnish proof of possession of Aadhar no. with Registration application in order to eligible for grant of registration

Sec 25 (6C): Every person other than individual

- 1) **Authentication:** Such person shall undergo
 - ➔ Authentication or
 - ➔ Furnish proof of possession of Aadhar no. of
 - Karta (HUF)
 - M.D. (Company)
 - Whole time director (Company)
 - Member of managing committee (AOP)
 - Board of trustees (Trust)
 - Authorised representative
 - Authorised Signatory
 - Notified person by C.G.

For detail discussion Refer Rule 10B

The consequences for failure to undergo authentication: Registration shall be granted only after physical verification of the place of business in presence of said person

- 1) **If Aadhar No. is not assigned:** The person shall be offered alternate & viable means of identification as C.G. notify on recommendation of Council (normally physical verification of POB)

Non Applicability of authentication procedure

The provision of Rule 25 (6A)/(6B)/(6C) shall not apply to

- ➔ Such person or
- ➔ Class of person or as the Government may, on recommendation of Council Specify by Notification
- ➔ Any state or UT or part thereof

N/N 03/2021

Authentication not applicable to following category of person

- (a) not a citizen of India or
- (b) a Department or establishment of the CG or SG or
- (c) a Local Authority
- (d) a Statutory Body or
- (e) a Public Sector Undertaking or
- (f) a person applying for registration under section 25(q) (VIN)

How aadhaar authentication is done?

Once registration application is submitted, GST system sends "link" to the concerned persons at their GST registered mobile numbers and email ids mentioned in the GST application, for the aadhaar authentication. On clicking the verification link, a window for Aadhaar Authentication will open where they have entered Aadhaar Number and the OTP received by them on the mobile number linked with Aadhaar. Taxpayers need to complete Aadhaar authentication of all Promoters/ Partners/ Authorized Signatories/ Karta etc. as mentioned in the application to avail this option.

On successful authentication, demographic data of the persons is fetched from Aadhaar to GST System.

©

Section 26:- Deemed Registration

- Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e., CGST, SGST/UTGST, IGST and GST compensation cess.
- Grant of registration/UIN under any SGST Act/ UTGST Act shall be deemed to be a grant of registration/UIN under CGST Act provided application for registration/UIN is not rejected under CGST Act within the time specified u/s 25(10).
- Notwithstanding anything contained in section 25(10), any rejection of application for registration or UIN under the SGST Act/ UTGST Act shall be deemed to be a rejection of application for registration under the CGST Act.

Section 27 read with Rules 13 & 15:- Special provisions for registration of NRTP & CTP

30%

Special provisions for grant of registration in case of Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP) [Sections 27 read with rules 13 & 15]

Before going into the registration provisions of CTP and NRTP, let us first understand the two terms. The two terms have been defined in the CGST Act as follows:

Casual Taxable Person (CTP) [Section 2(20)]: means a **person**

- who occasionally undertakes transactions involving supply of goods or services or both
- in the course or furtherance of business,
- whether as **principal, agent or in any other capacity,**

in a State/UT where he has no fixed place of business.



Eligibility of ITC.

CTP can take ITC of I/calls while making payment of tax in advance

Return filing [CTP]

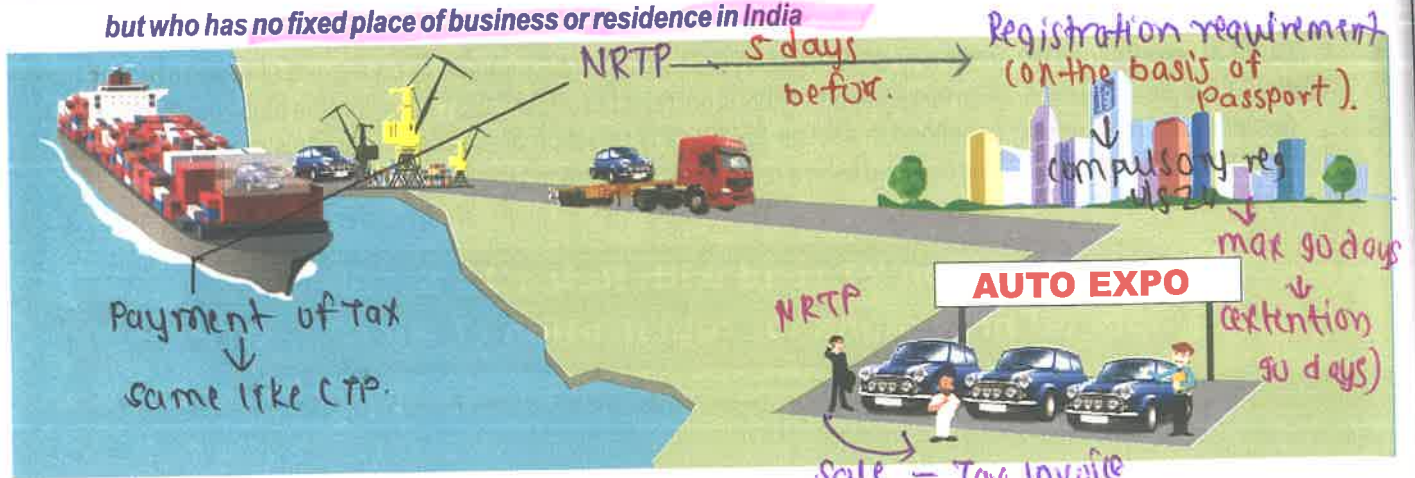
- 1) He will submit GSTR-1 on 17th of next month [during CTP period]
- 2) He will submit GSTR-3B on due date [during CTP period]
- 3) a) If final tax is more than advance tax paid then differential amt is payable
b) If final tax is less than adv-tax paid, then he can claim refund.

Validity of reg.
1) for a period as mentioned in application
2) but max for 90 days [which can be further extended for 90 days]

Non-Resident Taxable Person (NRTP) [Section 2(77)]: 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



Eligibility of ITC

✳✳ No ITC except imported goods

Return

↓
special return

Sale - Tax Invoice

✓
IGST @ 5%
10000
18000

	Legal Provision
Compulsory Registration:-	Both CTP & NRTP have to compulsorily get registered under GST irrespective of the threshold limit u/s 24 at least 5 days prior to commencement of business u/s 25(1).
Documents:-	<ul style="list-style-type: none"> U/s 25(6), PAN is mandatory for registration but a NRTP may be granted registration based on other prescribed Document (eg. passports) as he will generally not have PAN of India. Thus, NRTP has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN. A business entity incorporated or established outside India shall submit the application for registration along with its tax identification number/ unique number based on which it is identified by Govt. of that country or its PAN, if available. Application for registration will be submitted by NRTP in a different prescribed form & by CTP in normal form i.e. Form GST REG 01 where CTP will have a PAN-based registration.
Validity of registration certificate:-	<ul style="list-style-type: none"> The certificate of registration issued to a CTP or NRTP shall be valid for the EARLIER of:- <ul style="list-style-type: none"> the period specified in application for registration or 90 days from the effective date of registration. Such person shall make taxable supplies only after the issuance of certificate of registration. <p>Extension of validity:-</p> <ul style="list-style-type: none"> On sufficient cause shown by said taxable person, PO may grant further extension of not exceeding 90 days. CTP/NRTP shall make an application before the end of validity of registration granted to him. Provisions relating to verification of application & grant of registration [under rules 9 & 10] apply mutatis mutandis to an application for registration filed by NRTP.

Advance deposit of tax:-	<ul style="list-style-type: none"> ➤ At the time of submission of registration application u/s 25(1), CTP/ NRTP shall make advance deposit of tax equal to his estimated tax liability for the period for which registration is sought. ➤ If extension of time is sought u/s 27(1), he shall deposit an additional tax equals to his estimated tax liability for the period for which the extension is sought. ➤ CTP/NRTP will get a Temporary Reference Number (TRN) for making an advance deposit of tax. ➤ An acknowledgement of receipt of application for registration is issued only after said deposit.
Credit to the Electronic Cash Ledger:-	Amount deposited u/s 27(2) shall be credited to electronic cash ledger of such person & shall be utilised in the manner provided u/s 49.

Difference

	Casual Taxable Person (CTP) - Sec 2(20)	Non-Resident Taxable Person (NRTP)- Sec 2(77)
Meaning	Supplier who does not have any fixed place of business in that taxable territory in which it undertakes taxable supply.	Supplier who does not have any fixed place of business or residence in India
Registration provisions	<ul style="list-style-type: none"> ➤ Compulsory registration u/Sec 24 of CGST Act ➤ Registration before commencement of business and with advance payment of tax ➤ Normal Registration Application : GST REG-01 ➤ PAN based GST Registration granted 	<ul style="list-style-type: none"> ➤ Compulsory registration u/Sec 24 of CGST Act ➤ Registration before commencement of business and with advance payment of tax ➤ Separate simplified Registration Application: GST REG-09 ➤ GST Registration granted without PAN
Threshold Exemption	Not available	Not available
Composition Scheme	➤ It is not available to Casual taxable person	It is not available to Non-Resident taxable person
Return provisions	Normal Monthly Returns : GSTR-1, GSTR-2 and GSTR-3 B However, Annual Return is not required to be filed	<ul style="list-style-type: none"> ➤ Separate Simplified Return : GSTR-5 ➤ Also, Annual Return is not required to be filed
ITC provisions	➤ Can claim ITC of all inward supplies (be it domestic/imported inputs, capital goods or input services)	➤ Can claim ITC only in respect of goods - imported by him [All other credits blocked for him- Sec 17(5) of CGST]

Section 28 read with Rule 19:- Amendment of registration

A registered person may need to make some changes or amendments in the **registration application**. There are two categories of details in registration application i.e. **Core and non-core fields**.

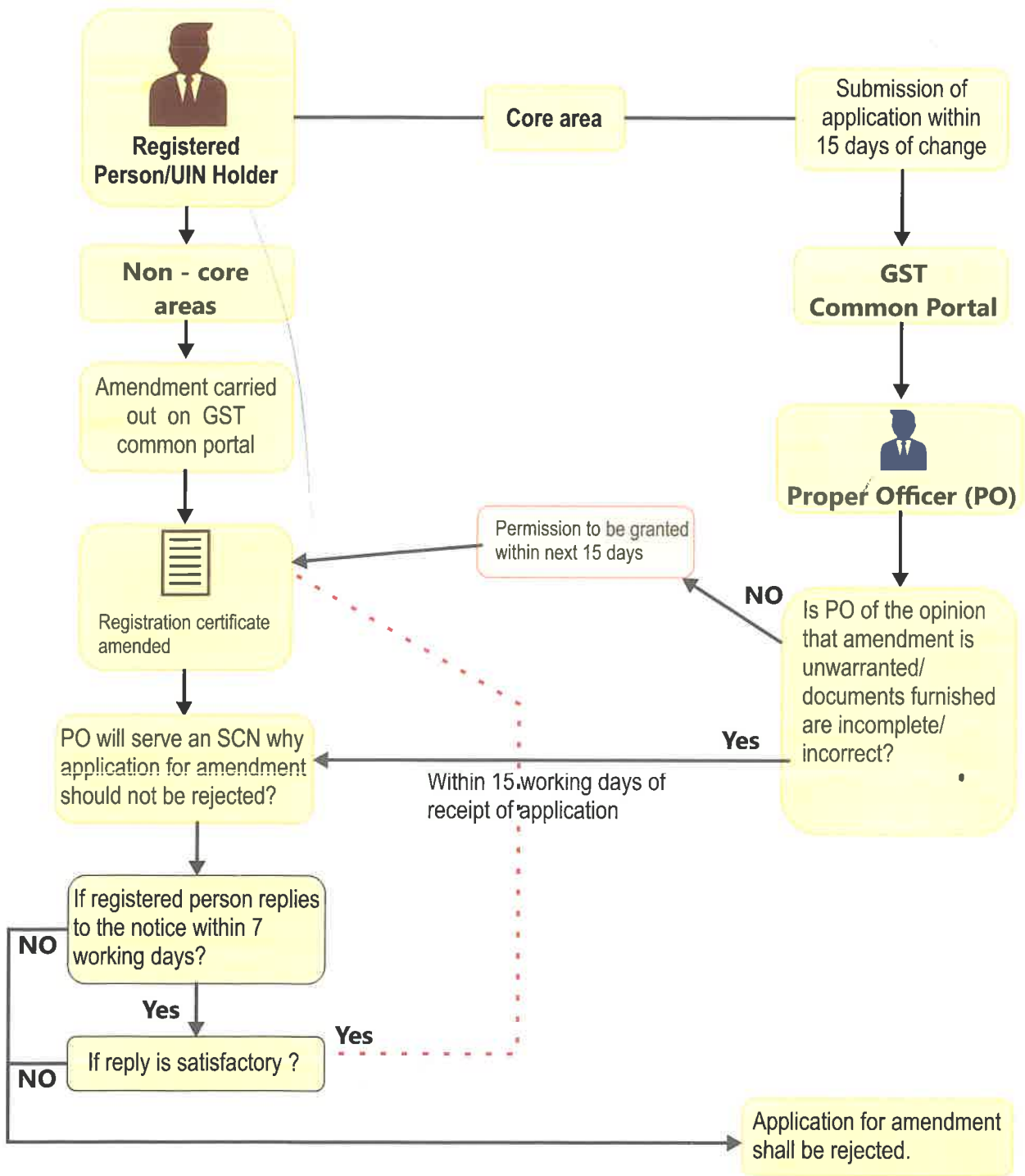
Core fields	It contains legal name of business, address of PPOB/ APoB, addition/ deletion/ retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business.
★	Note:- Mobile no./e-mail address of authorised signatory can be amended only after online verification through GST Portal.
Non- Core fields ★	All other fields are non-core fields - name of day to day functionaries, e-mail ids, mobile nos., etc. For changes in non-core information, taxable person can amend the same on his own on common portal as the approval of PO is not required .
Process for amendments/ changes in Core Fields:-	<ul style="list-style-type: none"> ➤ For changes in core fields, taxable person will apply for amendment within 15 days of the event necessitating the change on common portal & PO will approve the amendment within next 15 days. ➤ If PO is of the opinion that amendment is unwarranted/ documents furnished are incomplete/ incorrect, then he will serve show cause notice (SCN) for the rejection of application for amendment within 15 working days of receipt of application. ➤ Registered person shall reply to the notice within 7 working days. If such reply is satisfactory, registration certificate is amended within 7 working days from the date of receipt of reply to SCN. ➤ If registered person fails to give reply to the notice within 7 working days or the reply is not satisfactory, then PO will may reject the application for amendment. ➤ If the PO fails to take any action:- <ul style="list-style-type: none"> ➢ within 15 working days from the date of submission of the application or ➢ within 7 working days from the date of receipt of reply to the SCN, the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to registered person on common portal.

(D)
PO = Proper officer

Some other Provisions:-

1.	PO shall not reject the application for amendment in registration particulars without giving the person an opportunity of being heard .
2.	Any rejection or approval of amendments under the SGST/UTGST Act shall be deemed to be a rejection or approval under CGST Act.
3.	Amendment in any registration particulars cannot be effective from a date earlier than the date of submission of application for amendment except with order of Commissioner for reasons to be recorded in writing & subject to conditions specified in that order.
4. ★	Application cannot be filed for change in PAN because GST registration is PAN-based & fresh application for registration is to be made for the same. Thus, if a change in the constitution of any business results in change of PAN of a registered person, he shall apply for fresh registration.
5. ★	Application cannot be filed for change in place of business from one State to other because GST registrations are State-specific. For this, a person must voluntarily cancel his current registration and apply for a fresh registration in the State he is relocating his business.

Summary Chart [ICAI Material]



Example :- Arun Enterprises, a sole proprietorship firm, is engaged in supply of electrical goods in Delhi. The firm is registered under GST. Arun is the proprietor of the firm. He wishes to expand his business and his friend – Varun - approaches him to provide additional capital for his business if he is made a partner in Arun's business.

Arun agrees and changes the constitution of his business and form a partnership firm – Arun Varun & Co.

Since the change in constitution of business from sole proprietorship firm to partnership firm results in change in PAN of the registered person, the partnership firm has to apply for fresh registration. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

Section 29 read with Rule 20, 21, 21A, 22:- Cancellation/ Suspension of Registration

Cancellation of registration can be applied either by:-

- ⇒ the department on their own motion or
- ⇒ the registered person or his legal heirs (in case of death of registered person).

Comment:- Revocation of cancellation of registration is possible, if such cancellation is initiated by Dept.

Sub - Sec	Legal Provision										
<p>29(1) Cancellation of registration by PO on his own motion OR on an application made:-</p>	<p>Proper Officer (PO) may cancel the registration in manner & within the time prescribed either on his own motion or on an application filed by registered person or by his legal heirs (in case death of such person) in the following circumstances:-</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">Clause (a)</th> <th style="width: 33%;">Clause (b)</th> <th style="width: 33%;">Clause (c)</th> </tr> </thead> <tbody> <tr> <td> <p>Business has been:-</p> <ol style="list-style-type: none"> a. discontinued b. transferred fully for any reason including death of proprietor c. amalgamated with other legal entity d. demerged or e. otherwise disposed of </td> <td> <p>Change in constitution of the business</p> </td> <td> <p>The taxable person:-</p> <ul style="list-style-type: none"> ⇒ is no longer liable to be registered u/s 22 or 24 or <i>to below-thres hold</i> ⇒ intends to optout of the registration voluntarily made u/s 25(3) </td> </tr> </tbody> </table> <p>Proviso:- During pendency of proceedings relating to cancellation of registration filed by registered person, the registration may be suspended for the period & in the manner prescribed.</p>	Clause (a)	Clause (b)	Clause (c)	<p>Business has been:-</p> <ol style="list-style-type: none"> a. discontinued b. transferred fully for any reason including death of proprietor c. amalgamated with other legal entity d. demerged or e. otherwise disposed of 	<p>Change in constitution of the business</p>	<p>The taxable person:-</p> <ul style="list-style-type: none"> ⇒ is no longer liable to be registered u/s 22 or 24 or <i>to below-thres hold</i> ⇒ intends to optout of the registration voluntarily made u/s 25(3) 				
Clause (a)	Clause (b)	Clause (c)									
<p>Business has been:-</p> <ol style="list-style-type: none"> a. discontinued b. transferred fully for any reason including death of proprietor c. amalgamated with other legal entity d. demerged or e. otherwise disposed of 	<p>Change in constitution of the business</p>	<p>The taxable person:-</p> <ul style="list-style-type: none"> ⇒ is no longer liable to be registered u/s 22 or 24 or <i>to below-thres hold</i> ⇒ intends to optout of the registration voluntarily made u/s 25(3) 									
<p>29(2) Cancellation of registration by PO on his own motion:-</p>	<p>Following are the circumstances where the PO may cancel the registration of a person from such date, including any retrospective date, as he may deem fit:-</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 5%;">(a)</td> <td> <p>A registered person has contravened following prescribed provisions (Rule 21):-</p> <ul style="list-style-type: none"> ⇒ He does not conduct any business from the declared place of business or ⇒ He issues invoice/bill without supply of goods &/or services in violation of provisions of GST Act or rules made thereunder. ⇒ He violates the provisions of sec 171 (i.e. Anti-Profeetering measure) <p style="text-align: center;">Note:- Anti-profeteering measure are discussed at Final Level.</p> <ul style="list-style-type: none"> ⇒ He violates the provision of Rule 10A (i.e. furnishing of bank account details) ⇒ He avails ITC in violation of sec 16 of CGST Act or rules made thereunder or ⇒ He furnishes the details of outward supplies in FORM GSTR 1 u/s 37 for one or more tax periods which is in excess of outward supplies declared by him in his valid return u/s 39 for the said tax periods or ⇒ He violates the provision of rule 86B → <i>99% payment of tax GSTR-3B</i> ⇒ <i>MCA</i> being a registered person required to file return under section 39(1) for each month or part thereof, <i>ORM P scheme</i> has not furnished returns for a continuous period of six months; ⇒ <i>CD Dealer</i> being a registered person required to file return under proviso to section 39(1) for each quarter or part thereof, <i>(i.e 2 quarter)</i> has not furnished returns for a continuous period of two tax periods. </td> </tr> <tr> <td>(b)</td> <td>A person paying tax u/s 10 has not furnished returns for a financial year beyond 3 months from the due date of furnishing the said return</td> </tr> <tr> <td>(c)</td> <td>Any registered person (other than person specified in clause (b)), has not furnished returns for such continuous tax period as may be prescribed</td> </tr> <tr> <td>(d)</td> <td>Voluntary registration person u/s 25(3) has not commenced business within 6 months from the date of registration.</td> </tr> <tr> <td>(e)</td> <td>Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.</td> </tr> </tbody> </table> <p style="text-align: right; font-size: small;">Newly inserted by 19/2022 CT dt 28/09/2022</p> <p>Proviso:- PO shall not cancel registration without giving the person an opportunity of being heard.</p> <p>Proviso:- During pendency of proceedings relating to cancellation of registration, PO may suspend the registration for the period & in the manner prescribed.</p>	(a)	<p>A registered person has contravened following prescribed provisions (Rule 21):-</p> <ul style="list-style-type: none"> ⇒ He does not conduct any business from the declared place of business or ⇒ He issues invoice/bill without supply of goods &/or services in violation of provisions of GST Act or rules made thereunder. ⇒ He violates the provisions of sec 171 (i.e. Anti-Profeetering measure) <p style="text-align: center;">Note:- Anti-profeteering measure are discussed at Final Level.</p> <ul style="list-style-type: none"> ⇒ He violates the provision of Rule 10A (i.e. furnishing of bank account details) ⇒ He avails ITC in violation of sec 16 of CGST Act or rules made thereunder or ⇒ He furnishes the details of outward supplies in FORM GSTR 1 u/s 37 for one or more tax periods which is in excess of outward supplies declared by him in his valid return u/s 39 for the said tax periods or ⇒ He violates the provision of rule 86B → <i>99% payment of tax GSTR-3B</i> ⇒ <i>MCA</i> being a registered person required to file return under section 39(1) for each month or part thereof, <i>ORM P scheme</i> has not furnished returns for a continuous period of six months; ⇒ <i>CD Dealer</i> being a registered person required to file return under proviso to section 39(1) for each quarter or part thereof, <i>(i.e 2 quarter)</i> has not furnished returns for a continuous period of two tax periods. 	(b)	A person paying tax u/s 10 has not furnished returns for a financial year beyond 3 months from the due date of furnishing the said return	(c)	Any registered person (other than person specified in clause (b)), has not furnished returns for such continuous tax period as may be prescribed	(d)	Voluntary registration person u/s 25(3) has not commenced business within 6 months from the date of registration.	(e)	Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.
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(e)	Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.										

29(3) **(B)** Cancellation of registration does not affect the liability of the person:-

- ⇒ Cancellation of registration under this section shall not affect the liability of person for any period prior to the date of cancellation:-
 - to pay tax & other dues under GST Act or
 - to discharge any obligation under GST Act or rules made thereunder.
- ⇒ Such tax & other dues may be determined either before or after the date of cancellation.

29(4) **(C)** Deemed cancellation:-

Cancellation of registration under the SGST Act/ UTGST Act shall be deemed to be a cancellation of registration under the CGST Act.

29(5) Amount payable upon cancellation:-

- ⇒ Every registered person whose registration is cancelled **shall pay an amount is equal to higher of:-**
 - **ITC of the following held** on the day immediately preceding the date of cancellation:-
 - inputs held in stock,
 - inputs contained in semi-finished held in stock,
 - inputs contained in finished goods held in stock or
 - capital goods or plant & machinery **OR**
 - **The output tax payable** on such goods.
- ⇒ This amount **can be paid by** debiting electronic credit ledger or electronic cash ledger.

Read with sec. 18(3)

Proviso:- For capital goods or plant & machinery, taxable person **shall pay amount is equal to higher of:-**

- **ITC taken** on said capital goods or plant & machinery **reduced by** prescribed % **OR**
- The tax on the transaction value of such capital goods or plant and machinery u/s 15.

29(6) Manner to determine amount payable:-

Amount payable under sub-section (5) shall be calculated in prescribed manner.

Analysis:- The manner to determine credit to be reversed is given under **rule 44**. So, the conjoint reading of sec 29(5) & rule 44 is as follows:-

- a) Credit to be reversed in respect of inputs is **HIGHER** of:-
 - ⇒ ITC on inputs is computed proportionately on the basis of corresponding invoices on which credit was availed on such inputs (rule 44) **OR**
 - ⇒ Output tax payable on such goods.

Note:- If tax invoices are not available, ITC to be reversed will be based on prevailing market price (MP) of such goods on the date of cancellation.

- b) Credit to be reversed in respect of capital goods or plant & machinery is **HIGHER** of:-
 - ⇒ ITC involved in the remaining useful life in months of capital goods computed on pro-rata basis, taking the useful life as 5 years (rule 44) **OR**

Tax on the transaction value of such capital goods or plant & machinery u/s 15.

Other points about cancellation:-

- ⇒ Person to whom UIN is granted under rule 17 can't apply for cancellation of registration [Rule 20].
- ⇒ Once registration is cancelled by tax authority, taxpayer will be intimated about the same via sms & email. Order for cancellation of registration will be issued & intimated to the primary authorized signatory by email and sms.
- ⇒ Common portal will not allow taxpayer to file return for period after date of cancellation mentioned in cancellation order. But he can submit returns of earlier period (i.e. for the period before date of cancellation mentioned in the cancellation order for which registration was active).

©-HW -
Suspension of Registration [1st Proviso to sec 29(1) & 2nd Proviso to sec 29(2) read with rule 21A]:-

If registered person has applied for cancellation of registration or PO seeks to cancel his registration, PO may suspend his registration **during pendency of proceedings relating to cancellation** of registration filed. Taxpayer is freed from routine compliances under GST law including filing returns, during such pendency.

The period & manner of suspension of registration is as follows:-

<p>If registered person has applied for cancellation of registration:-</p>	<p>If registered person has applied for cancellation of registration & the completion of proceedings for cancellation of registration is pending, then the registration shall be deemed to be suspended from the LATER of:-</p> <ul style="list-style-type: none"> (a) The date of submission of the application or (b) The date from which the cancellation is sought.
<p>If cancellation of registration is initiated by Department on its own motion:-</p>	<ul style="list-style-type: none"> ⇒ If PO has reasons to believe that registration of a person is liable to be cancelled, he may suspend the registration of such person w.e.f. a date to be determined by him where the completion of proceedings for cancellation of registration is pending. ⇒ If a comparison of returns furnished by a registered person u/s 39 with the following:- <ul style="list-style-type: none"> ➤ the details of outward supplies furnished in Form GSTR-1 or ➤ the details of inward supplies derived based on details of outward supplies furnished by his suppliers in their Form GSTR-1. <p>or any other analysis carried out on recommendations of Council show that there are significant differences or anomalies indicating contravention of provisions of CGST Act or rules which lead to cancellation of his registration, then his registration shall be suspended.</p> <ul style="list-style-type: none"> ⇒ Said person shall be intimated in prescribed form by sending a communication to his e-mail. ⇒ In this intimation for suspension & notice for cancellation of registration, the differences & anomalies are highlighted & said person is asked to explain, within 30 days, as to why his registration shall not be cancelled. <div style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Note:- If cancellation is initiated by Department on its own & registration of person is suspended, such person shall not be granted any refund u/s 54 during such suspension period (Sec 54 is discussed at Final Level).</p> </div>
<p>Consequences of suspension:-</p>	<p>If registration of a registered person is suspended as above, he shall NOT:-</p> <ul style="list-style-type: none"> ⇒ make any taxable supply (i.e. shall not issue a tax invoice & shall not charge tax on supplies made by him) during the suspension period & ⇒ be required to furnish any return u/s 39.
<p>Revocation of suspension of registration:-</p>	<ul style="list-style-type: none"> ⇒ The suspension of registration shall be deemed to be revoked upon completion of the cancellation proceedings by PO. ⇒ Such revocation shall be effective from the date the suspension had come into effect. ⇒ PO may revoke suspension anytime during the pendency of proceedings for cancellation. <p>Proviso Provided further that where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29 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 furnishing of all the pending returns.</p> <div style="text-align: right; margin-right: 50px;"> <p style="background-color: red; color: white; padding: 2px 5px; display: inline-block;">Newly inserted N/N 14/2022 CT dt 05/07/22</p> </div> <p>If any order is passed having the effect of revocation of suspension of registration, sec 31(3)(a) (Revised Tax Invoice) & sec 40 (First return) shall apply to supplies made during suspension period.</p>

Procedure for cancellation of registration [Rule 20 & 22]:-

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Voluntary cancellation by registered person:-

(i) Application:-

- ➔ A registered person (**other than** a person to whom a registration is granted under rule 12 (i.e. for TDS/TCS) or UIN is granted under rule 17) shall submit application for cancellation of registration in prescribed form electronically **within 30 days** of occurrence of the event warranting cancellation.
 - ➔ He is required to furnish in the application, the details of:-
 - inputs held in stock or
 - inputs contained in semi-finished held in stock
 - inputs contained in finished goods held in stock
 - capital goods held in stock
- on the date from which cancellation of registration is sought, liability thereon, details of payment, if any, made against such liability & may furnish relevant documents thereof.

(ii) Order:-

If a person who has submitted an application for cancellation of his registration is no longer liable to be registered, PO shall issue the order of cancellation of registration **within 30 days** from the date of submission of application for cancellation.

Suo-motu cancellation by Department:-

- ➔ Before cancelling the registration suo-motu, PO shall give a **SCN** & a reasonable opportunity of being heard to the registered person.
- ➔ Reply to such SCN is to be submitted **within 7 days** of service of notice. If reply to SCN is satisfactory, PO shall drop the proceedings & pass an order in prescribed form.
- ➔ In case the SCN was served for failure to furnish returns for a continuous period of 6 months (3 months for composition supplier), if instead of replying to this SCN, the person furnishes all the pending returns & pays full tax dues along with applicable interest and late fee, the PO shall drop the proceedings and pass an order.
- ➔ If registration of a person is liable to be cancelled, PO shall issue the order of cancellation of registration **within 30 days** from the date of reply to SCN.

Effective date of cancellation:-

- ➔ The cancellation of registration shall be effective from a date to be determined by PO & mentioned in the cancellation order.
- ➔ He will direct the taxable person to pay arrears of any tax, interest or penalty including the amount liable to be paid u/s 29(5).

Section 30 read with Rule 23:- Revocation of cancellation of Registration



Pts.	Legal Provision								
30(1) Application for revocation of cancellation of registration:-	➔ Registered person, whose registration is cancelled by PO on his own motion , may submit an application to such officer for revocation of cancellation of registration within 30 days from the date of service of order of cancellation of registration or within extended time as below.								
	➔ On sufficient cause shown & reasons recorded in writing, extension may be granted								
	<table border="1" style="width: 100%;"> <thead> <tr> <th></th> <th>By:-</th> <th>For a period:-</th> </tr> </thead> <tbody> <tr> <td>(a)</td> <td>Additional Commissioner or Joint Commissioner</td> <td>not exceeding 30 days.</td> </tr> <tr> <td>(b)</td> <td>Commissioner</td> <td>not exceeding 30 days in addition to (a)</td> </tr> </tbody> </table>		By:-	For a period:-	(a)	Additional Commissioner or Joint Commissioner	not exceeding 30 days.	(b)	Commissioner
	By:-	For a period:-							
(a)	Additional Commissioner or Joint Commissioner	not exceeding 30 days.							
(b)	Commissioner	not exceeding 30 days in addition to (a)							
	➔ This application shall be submitted in prescribed form at the common portal either directly or through a Facilitation Centre notified by Commissioner.								

30(2)
Acceptance or rejection of Application by PO:-

- ☞ If PO is satisfied that there are **sufficient grounds for revocation of cancellation**, he may **revoke** the cancellation of registration by an order **within 30 days** of receipt of application & communicate the same to applicant.
- ☞ Otherwise, he may **reject** the revocation application. Before rejecting application, he will issue SCN to applicant who shall furnish clarification **within 7 working days** of service of SCN & PO shall accept or reject the application **within 30 days of receipt of clarification**.
- ☞ So, application can be rejected only after applicant is given an **opportunity of being heard**.

30(3)
Deemed revocation:-

☞ Revocation of cancellation of registration under the SGST Act/ UTGST Act shall be deemed to be a revocation of cancellation of registration under CGST Act.

30(4)
Where registration was cancelled for failure of registered person to furnish returns:-

- ☞ If registration of a registered person was cancelled due to failure to furnish returns, then he **has to make good the defaults** (i.e. he has to file such returns & pay the tax due along with interest, penalty & late fee payable in respect of said returns) **before applying** for revocation.
- ☞ However, PO may have cancelled the registration either from date of order of cancellation of registration or from a retrospective date.

(a) If registration is cancelled w.e.f. the date of order of cancellation of registration:-

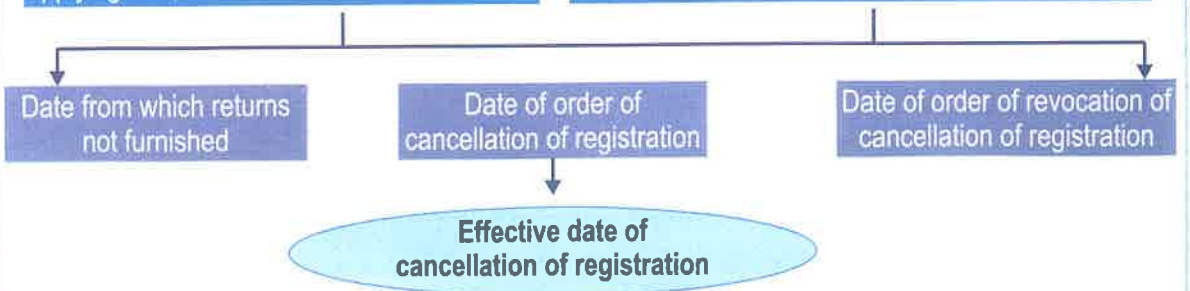
- ☞ Common portal does not allow to furnish returns for the period after the effective date of cancellation. But returns for the period before date of cancellation mentioned in cancellation order) can be furnished after cancellation.
- ☞ Before filing application for revocation of cancellation, person has to **furnish all returns due** till the date of such cancellation & **pay** the tax due along with interest, penalty & late fee payable in respect of said returns.
- ☞ Since portal does not allow to furnish returns for the period after the date of cancellation of registration, all returns due for the period

- **from** the date of order of cancellation
- **till** the date of order of revocation of cancellation of registration

have to be furnished within **30 days** from the date of the **order of revocation**.

Returns for this period to be filed before applying for revocation of cancellation

Returns due for this period to be filed within 30 days of date of order of revocation of cancellation



(b) If registration is cancelled with retrospective effect:-

- ☞ If registration is cancelled with retrospective effect, it is not possible to furnish returns before filing application for revocation of cancellation of registration & thus, such application is allowed to be filed.
- ☞ But the condition is that all returns from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within 30 days from the date of order of such revocation of cancellation of registration.

irrelevant for inter

Returns for this period to be filed within 30 days of the order of revocation of cancellation

irrelevant

Date from which returns
not furnished

Date of order of
cancellation of registration

Date of order of revocation of
cancellation of registration

Effective date of
cancellation of registration

- Notes:-**
- UIN Holders (UN Bodies, Embassies and Other Notified Persons), GST Practitioner **cannot apply** for revocation of cancelled registration.
 - If registration is cancelled on request of taxpayer or his legal heir, one **cannot apply** for revocation of cancelled registration.



CHAPTER - 12

TAX INVOICE

Debit Note & Credit Note

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Provision applicable to Supply of Goods		Provision applicable to Supply of Services	
Sec 31(1)	In normal case of supply of goods	Sec 31(2)	In normal case of supply of services
Sec 31 (4)	In Case of continuous supply of goods	Sec 31 (5)	In case of continuous supply of Service
Sec 31 (7)	In case of Goods Sent or Taken on Approval for Sale or Return	Sec 31 (6)	In case where the supply of services ceases under a contract before the completion of supply

Provision applicable to both Supply of Goods & Supply of Service

Sec 31(3) (a)	Issue of Revised Invoice
Sec 31 (3) (b) or proviso to 31(3)(c)	No Invoice or Bill of Supply to be Issued
Sec 31 (3) (c)	Situations in Which Bill of Supply Shall be Issued Instead of a Tax Invoice
Sec 31 (3) (d)	Issue of a Receipt Voucher
Sec 31 (3) (e)	Issue of a Refund Voucher
Sec 31 (3) (f)	Issue of Invoice by a Registered Person Liable to Pay Tax Under Reverse Charge
Sec 31 (3) (g)	Issue of a Payment Voucher by a Registered Person Liable to Pay Tax Under Reverse Charge

Introduction

- An invoice is a commercial instrument issued by a supplier which identifies both parties involved, describes goods sold/services supplied, quantifies the items sold, etc.
- Invoicing ensures tax compliance, transparency, evidences payment of value & tax involved, etc.
- Tax invoice is an important document as it not only evidences supply of goods &/or services, but is also an essential document for recipient to avail ITC u/s 16(2).
- A tax invoice shall be issued by a registered person supplying taxable goods or taxable services or both. Such tax invoice shall show the prescribed particulars.
- Under GST regime, 'Invoice' or "Tax Invoice" means the same i.e. tax invoice only.

Note:- Provisions of Tax invoice & Credit & Debit Notes under CGST Act are also applicable to IGST Act vide section 20 of IGST Act.

Important definitions relevant for this chapter:-

Sec No. & Title	Definition
2(66):- Invoice or Tax Invoice	means the tax invoice referred to in section 31.
2(96):- "Removal" in relation to goods, means	(a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier or (b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient.

Time limit to issue invoice in case of supply of goods:-

Sec	Legal Provision						
31(1)	<p>In normal case of supply of Goods:-</p> <p>A registered person supplying taxable goods shall issue Tax Invoice:-</p> <table border="1"> <tr> <td>1</td> <td>where supply involves movement of goods:-</td> <td>either before or at the time of removal of goods for supply to the recipient or</td> </tr> <tr> <td>2</td> <td>in any other case:-</td> <td>either before or at the time of delivery of goods or making goods available to recipient.</td> </tr> </table> <p>➤ Tax invoice shall show description, quantity & value of goods, tax charged thereon & other prescribed particulars. (Rule 46)</p> <p>Proviso:- On recommendations of Council, Govt. may notify categories of goods or supplies for which a tax invoice shall be issued within prescribed time & manner.</p>	1	where supply involves movement of goods:-	either before or at the time of removal of goods for supply to the recipient or	2	in any other case:-	either before or at the time of delivery of goods or making goods available to recipient.
1	where supply involves movement of goods:-	either before or at the time of removal of goods for supply to the recipient or					
2	in any other case:-	either before or at the time of delivery of goods or making goods available to recipient.					

31(4) In case of Continuous supply of Goods:- ~~Theory~~ Theory. Mug up defⁿ.

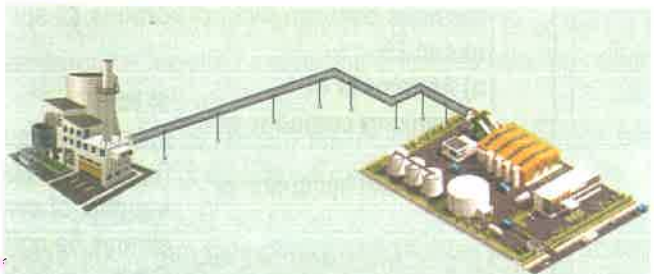
Where successive statements of accounts or successive payments are involved,

The invoice shall be issued before or at the time:-

- each such statement is issued or, as the case may be
- each such payment is received.

Definition u/s 2(32):- Continuous Supply of Goods means a supply of goods which is provided, or agreed to be provided,

- continuously or on recurrent basis
- under a contract
- whether or not by means of a wire, cable, pipeline or other conduit, and
- for which the supplier invoices the recipient on a regular or periodic basis and
- includes supply of goods as may be notified by Govt., subject to specified conditions.



eg - newspaperwala, Doodhwala.

P1:- M/s ONGC entered into a contract with Mr. B for supply of oil throughout the year. M/s ONGC issues monthly statement for the oil supplied to Mr. B. Determine the date of issue of invoice in following independent cases:

- i) Mr. B made payment for the month of July on 31st July, 20XX and M/s ONGC issued statement for the month of July on 8th August, 20XX.
- ii) M/s ONGC issued statement for the month of August on 5th September, 20XX, the payment of which not received till 30th September, 20XX.

31(7)

In case of Goods Sent or Taken on Approval for Sale or Return : ~~99%~~ 99%

Notwithstanding anything contained in sec 31(1),

If goods being sent or taken on approval for sale or return are removed before the supply takes place,

The invoice shall be issued before or at:-

- ⇒ the time of supply or (Acceptance or approval given by recipient)
- ⇒ 6 months from the date of removal, **whichever is earlier.**

P2:- M/s. Swamini Sarees of Pune is engaged in the trading of sarees. On 20/05/20XX, M/s. Swamini has sent 200 sarees for exhibition at Mumbai on sale or return basis. Out of the said 200 sarees, 100 sarees have been sold on 28/07/20XX at the exhibition. Out of remaining 100 sarees, 50 sarees have been brought back to Pune on 25/11/20XX and balance 50 units have neither been sold nor brought back.

Explain the provisions under GST law relating to issue of invoices with exact dates on which tax invoices need to be issued by M/s. Swamini Sarees.

Time limit to issue invoice in case of supply of services:-

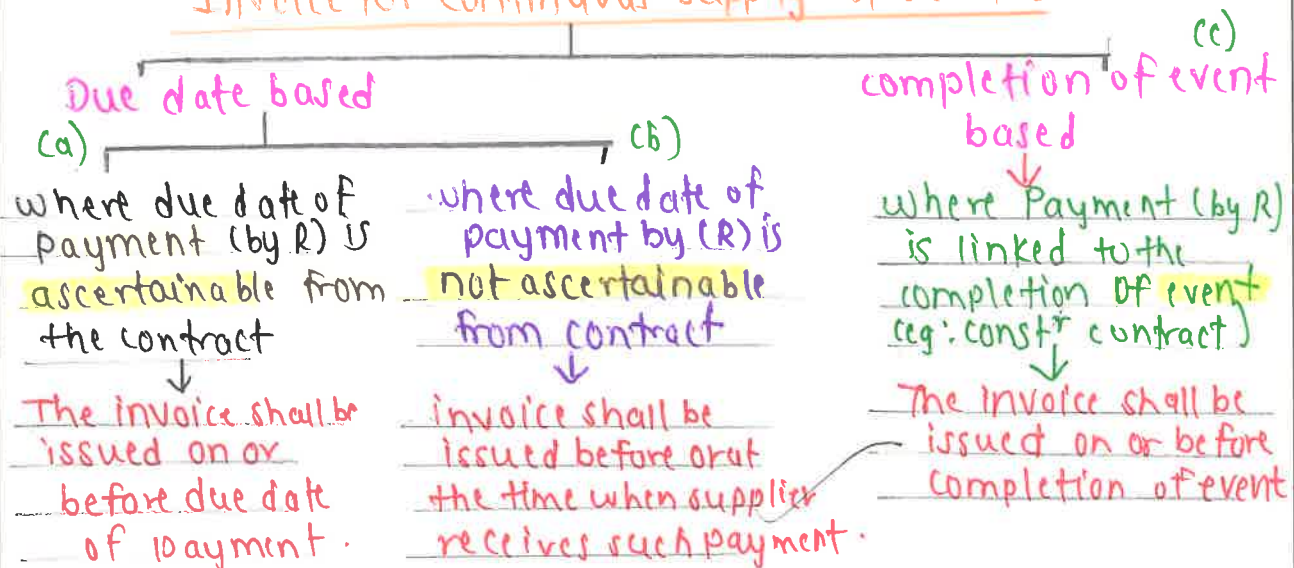
Sec	Legal Provision												
31(2)	<p>In normal Case of Supply of Services:- A registered person supplying taxable services shall issue a tax invoice ⇒ before or after the provision of service but within a prescribed period (refer below table) ⇒ showing the description, value, tax charged thereon & other prescribed particulars.</p> <p>Proviso:- On recommendations of Council, Govt. may by notification:- a) specify categories of services or supplies for which a tax invoice shall be issued within prescribed time & manner. b) subject to condition mentioned therein, specify the categories of services for which— i) any other document issued for supply shall be deemed to be a tax invoice or ii) tax invoice may not be issued.</p> <p>Rule 47:-</p> <table border="1"> <thead> <tr> <th></th> <th>Situations:-</th> <th>Prescribed period to issue tax invoice:-</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>In cases other than below normally:-</td> <td>within 30 days from the date of supply of service</td> </tr> <tr> <td>2</td> <td>in case of an insurer or banking company or financial institution, including a non- banking financial company (NBFC):-</td> <td>within 45 days from the date of supply of service.</td> </tr> <tr> <td>3</td> <td> If following persons make taxable supplies of services between distinct persons as specified in sec 25:- a) An insurer or b) banking company or c) financial institution or d) NBFC e) telecom operator or f) any other class of supplier of services as may be notified by Govt. </td> <td> ⇒ before or at the time supplier records the same in his books of account or ⇒ before the expiry of quarter during which the supply was made. </td> </tr> </tbody> </table>		Situations:-	Prescribed period to issue tax invoice:-	1	In cases other than below normally:-	within 30 days from the date of supply of service	2	in case of an insurer or banking company or financial institution, including a non- banking financial company (NBFC):-	within 45 days from the date of supply of service.	3	If following persons make taxable supplies of services between distinct persons as specified in sec 25:- a) An insurer or b) banking company or c) financial institution or d) NBFC e) telecom operator or f) any other class of supplier of services as may be notified by Govt.	⇒ before or at the time supplier records the same in his books of account or ⇒ before the expiry of quarter during which the supply was made.
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31(5)

In case of **Continuous supply of Services**:- Subject to section 31(3)(d), ~~XXXXXX~~

	Where	Invoice shall be issued:-
a)	due date of payment is ascertainable from the contract:- by E (eg: rent agreement)	on or before the due date of payment.
b)	due date of payment is not ascertainable from the contract:-	before or at the time when supplier of service receives the payment.
c)	payment is linked to completion of an event:- (construction)	on or before the date of completion of that event.

Invoice for continuous supply of service



Definition u/s 2(33):- Continuous supply of Services

means supply of services which is provided, or agreed to be provided,

- ⇒ continuously or on recurrent basis
- ⇒ under a contract
- ⇒ for a **period > 3 months** with periodic payment obligations &

includes supply of services as may be notified by Govt. subject to specified conditions.

P3:- Mr. Jai is also engaged in constructing a building for a client. The client is required to pay him on the completion of plinth, 1st floor, and 2nd floor. When should the invoice be raised in this case?

What would be your answer, if payment is to be made by client on 1st day of each quarter under the terms of contract.

P4: MBM Caretakers, a registered person, provides the services of repair & maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will

also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered? [ICAI Material]

Answer:- Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair & maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of sec 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, & January 1.

31(6) ★	<p style="text-align: right;">contract 6 mon.</p> <p>In cases where supply of services ceases before the completion of supply:- ^{Sasimon}</p> <p>If supply of services ceases under a contract before the completion of supply:-</p> <ul style="list-style-type: none"> ➔ invoice shall be issued at the time when the supply ceases & ➔ such invoice shall be issued to the extent of supply made before such cessation. <p style="text-align: right;">contract ceases ↳ invoice ↳ to the extent of service provided</p>
Explanation to Sec 31:-	The "tax invoice" includes any revised invoice issued by supplier for supply made earlier.

Section 31(1) & (2) read with Rule 46:- Particulars of Tax invoice

Under GST, there is no format prescribed for Tax Invoice, but rules make it mandatory for an invoice to have following fields (only applicable fields are to be filled):-

(a)	Name, address and GSTIN of the supplier;	
(b)	A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets/numerals/special characters hyphen or dash and slash, and any combination thereof, unique for a FY;	
(c)	Date of its issue;	
(d)	If recipient is registered - Name, address and GSTIN or UIN of recipient	
(e)/ (f)	Particulars of Invoice:-	
	If recipient is unregistered & value of supply is:- ^{B2C}	
★	Rs 50000 or more ^{MCO}	Name and address of recipient & the address of delivery, along with the name of State & its code
★	< Rs 50000	Unregistered recipient may still request the aforesaid details to be recorded in tax invoice
(g)	HSN code for goods or services;	
★ (h)	Description of goods or services;	
(i)	Quantity in case of goods and unit or Unique Quantity Code thereof;	
(j)	Total value of supply of goods or services or both;	
(k)	Taxable value of supply of goods or services or both taking into account discount or abatement, if any;	
(l)	Rate of tax (CGST, SGST, IGST, UTGST or Cess);	
(m)	Amount of tax charged in respect of taxable goods or services (CGST, SGST, IGST, UTGST or Cess);	
★ (n)	Place of supply along with the name of State, for a supply in course of inter-State trade or commerce;	
(o)	Address of delivery where the same is different from the place of supply; ^(Bill to ship to)	
(p)	Whether the tax is payable on reverse charge basis; and	
(q)	Signature or digital signature of the supplier or his authorized representative (not required for issue of e-invoice as per Information Technology (IT) Act, 2000).	
(r)	Quick Response code, having embedded Invoice Reference Number (IRN) in it, in case <u>e-invoice</u> has been issued as per rule 48(4).	
(s)	<p>A declaration as below, that invoice is not required to be issued in the manner specified under rule 48(4)(i.e. E-invoice), in all cases where an invoice is issued, other than in the manner so specified under the said rule 48(4), by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified under the said rule 48(4):-</p> <p>I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under rule 48(4), we are not required to prepare an invoice in terms of the provisions of the said sub-rule.</p>	

Rule 46:- Number of HSN digits required on tax invoice & class of registered person not required to mention HSN

On recommendation of council, Board may notify:-

- (i) Number of HSN code digits required to be mentioned by a class of registered persons,
- (ii) Class of supply for which specified no. of digits of HSN code shall be required to be mentioned by all registered taxpayers &
- (iii) Class of registered persons exempted to mention HSN code.

Under N/No. 12/2017 CT dt 28.06.2017 as amended:-

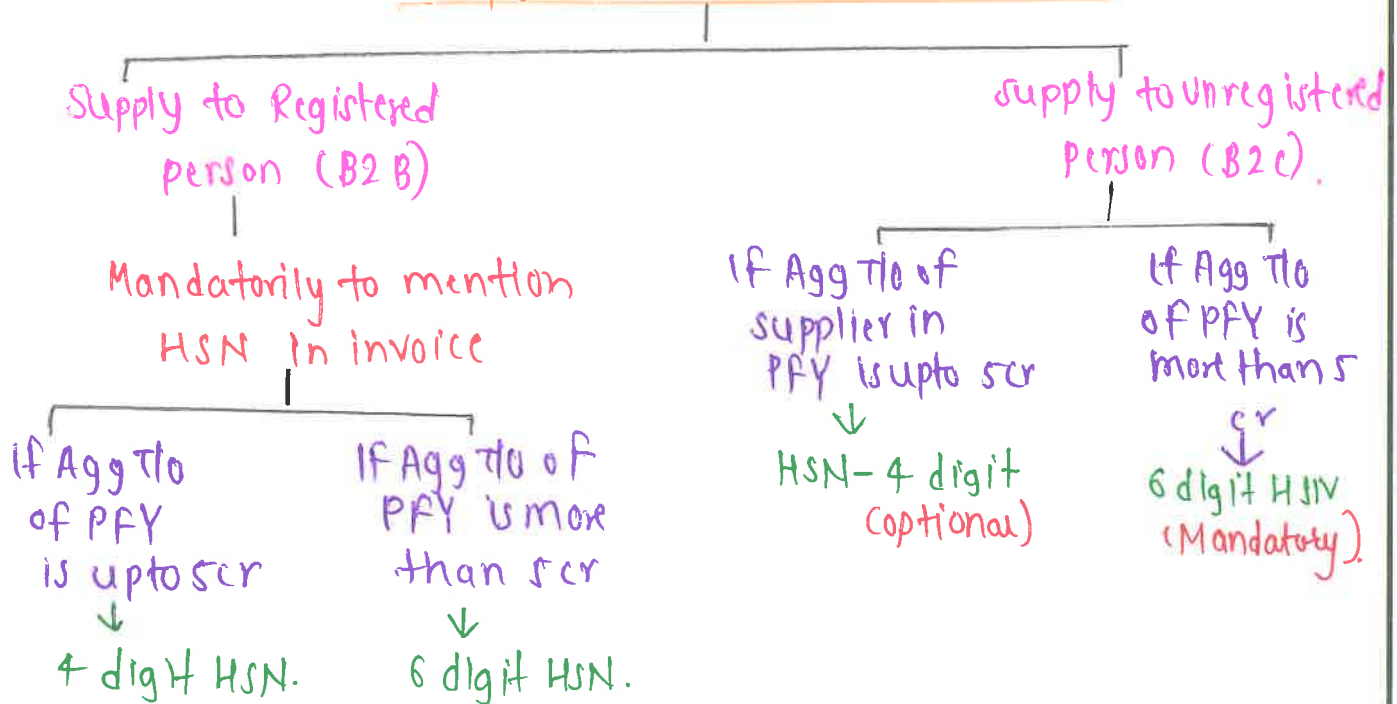
The minimum number of HSN code digits to be uploaded by a filer depends on his turnover in last year:-

Annual turnover in Preceding F.Y.	Type of supply	Number of Digits of HSN Code required
≤ ₹ 5 crore or Less	For B2B supply	4
	For B2C supply	4 (optional)
> ₹5 crore	For B2B & B2C supply	6

Comments:-

- HSN/ HS (Harmonized Commodity Description & Coding System) is a globally accepted standardized system of nomenclature of different goods developed by World Customs Organization.
- India uses 8-digits codes for more specific and precise classification instead of 6.

Requirement of HSN in Invoice



Rule 48:- Manner of Issuing Invoice

- (1) **In Case of taxable supply of Goods:-** It shall be prepared in **TRIPLICATE** (3 copies):-
Original Copy → Original for Recipient ✓
Duplicate Copy → Duplicate for Transporter ✓
Triplicate Copy → Triplicate for Supplier ✓
- (2) **In Case of taxable supply of services :-** It shall be issued in **DUPLICATE** (2 copies):-
Original Copy → Original for Recipient
Duplicate Copy → Duplicate for Supplier
- (3) **Serial Number to be furnished:-** Serial no. of invoices issued during a tax period shall be furnished electronically through common portal in **FORM GSTR-1**.
- (4) **Requirement of e-invoice for notified class of registered person:-**
⇒ Notified class of registered persons shall prepare e-invoice by uploading the particulars contained in Form GST INV-01 on Common GST Electronic Portal & obtain an IRN (Invoice Reference Number).
⇒ However, Commissioner may, on recommendations of Council, by notification, exempt a person or a class of registered persons from issuance of e-invoice under rule 48(4).
- (5) Invoice issued in any manner other than in rule 48(4)(i.e. E-invoice) shall not be treated as an invoice, if this rule is applicable to such person.
- (6) If e-invoicing is applicable, there is no need to issue invoice copies in triplicate/duplicate.

E-Invoicing:-

Introduction:-

- ⇒ Taxpayer prepares his invoice using his own ERP/ accounting/ billing system or manual system but confirming the e-invoice schema given under GST and having the mandatory parameters.
- ⇒ Then the Invoice details are uploaded/reported by taxpayers to 'Invoice Registration Portal (IRP)'.
- ⇒ On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it, add a QR Code (Quick Response Code) & return the e-invoice to supplier.
- ⇒ Then, the supplier shares the e-invoice with receiver (along with QR Code).
- ⇒ A GST e-invoice will be valid only with a valid IRN.
- ⇒ Signature/ digital signature of supplier/ his authorized representative is not required on e-invoice.

Objective:- To report business to business (B2B) invoices to GST System for notified taxpayers.

Applicability (N/No. 13/2020 CT dt 21.03.2020 as amended):-

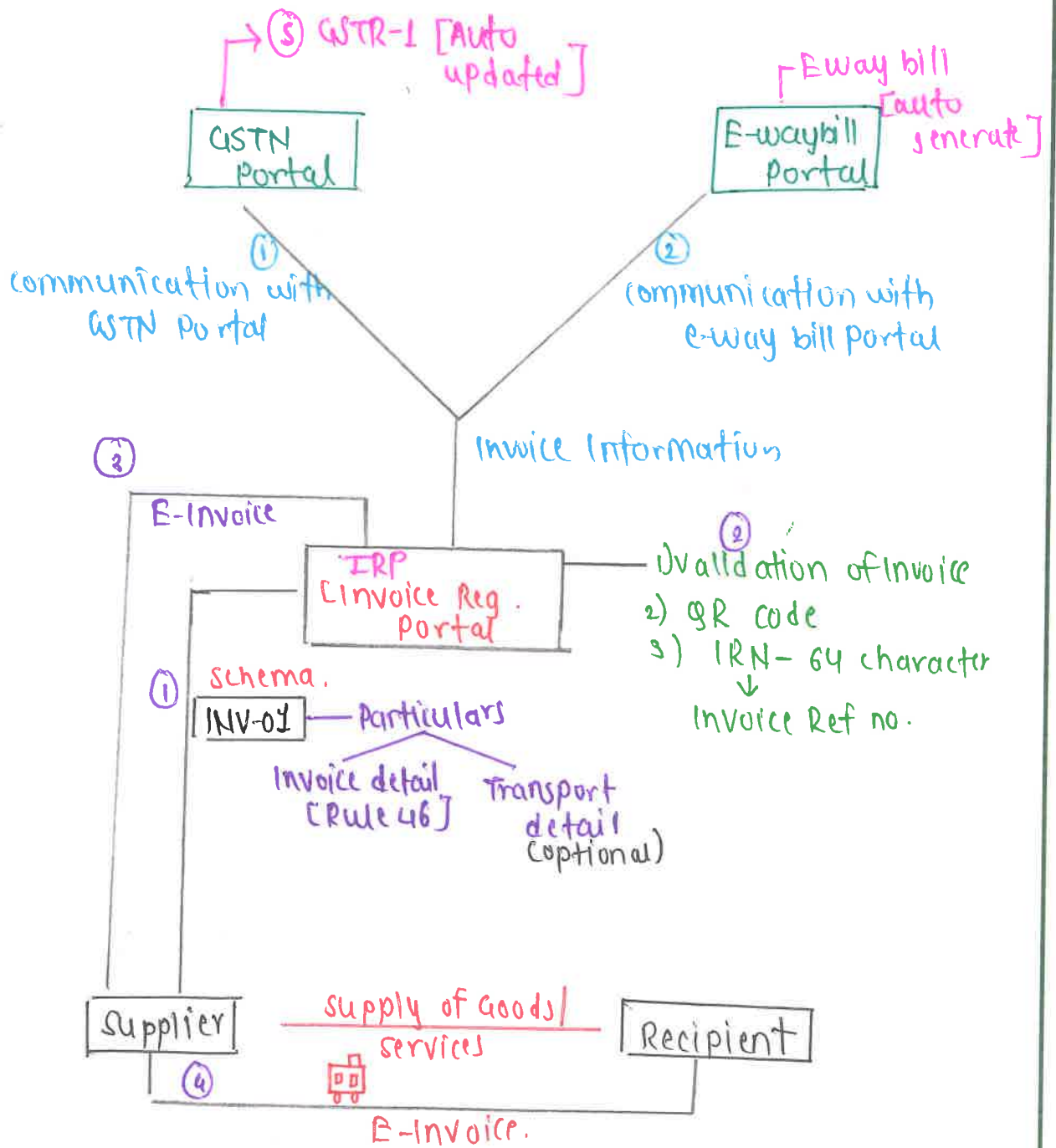
- ⇒ All registered businesses whose aggregate turnover (based on PAN) in any P.F.Y. from 2017-18 onwards > 10 Crore will be required to issue e-invoices for B2B supplies or for exports.

Exception:- Following are exempted from the mandatory requirement of e-invoicing:-

- A Government Department
- A Local Authority
- SEZ units

Note:- Only SEZ units & not SEZ developers are exempt. Further, for supplies made by notified persons to SEZ units, e-invoices need to be issued.

- Insurer or banking company or financial institution including NBFC
- GTA supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation service
- Person supplying services of admission to exhibition of cinematograph films in multiplex screens
- ⇒ These persons are not required to report B2C invoices on IRP.
- ⇒ It is not voluntary i.e. only notified persons are enabled to report invoices on IRP.
- ⇒ Invoices, credit notes & debit notes are the documents covered under e-invoicing. * MCQ *



Applicability of E-Invoicing under certain cases:-

If outward supply of person to whom e-invoicing is applicable- is under RCM u/s 9(3):	E-invoice is APPLICABLE
If inward supply of person to whom e-invoicing is applicable- is under RCM u/s 9(4):- (Self Inv)	E-invoice is N.A.
For import of goods & import of services:-	E-invoice is N.A.
For Invoices issued by Input Service Distributor (ISD):-	E-invoice is N.A.
For B2C supplies:-	E-invoice is N.A.

Advantages:- ~~***~~ Learn

- 1. Auto-reporting of invoices into GST return & auto-generation of e-way bill (wherever required):-** Once B2B invoice data is reported in e-invoice form, the same is reported in multiple forms (GSTR-1, e-way bill etc.).
- 2. Substantial reduction in transcription errors & Reconciliation:-** This is because same data will get reported to tax department & to buyer to prepare his inward supplies register. Buyer can reconcile with his Purchase Order.
- 3. Matching of ITC & output tax by Dept.:-**
A complete trail of B2B invoices is available with Department which enables the system-level matching of ITC & output tax thereby reducing the tax evasion.
- 4. Eliminates fake invoices:-** Claiming fictitious ITC by raising fake invoices is one of the biggest challenges currently faced by tax-authorities. The e-invoice system will help to curb the actions of unscrupulous taxpayers & reduce the number of fraud cases as the tax authorities will have access to data in real-time.
- 5. Other Advantages:-**
 - Facilitate standardisation & inter-operability,
 - Reduction of disputes among transacting parties,
 - Better relationship,
 - Improve payment cycles,
 - Paper elimination,
 - Internal controls,
 - Reduction of processing costs &
 - Improving overall business efficiency greatly.

How e-invoice data is consumed by GST System for generation of e-way bill or populating relevant parts GST Returns?

- IRP sends e-invoice data along with IRN to GST System & to E-Way Bill System also.
- GST system will auto-populate them into GSTR-1 of supplier & prescribed form of receivers.
- With source marked as 'e-invoice', IRN and IRN date will also be shown in GSTR-1 & prescribed form of receivers.
- The e-invoice schema includes parameters which can be reported while generating e-invoice itself e.g. 'Transporter ID' and 'Vehicle Number', etc. that are used for creating & generating e-way bills.

Cancellation/Amendment of reported Invoice:-

- Within specified time, seller can cancel IRN for an e-invoice already reported by reporting it on IRP.
- Amendment of e-invoice already uploaded on IRP will be done only on GST portal (in GSTR-1) & NOT through IRP.

Other Points:-

- To generate e-invoice, ECOs can also report the invoices generated by them for suppliers to IRP.
- Bulk uploading of invoices to IRP is also possible.

Some Important Terms:-

E-invoice Schema:-

- It is a uniform standard format (containing specified fields) applicable for all businesses across country i.e. Form **GST INV-1**.
- It mandates the particulars to be reported in electronic format to IRP so that invoices generated by one software can be read by any other software.

Invoice Registration Portal (IRP):-

- ⇒ IRP is a website for uploading/reporting of invoices by the notified persons.
- ⇒ 10 dedicated IRPs are notified as Common Goods and Service Tax (GST) Electronic Portal for preparing e-invoice.

Invoice Reference Number (IRN):-

- ⇒ It is a unique reference number (hash) generated & returned by IRP, on successful registration of e-invoice.

Quick Response (QR) code:-

- ⇒ If invoice is successfully registered on IRP, it returns a signed e-invoice to supplier with IRN & QR Code. IRN is embedded in QR Code which shall be extracted and printed on the invoice.
- ⇒ QR code enables quick view, validation & access of invoices from GST system from hand-held devices.
- ⇒ The digitally signed QR code will have a unique IRN which can be verified on central portal as well as by an offline app by officer. This helps tax officers checking the invoice offline on the roadside where internet may not be available all the time.
- ⇒ The QR code consists of the following e-invoice parameters:-

GSTIN of supplier	Date of generation of invoice	HSN code of main item (line item having highest taxable value)
GSTIN of recipient	Invoice value (taxable value & gross tax)	Unique IRN (hash)
Invoice no. by supplier	Number of line items	Date of generation of IRN

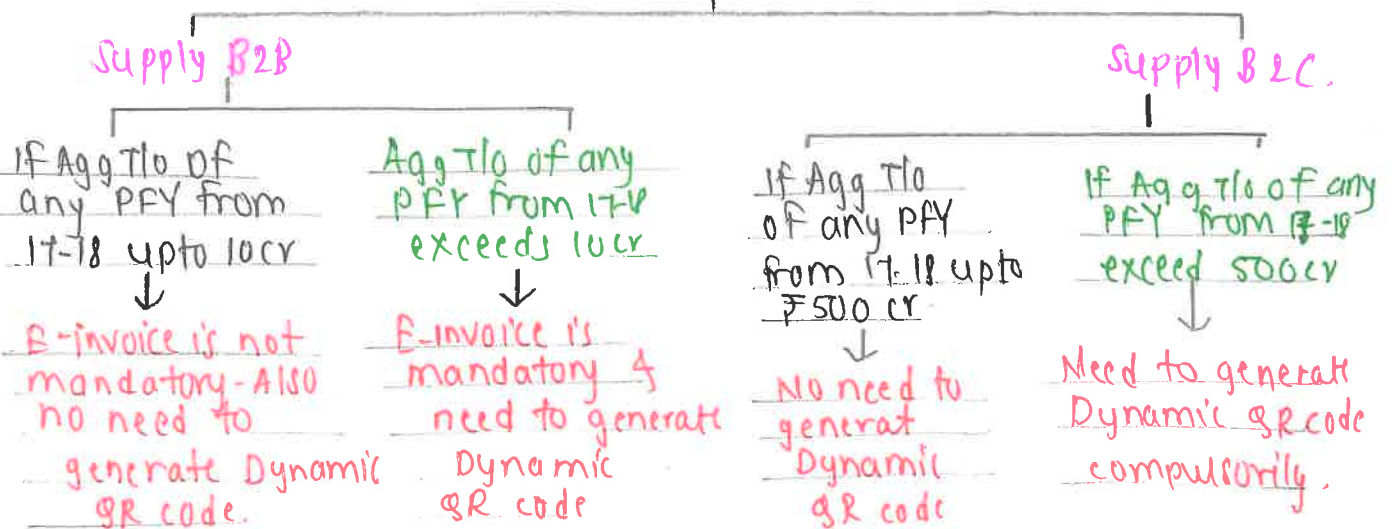
Clarification on applicability of e-invoicing w.r.t an entity (Circular No. 186/18/2022-GST Dt. 27.12.2022):-

Issue	Whether the exemption from mandatory generation of e-invoices as per N/No. 13/2020-CT, dt. 21.03.2020, as amended, is available for the entity as whole, or whether the same is available only in respect of certain supplies made by the said entity?
Clarification	<p>As per N/No. 13/2020-CT, dt. 21.03.2020, as amended, certain entities/sectors have been exempted from mandatory generation of e-invoices as per rule 48(4) of CGST Rules, 2017.</p> <p>It is clarified that the said 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>
Illustrations	<ul style="list-style-type: none">⇒ A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion.⇒ Such banking company is exempted from mandatory issuance of e-invoice for all supplies of goods & services & it will not be required to issue e-invoice for any supply made by it.

Dynamic QR code required on invoices issued to unregistered person (i.e. on B2C invoice):-
(N/No. 14/2020 CT dt 21.03.2020 and Circular no. 146/02/2021 GST dt 23.02.2021)

Purpose:-	To enable & encourage digital payments where buyer can scan dynamic QR code & make payment from mobile wallet directly.
Supplier who are required to display QR code on invoice?	Registered person whose aggregate turnover in any P.F.Y. from 2017-18 onwards > ₹ 500 Crore shall have Dynamic QR code on invoice issued for B2C supplies. Exception is for the following suppliers:- (i) Insurer or banking company or financial institution including NBFC (ii) GTA supplying services of transportation of goods by road in a goods carriage (iii) Supplier of passenger transportation service (iv) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens (v) Supplier of online information & database access or retrieval (OIDAR) services No Dynamic QR code in case of exports:- Since e-invoices are to be issued under N/No. 13/2020 for exports treating them as B2B supplies, Dynamic QR code is not applicable to them, though the recipient are unregistered
Compliance:	If registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, B2C invoice issued by him having cross-reference of payment using a Dynamic QR Code shall be deemed to be having QR Code.
Parameters/ Details in Dynamic QR code:-	<ul style="list-style-type: none"> ⇒ Supplier GSTIN number ⇒ Supplier UPI ID ⇒ Payee's Bank A/c number and IFSC ⇒ Invoice number & invoice date ⇒ Total invoice value and ⇒ GST amount along with breakup i.e. CGST, SGST, IGST, Cess, etc. (Dynamic QR Code should be such that it can be scanned to make a digital payment)
Effective:-	QR code is required w.e.f. 1-12-2020 only.

Applicability of Dynamic QR code.



DQR = Quick Response code

Invoice issued by supplier having Dynamic QR Code for payment is deemed to have complied with Dynamic QR code requirements. Compliance with this requirements is examined in cases as follows:-

<p>Case 1:-</p>	<p>If supplier provides/ displays Dynamic QR Code, but customer pays without using such code & supplier provides cross reference of such payment made without use of Code, on invoice:-</p> <p>If supplier digitally displayed the Dynamic QR Code & customer pays for the invoice:-</p> <ul style="list-style-type: none"> i) using any mode like UPI, credit/ debit card or online banking or cash, etc., with or without using Dynamic QR Code, & supplier provides a cross reference of payment (transaction id along with date, time & amount of payment, mode of payment like UPI, Credit card, Debit card, online banking etc.) on invoice; or ii) in cash, without using Dynamic QR Code & supplier provides a cross reference of the amount paid in cash, along with date of such payment on invoice; the said invoice is deemed to have complied with requirement of having Dynamic QR Code.
<p>Case 2:-</p>	<p>If supplier makes available to customers -an electronic mode of payment like UPI Collect, UPI Intent or the like, through mobile/computer-based applications, where though Dynamic QR Code is not displayed, but details of merchant & transaction are displayed/captured:-</p> <ul style="list-style-type: none"> ➤ If cross reference of payment made using such electronic modes is made on invoice, the invoice is deemed to comply with requirement of Dynamic QR Code. ➤ However, if payment is made after generation/ issuance of invoice, the supplier shall provide Dynamic QR Code on invoice.
<p>Case 3:-</p>	<p>In case of pre-paid invoices i.e. where payment is made before issue of invoice:-</p> <ul style="list-style-type: none"> ➤ If cross reference of such payment is made on invoice, then invoice is deemed to have complied with requirement of Dynamic QR Code. ➤ In cases other than pre-paid supply i.e. payment is made after generation/ issuance of invoice, supplier shall provide Dynamic QR Code on invoice.
<p>Case 4:-</p>	<p>If ECO/online application has complied with Dynamic QR Code requirements, whether the suppliers using such e-commerce portal or application will still be required to comply with the requirement of Dynamic QR Code?</p> <ul style="list-style-type: none"> ➤ Dynamic QR code requirements apply to each supplier/registered person separately, if such person is liable to issue invoices with Dynamic QR Code for B2C supplies. ➤ If supplier is making supply through e-commerce portal/ application, & he also gives cross references of payment received for same on invoice, then such invoices is deemed to have complied with requirements of Dynamic QR Code. ➤ In cases other than pre-paid supply i.e. payment is made after generation/ issuance of invoice, supplier shall provide Dynamic QR Code on the invoice.

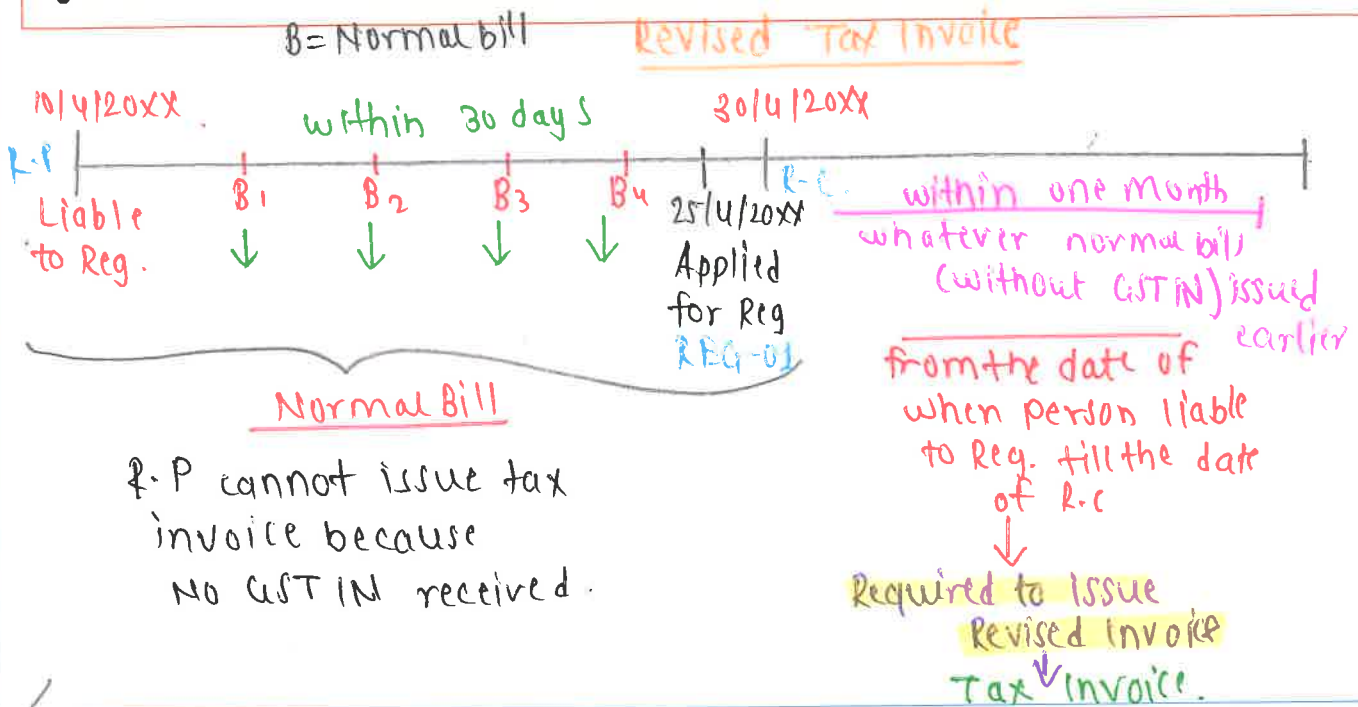
Clarification: (Circular no. 156/12/2021 GST dt 21.06.2021 & Circular No. 165/21/2021 GST dt 17.11.2021)

<p>1</p>	<p>Dynamic QR Code is to be provided on an invoice, issued to a person, who has obtained a UIN.</p> <ul style="list-style-type: none"> ➤ Any person, who has obtained a Unique Identity Number (UIN), is not a "registered person" as per the definition of registered person u/s 2(94). ➤ So, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply & shall be required to comply with requirement of Dynamic QR Code.
<p>2</p>	<p>Dynamic QR Code on invoices for supply of services outside India but not treated as exports.</p> <p>If an invoice is issued to a recipient located outside India for supply of services,</p> <ul style="list-style-type: none"> ➤ where the place of supply is in India under the IGST Act, & ➤ payment is received by supplier <ul style="list-style-type: none"> ➢ in convertible FOREX or ➢ in Indian Rupees wherever permitted by RBI <p>(such supply of services is not considered as export of services as per the IGST Act), such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by recipient located outside India for making payment to the supplier.</p>

Revised Tax Invoice:- Section 31(3)(a) read with Rule 53

- A registered person who is granted registration w.e.f. a date earlier than the date of issue of registration certificate, may issue Revised Tax Invoices against the invoices already issued for taxable supplies effected during the period:-
 - from the effective date of registration
 - till date of the issue of certificate of registration.
- It shall be issued **within 1 month** from the date of issue of certificate of registration.
- There is a time lag between effective date of registration & date of grant of registration certificate, if application for registration is made within 30 days of becoming liable for registration.

Note :- As per **Rule 10** of CGST Rules. if the application for registration is submitted **within 30 days** from the date of becoming liable to registration, the effective date of registration shall be the **date on which the person becomes liable to registration.**



∴ P cannot issue tax invoice because No GSTIN received.

P5: The aggregate turnover of Sangri Services Ltd. exceeded ₹20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advise Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

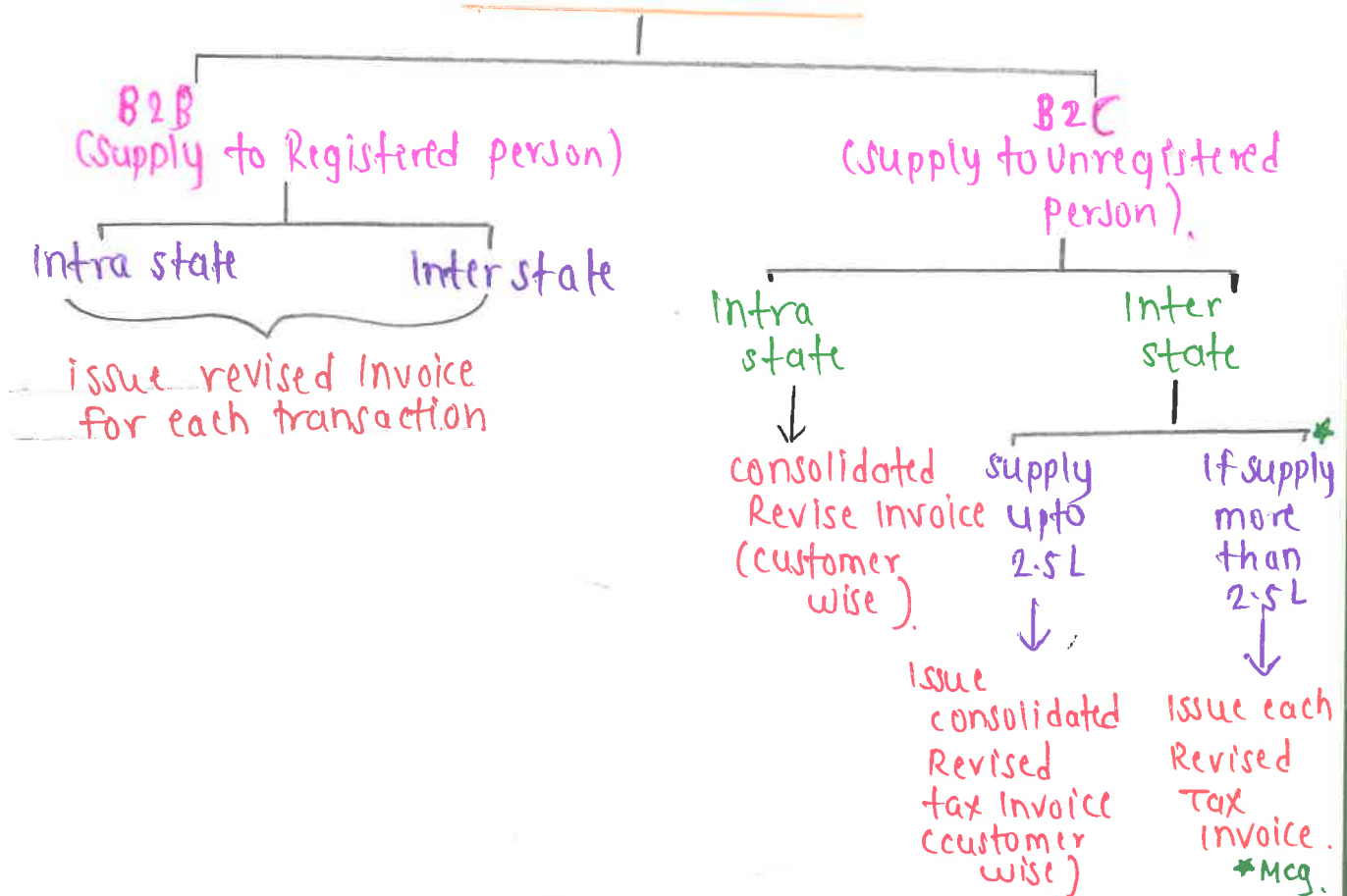
Consolidated Revised Tax Invoices in Certain cases:-

- A registered person may issue a Consolidated Revised Tax Invoice for all taxable supplies made to an unregistered recipient during such period.
- For **Inter State supplies:-**

If the value of supply > ₹ 250000	A Consolidated Revised Tax Invoice cannot be issued for all unregistered recipients i.e.
If the value of supply <= ₹ 250000	A state-wise Consolidated revised Tax Invoice may be issued for all taxable supplies made to unregistered recipients located in a State.

P6: Mr Amul applied for registration on 17/7/20XX & as on 2/8/20XX certificate of registration was issued to Mr Amul. In the period between above two dates there had been supply of goods of which 2 invoices were issued to Mr X an unregistered person & one invoice to Miss Priya a registered person.
 Miss Priya → Issue revised Invoice
 Mr Amul → consolidated Invoice.

Revised Tax Invoice



~~***~~

No Tax invoice to be issued if Value < ₹200 – A consolidated Tax Invoice can be issued:-
Section 31(3)(b) read with Proviso to Rule 46

⇒ A registered person may not issue a Tax Invoice if:-

- Value of goods &/or services supplied < ₹ 200,
- The recipient is unregistered & B2C
- The recipient does not require such invoice.

Note:- This option not available in case of B2B invoice

Note:- Invoice needs to be issued when the customer demands it.

⇒ Such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies.

Proviso	This option is not available to a supplier supplying service of admission to exhibition of cinematograph films in multiplex screens ***
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Note:- Above provision is also applicable to Bill of Supply.

Special Discussion on Admission to exhibition of cinematograph films in multiplex screens:-

- ⇒ Invoice is to be issued mandatorily by multiplex even if recipient is unregistered & value is < 200.
- ⇒ E-ticket issued is deemed to be tax invoice i.e. no separate tax invoice to be issued (Rule 54).

P7:- Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

Sr. No.	Recipient of supply	Amount ₹
1.	Raghav Traders - a registered retail dealer	190
2.	Dhruv Enterprises – an unregistered trader	358
3.	Gaurav – a Painter [unregistered]	500
4.	Oberoi Orphanage – an unregistered entity	188
5.	Aaradhya – a Student [unregistered]	158

Tax invoice - ✓

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None of the recipients require a tax invoice [Raghav Traders being a composition dealer]. Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

No need to give Tax Invoice but consoli. T. I. at the end of day need to be generated.

Bill of Supply (Section 31(3)(c) read with Rule 49):-

Registered person has to issue Bill of Supply instead of Tax invoice if he is:-

- Supplying exempted goods &/or services OR
- Paying tax under composition levy.

Note:- Any tax invoice or any other similar document issued under any other Act for the time being in force for any non-taxable supply shall be treated as bill of supply for the purpose of GST Act.

Rule 46A:- Invoice-cum-bill of supply

Notwithstanding anything contained in rule 46/ 49/ 54 of CGST Rules, If a registered person is supplying taxable as well as exempted goods &/or services to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.

Provided that the said single "invoice-cum-bill of supply" shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

Newly Inserted N/No. 26/2022 –
CT dt. 26.12.2022

Difference Between Tax Invoice and Bill of Supply

	Invoice/Tax Invoice	Bill of Supply
Relevant provision	Sec 31(1)/(2) + Rule 46	Sec 31(3)(c) + Rule 49
Who Shall issue?	<ul style="list-style-type: none"> ➤ Normal Tax Payer ➤ Making non-exempt supply 	<ul style="list-style-type: none"> ➤ Normal Tax Payer ➤ Making exempt supply composition Tax Payer
GST Component	GST Amount on invoice - shown separately	No GST Amount on invoice
Supporting document for ITC	Yes [Sec 16(2) read with Rule 36]	No

Vouchers

Receipt Voucher (Section 31(3)(d) read with Rule 50):-

On receipt of advance payment for any supply of goods &/or services, a registered person shall issue a Receipt Voucher evidencing receipt of such payment. If rate of tax &/or nature of supply is not determinable at the time of receipt of Advance:-

If at the time of receipt of advance:-	
1. Rate of tax is not determinable:-	Tax shall be paid @18%. ★
2. Nature of supply is not determinable:-	Same shall be treated as interstate supply. ★

Refund Voucher (Section 31(3)(e) read with Rule 51):-

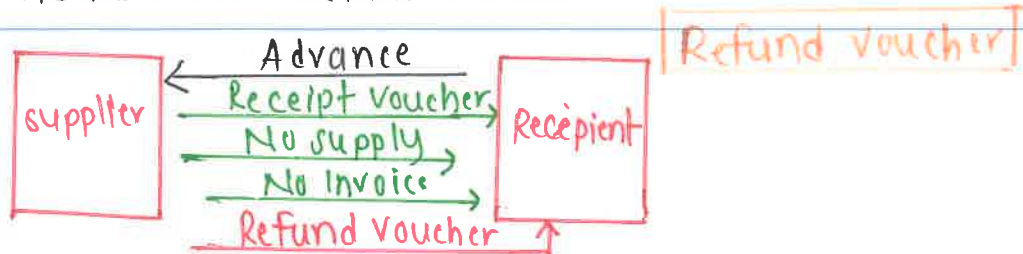
If registered person issues a Receipt Voucher on receipt of advance payment for any supply of goods &/or services, but subsequently:-

- No supply is made and
- No tax invoice is issued in pursuance thereof,

then, the said registered person may issue a Refund Voucher against such payment to the person who had made the payment.

Note:- In case of refund voucher RP can claim refund of GST if any paid on advance.

P8 :- Mr. Jai has received advance payment with respect to services to be supplied to his client. His accountant asked him to issue the receipt voucher with respect to such services to be supplied. However, he is apprehensive as to what would happen in case a receipt voucher is issued, but subsequently no services are supplied. You are required to advise Mr. Jai regarding the same → He has to issue Refund voucher.



When to Issue Refund Voucher?

(Advance received & Receipt Voucher issued)

Supply is made.
But no invoice is given

↓
Refund voucher not allowed

Note: GST is payable as supply is made.

Invoice is made but no supply made

↓
Refund voucher not allowed

Note: In this case, supplier can issue credit note & claim the adjustment

Supply is not made & also no invoice is issued

↓
Refund voucher is allowed.

Note: Supplier can claim GST Refund of Advance.

Invoice to be issued by the recipient- Self Invoice (Section 31(3)(f) read with Rule 46):-

A **registered recipient** shall issue an invoice for goods &/or services received by him, if:-

- ➔ he is liable to pay tax under reverse charge [u/s 9(3)/9(4) of the CGST Act] &
- ➔ the supplier is an **unregistered person** on the date of receipt of goods &/or services.

Thus, a recipient liable to pay tax u/s 9(3) has to issue invoice only when supplies are received from an unregistered supplier.

Comment:- u/s 9(3) -Supplies can be received from a registered or an unregistered supplier but u/s 9(4) – supplier can be only an unregistered person to fall under RCM.

Payment Voucher (Section 31(3)(g) read with Rule 52):-

A registered person shall issue a Payment Voucher at the time of making payment to supplier, if he is liable to pay tax **under reverse charge** [u/s 9(3)/9(4) of the CGST Act].

P9:- Bhoj Raj, a registered person, has availed GTA services on which he is liable to pay tax under reverse charge. He wishes to know whether he is required to issue an invoice. Please advise him discussing the relevant provisions under CGST Act and rules thereunder

IF GTA IS UNREGISTERED, THEN MR BHOJRAJ IS REQUIRED TO GENERATE SELF INVOICE AS WELL AS PAYMENT VOUCHER ON PAYMENT TO SUPPLIER.

Section 31(2) & proviso to section 31(1) read with rule 54:- Supplier permitted to issue any document other than tax invoice

Following suppliers may issue a tax invoice, but they are also permitted to issue any other document in lieu of tax invoice, by whatever name called:-

Supplier of taxable service	Tax invoice / Document in lieu of the tax invoice	
	Optional Information	Mandatory Information
Insurer/ banking company/ Financial institution, including NBFC	<ul style="list-style-type: none"> ➤ Serial number ➤ Address of recipient of taxable service 	<ul style="list-style-type: none"> ➤ All other information prescribed for Tax Invoice under rule 46. ➤ The said supplier may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof - for supply of services made during a month at the end of the month. <p>Signature or digital signature of supplier/his authorised representative shall not be required for issue of a consolidated tax invoice/ any other document in lieu thereof as per Information Technology (IT) Act, 2000.</p>
GTA supplying services in relation to transportation of goods by road in a goods carriage		<ul style="list-style-type: none"> ⊖ Gross weight of consignment ⊖ Name of consignor & consignee ⊖ Registration no. of goods carriage in which goods are transported ⊖ Details of goods transported ⊖ Details of place of origin & destination ⊖ GSTIN of person liable for paying tax whether as consignor, consignee or GTA ⊖ Other information prescribed for a tax invoice under Rule 46
Supplier of passenger transportation service	<ul style="list-style-type: none"> ➤ Serial number ➤ Address of recipient of taxable service 	<ul style="list-style-type: none"> ⊖ Tax invoice shall include ticket in any form ⊖ All Other information prescribed for a tax invoice under Rule 46. <p>Signature or digital signature of supplier/his authorised representative shall not be required for issue of ticket as per Information Technology (IT) Act, 2000.</p>
Admission to exhibition of cinematograph films in multiplex screens by RP	Details of recipient of service	<ul style="list-style-type: none"> ⊖ Supplier is required to issue an electronic ticket which shall be deemed to be a Tax invoice. ⊖ All other information prescribed for a tax invoice under Rule 46. MCO

Rule 55:- Delivery Challan

A] Following are the cases where at the time of removal of goods, goods may be removed on delivery challan and invoice may be issued after delivery:-

Nature of supply

1. Supply of liquid gas where the quantity at the time of removal from place of business of supplier is not known,
2. Transportation of goods for job work,
3. Transportation of goods for reasons other than by way of supply, or ~~****~~ (eg. Transfer to DDP / CTP)
4. Other supplies notified by board

B] Manner of issuing Delivery Challan:-

It shall be prepared in **TRIPLICATE**, in case of supply of goods, as follows:-

Original Copy	Original for Consignee
Duplicate Copy	Duplicate for Transporter
Triplicate Copy	Triplicate for Consignor

C] Goods transported in SKD/CKD condition or in batches or lots:-

If goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots:-

- Ⓒ (a) The supplier shall issue complete invoice before dispatch of 1st consignment;
- (b) The supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
- (c) Copies of corresponding delivery challan shall accompany each consignment along with a duly certified copy of invoice;
- and
- (d) The original copy of invoice shall be sent along with the last consignment.

D] Other Points:-

- ⇒ If goods are being transported on delivery challan in lieu of invoice, it shall be declared as per E-way Bill rules (i.e. rule 138).
- ⇒ If goods are transported for supply to recipient but the tax invoice could not be issued at the time of removal of goods for supply, the supplier shall issue a tax invoice after delivery of goods.

Some Important Clarifications:-

1. If goods are moved within the State or from the state of registration to another state for supply on approval basis [Circular No.10/10/2017 GST dt 18/10/2017].

Issue:-

- ⇒ Suppliers of jewellery, etc. registered in one State carry goods for approval within same state or may visit other States (other than their State of registration).
- ⇒ Supplier issues a tax invoice only at the time of supply i.e. when buyer approves the goods.
- ⇒ As the actual supplies are not ascertainable beforehand, the ascertainment of tax liability in advance is not possible which is a mandatory requirement for registration as a casual taxable person. So, supplier is not able to register as a CTP.

Legal Provision & Clarification:-

- ⇒ As per rule 55, it is clarified that the goods taken for supply on approval basis can be moved from place of business of registered supplier to another place within same State or outside State on a delivery challan along with e-way bill wherever applicable.
- ⇒ Invoice may be issued at the time of delivery of goods.
- ⇒ For this purpose, person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.
- ⇒ Goods taken to another state & supplied there is inter-state supply & IGST is leviable.
- ⇒ So it is treated as goods sent on approval or return basis & not as CTP.

2. Art works sent by artists to galleries for exhibition [Circular No. 22/22/2017 GST dt 21/12/2017].

Issue:-

- ⇒ If artists supply art works in different States - other than the State of registration and the art work is selected by buyer, then the supplier issues a tax invoice only at the time of supply.

Legal Provision & Clarification:-

- ⇒ It is clarified that the art work for supply on approval basis can be moved from the place of business of registered person (artist) to another place within the same State or outside State on a delivery challan along with e-way bill wherever applicable.
- ⇒ Invoice may be issued at the time of actual supply of art work.
- ⇒ Supply of art work from 1 state to other is inter-state supply & IGST is leviable.

Section 31A:- Facility of digital payment to recipient

On recommendations of Council, Govt. may prescribe a class of registered persons who shall:-

- ⇒ provide prescribed modes of electronic payment to recipient &
- ⇒ give option to such recipient to make payment accordingly, under prescribed manner, conditions & restrictions.

Section 32:- Prohibition of Unauthorised Collection of Tax

- ⇒ An unregistered person shall not collect any tax under GST Act for supply of goods &/or services.
- ⇒ A registered person shall collect tax only as per GST Act & Rules made thereunder.

Section 33:- Amount of tax to be indicated on Tax Invoice & other documents

If a supply is made for a consideration:-

Every person who is liable to pay tax for such supply shall prominently indicate the amount of tax which shall form part of the price at which such supply is made in all documents relating to assessment, tax invoice & other like documents.

Section 34:- Credit Notes & Debit Notes

Sub Sec	Legal Provision		
1	<p>Who can issue Credit note and when? ****</p> <p>If 1 or more tax invoices are issued for supply of goods &/or services &</p> <ul style="list-style-type: none"> ➔ the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or ➔ the goods supplied are returned by recipient, or <i>Sales return</i>. ➔ the goods &/or services supplied are found to be deficient, <p>the registered person being supplier may issue 1 or more credit notes for supplies made in a F.Y. to the recipient containing prescribed particulars.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Comments:-</p> <ul style="list-style-type: none"> ➔ Credit note can be issued where value or tax is erroneously declared more than actual, the Qty received is < than actual, quality of supply is not satisfactory or any other reason. ➔ Credit note(s) are not permitted to be issued for secondary discounts that are allowed by supplier since the tax liability of supplier does not get reduced in such case. <p>†But, supplier can issue financial/ commercial credit note(s) to reduce value of supply payable by recipient to supplier [Circular 92/11/2019 GST dt 07.03.2019].</p> </div>		
2	<p>Time limit to declare the details of Credit note issued?</p> <p>Details of credit note issued by a registered supplier shall be declared:-</p> <ul style="list-style-type: none"> ➔ FROM:- in the return for the month during which such credit note is issued ➔ TILL the earlier of:- <ul style="list-style-type: none"> ➤ 30th November following the end of F.Y. in which such supply was made, or ➤ Date of furnishing of the relevant annual return. <p>Once the credit note is issued, the tax liability of supplier will reduce.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; padding: 5px;">Proviso</td> <td style="padding: 5px;">Output tax liability of supplier shall NOT be reduced, if the incidence of tax & interest on such supply has been passed on to any other person by the supplier.</td> </tr> </table>	Proviso	Output tax liability of supplier shall NOT be reduced, if the incidence of tax & interest on such supply has been passed on to any other person by the supplier.
Proviso	Output tax liability of supplier shall NOT be reduced, if the incidence of tax & interest on such supply has been passed on to any other person by the supplier.		
3	<p>Who can issue Debit note and when?</p> <p>If 1 or more tax invoices are issued for supply of goods &/or services &</p> <ul style="list-style-type: none"> ➔ the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, ➔ the quantity received by recipient is more than what is declared in tax invoice, or ➔ any other similar reasons, <p>the registered supplier shall issue 1 or more debit notes for supplies made in a F.Y. to the recipient containing prescribed particulars.</p>		
4	<p>Time limit to declare the details of Debit note issued?</p> <ul style="list-style-type: none"> ➔ Details of debit note issued by a registered supplier shall be declared in the return for the month during which such debit note is issued. ➔ A debit note/supplementary invoice creates additional tax liability. <p>Comment:- 1) The treatment of a debit note/supplementary invoice is identical to that of a tax invoice as far as returns and payment are concerned. 2) TOS for debit note is the date of issue of debit note 3) There is no time limit for issue of debit note.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Explanation- The word "debit note" shall include a supplementary invoice.</p> </div>		

Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws- (Circular No. 137/07/2020-GST Dated 13/4/2020) HW

1)	Fact	An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon.	
	Issue	Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	
	Clarification	a)	Credit note to be issued under section 34 of CGST Act, 2017 for reduction of tax liability.
		b)	Details of such credit notes shall be declared in the return for the month during which such credit note has been issued. There is no need to file a separate refund claim.
		c)	Where there is no output liability against which a credit note can be adjusted, refund claim allowable under 'Excess payment of tax, if any' through FORM GST RFD-01.
2)	Fact	An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received.	
	Issue	Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	
	Clarification	a)	Issue refund voucher under GST.
		b)	The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax".
3)	Fact	Goods supplied by a supplier under cover of a tax invoice are returned by the recipient.	
	Issue	Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	
	Clarification	a)	Credit note to be issued under section 34 of CGST Act, 2017 for reduction of tax liability.
		b)	Details of such credit notes shall be declared in the return for the month during which such credit note has been issued. There is no need to file a separate refund claim.
		c)	Where there is no output liability against which a credit note can be adjusted, refund claim allowable under 'Excess payment of tax, if any' through FORM GST RFD-01.

For Self Study:-

Rule 53:- Particulars of Revised Tax Invoice:-

a.	Name, address & GSTIN of supplier;
b.	Name, address & GSTIN of supplier;
c.	A consecutive serial number <= 16 characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash & slash & any combination thereof, unique for a FY;
d.	Date of issue of document;
e.	Name, address & GSTIN or UIN, if registered, of the recipient;
f.	Name & address of recipient & the address of delivery, along with name of State & its code, if such recipient is un-registered;
g.	Serial number & date of corresponding tax invoice/ bill of supply;
h.	Signature/digital signature of supplier/his authorized representative.

Rule 49:- Particulars of Bill of Supply:-

a.	Name, address & GSTIN of supplier;
b.	A consecutive serial number <= 16 characters, in one or more multiple series, containing alphabets or numerals or special characters- hyphen or dash & slash & any combination thereof, unique for a F.Y.
c.	Date of its issue;

d.	Name, address & GSTIN or UIN, if registered, of the recipient;
e.	HSN Code for goods or services;
f.	Description of goods or services or both;
g.	Value of supply of goods or services or both taking into account discount/abatement, if any; and
h.	Signature/digital signature of supplier/his authorized representative (not required for issue of electronic bill of supply as per Information Technology (IT) Act, 2000).

Rule 50:- Particulars of Receipt Voucher:-

a.	Name, address & GSTIN of supplier;
b.	A consecutive serial number \leq 16 characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash & slash & any combination thereof, unique for a F.Y.;
c.	Date of its issue;
d.	Name, address & GSTIN or UIN, if registered, of the recipient;
e.	Description of goods or services;
f.	Amount of advance taken;
g.	Rate of tax (CGST, SGST, IGST, UTGST or Cess);
h.	Amount of tax charged in respect of taxable goods or services (CGST, SGST, IGST, UTGST or Cess);
i.	Place of supply along with the name of State & its code, for supply in the course of inter-State trade or commerce;
j.	Whether the tax is payable on reverse charge basis; and
k.	Signature/digital signature of supplier/his authorized representative.

Rule 51:- Particulars of Refund Voucher

a.	Name, address & GSTIN of supplier;
b.	A consecutive serial number \leq 16 characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash & slash & any combination thereof, unique for a F.Y.;
c.	Date of its issue;
d.	Name, address & GSTIN or UIN, if registered, of the recipient;
e.	Number & date of Receipt Voucher issued;
f.	Description of goods/ services in respect of which refund is made;
g.	Amount of refund made;
h.	Rate of tax (CGST, SGST, IGST, UTGST or Cess);
i.	Amount of tax paid in respect of such goods or services (CGST, SGST, IGST, UTGST or Cess);
j.	Whether the tax is payable on reverse charge basis; and
k.	Signature/digital signature of supplier/his authorized representative.

Rule 52:- Particulars of Payment Voucher:-

a.	Name, address & GSTIN of supplier if registered;
b.	A consecutive serial number \leq 16 characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash & slash & any combination thereof, unique for a F.Y.;
c.	Date of its issue;
d.	Name, address & GSTIN of the recipient;
e.	Description of goods or services;
f.	Amount paid;
g.	Rate of tax (CGST, SGST, IGST, UTGST or Cess);
h.	Amount of tax payable in respect of taxable goods or services (CGST, SGST, IGST, UTGST or Cess);

i.	Place of supply along with the name of State & its code, for supply in the course of inter-State trade or commerce; and
j.	Signature/digital signature of supplier/his authorized representative.

Rule 53(1A):- Particulars of Debit & Credit Notes

There is no prescribed format, but the mandatory particulars are:-

a.	Name, address & GSTIN of supplier
b.	Nature of document
c.	A consecutive serial number <= 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash & slash & any combination thereof, unique for a FY
d.	Date of issue of document
e.	Name, address & GSTIN or UIN, if registered, of the recipient
f.	Name & address of recipient & address of delivery, along with name of State & its code, if such recipient is un-registered
g.	Serial number(s) & date(s) of corresponding tax invoice(s) or bill(s) of supply
h.	Value of taxable supply of goods or services, rate of tax & amount of tax credited/ debited to recipient
i.	Signature/digital signature of supplier/his authorized representative.



CHAPTER - 13

E-Way Bill

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Rules	Description	Pg. No.
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Sec. 68 : Inspection of Goods in movement

- (1) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.
- (2) The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.
- (3) Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

What is an E-Way bill why is it required?

E-Way Bill is a compliance mechanism

→ Where in by way of a digital interface

→ The person causing the movement of goods

→ upload the relevant information prior to commencement of movement of goods

→ Generates E-Way Bill on GST Portal

E-Way Bill

Who & When E-way Bill is required to be generate?

Who :- Every R.P. (Supplier or recipient) who causes the movement of goods

→ in relation to a supply or → Reasons other than supply or

→ Due to inward supply from an unregistered person

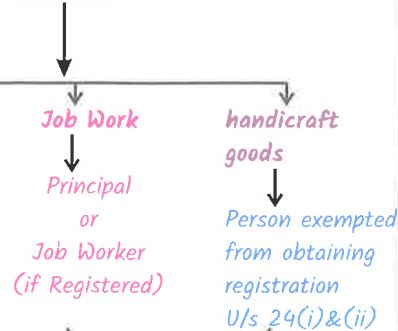
When :- Consignment value exceeds ₹ 50,000

Voluntary Generation
(even if consignment value is ₹ 50000 or less)

Consignment value exceeds ₹ 50,000

→ Every R.P. causing movement of goods
→ Can authorized ECO or Courier Agency or Transporter to furnish details in Part-A

Mandatory Generation



• Inter State movement
• E-Way Bill is required Irrespective of consignment value

Details in E-Way Bill	
Part A	
1) GSTIN of Supplier	2) Place of Dispatch (Pin Code)
3) GSTIN of Recipient	4) Place of Delivery (Pin Code)
5) Document no. (as given in Invoice/Bill of supply etc)	
6) Document date	7) Value of Goods
8) HSN Code [upto Scr-2digit Above Scr-4 digit]	
9) Reason for Transportation	
Part A	
1) Vehicle Number for Road	
2) Transport Document No (Goods receipt, No/Railway Receipt, No. etc.)	



Determination of Value

Mandatory generation of E-Way bill if Value exceeds ₹ 50,000
→ Determined as per Section 15

→ Declared in invoice/ Bill of Supply/ Delivery Challan

→ Issued in respect of said consignment

Includes
CGST
SGST/ UTGST
IGST
Cess

Excludes
Value of Exempt Supply of goods

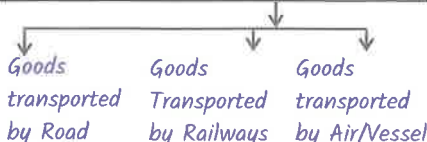
Value (as per sec 15) declared (in invoice/ BOS/ DC) XXX

+ GST including cess XXX

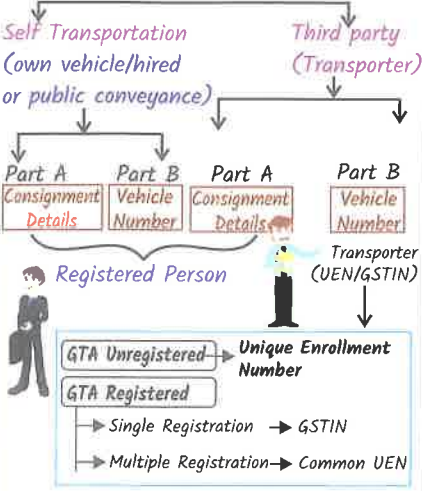
If amount > 50R ← XXX

Exclude: value of exempt goods (increase of invoice cum BOS)

When E-Way Bill is required to be generated?



E-way bill to be generated before movement of goods
• by R.P. (supplier/recipient)
• Information in Part B before/After commencement of movement of goods but it shall not be delivered unless EWB is produced at the time of delivery



Documents to be carried by PIC

The person in charge of a conveyance shall carry—

(a) the invoice or bill of supply or delivery challan, Bill of Entry etc. and

(b) a copy of the e-way bill in physical form or EWB no. in

Inspection of E-Way Bill

Rights of Commissioner

→ Right to intercept any conveyance verify E-way bill

→ Right to install Radio Frequency Identification device reader Right to physical

→ Verification of conveyance

Rights of person

If vehicle detained for more than 30 mins transporter may upload the information in Form GST EWB-04 on common portal

Summary Report & final Report - to be recorded online in Form GST EWB-03
Part A (summary) - within 24 hrs of inspection
Part B (Final) - within 3 days of inspection
[Extension available for further 3 days]

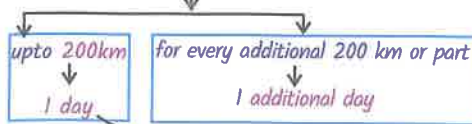
(Sec 68 & Rule 138)

Relevance :-

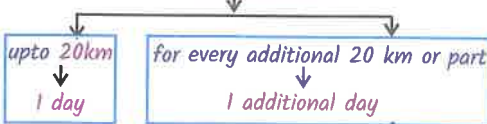
- Hassle free movement
- Control tax evasion
- Track movement of goods
- Eliminate State boundary checkpoint

Validity of E-Way Bill

Other than over dimensional cargo



In case of Over Dimensional Cargo



Note :- Multimodal shipment where one leg in ship the above both options are available

- Validity period shall be counted from time at which E-Way bill has been generated (after completion of info in part B by transporter)
- First day shall be expired on mid night of succeeding day
- Validity of E-way bill may be extended within 8 hours from the time of its expiry



Non-Requirement of E-Way Bill

- Transportation of
- Non Taxable Goods
 - Jewellery/ precious stone
 - Currency
 - Postal, Baggage
 - Personal effect
 - Empty cargo container
 - Transported by non-motorised vehicles
 - Movement of goods under-ministry of defense
 - Supply under Schedule-III
 - Supply under Custom supervision
 - Transport of exempt goods (except 'de-oiled cake) etc.



Transshipment of Goods

- Consignor / Recipient (who has furnished Part A) or
 - Transporter
- can assign the E-Way Bill to another registered transporter to update Part B of E-Way bill for further movement of goods.
- Note- only 1 EWB is required**

Acceptance/Rejection/cancellation of E-Way Bill

Acceptance/ Rejection

by the Recipient (if registered) or supplier

- within 72 hours
- Before delivery of goods (whichever is earlier) or else

Deemed Acceptance

- Cancellation to be done within 24 hours
- Cannot be cancelled if verified in transit

Cancellation of E-Way bill

Goods not transported **OR** Goods not transported as per details furnished

Rule 138E: Restriction on furnishing information in Part A of EWB-01

No person shall be allowed to furnish information in Part A in respect of any outward movement of goods of a Registered person, who

- (a) Being composition registered person, has not furnished CHPOS for 2 consecutive quarters.
- (b) Being person other than (a) has not furnished returns for a consecutive period of 2 tax periods
- (c) Being person other than (a) has not furnished GSTR-1 for any two months/ Quarters
- (d) Being a person whose registration has been suspended under rule 21A (1)/ (2)/ (2A)

proviso: commissioner on receipt of an application from RP in EWB 05, on sufficient cause being shown, order in EWB 06, allow furnishing of information in part A of EWB or reject the request after providing OOBH

Non Compliance of E-Way Bill

Sec 122

Taxable person Transporting the goods liable to penalty of ₹ 10,000 or Tax evaded (whichever is higher)

Sec 129

Confiscation of Goods & conveyance

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.
- ⇒ But, to monitor movement of goods to control tax evasion, e-way bill system is introduced.
- ⇒ Under this system, prior to movement of goods via a conveyance, a taxpayer would:-
 - inform each transaction's details to the tax department through common portal (www.ewaybillgst.gov.in),
 - obtain an automatically generated acknowledgment no. for having thus informed, and
 - use this acknowledgment no. as a valid document accompanying the conveyance carrying goods & to track also.
- ⇒ Sec 68 read with Rule 138 of CGST Rules requires the person in charge of a conveyance carrying any consignment of goods of value > specified amount to carry e-way bill as the document for the consignment of goods and prescribed devices.

Note:- Provisions of E-way Bill under CGST Act are also applicable to IGST Act vide section 20 of IGST Act.

Sec 68 read with Rule 138:- E-Way Bill

1	What is an E-way Bill?
	<ul style="list-style-type: none">⇒ Electronic Way Bill (E-Way Bill) is basically a compliance mechanism where person causing the movement of goods uploads the relevant information prior to commencement of movement of goods & generates e-way bill on GST portal in Form GST EWB 01.⇒ So, it is an electronic document generated on GST portal evidencing movement of goods.⇒ It 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.⇒ The facility of generation, cancellation, updation and assignment of e-way bill is available to the supplier, recipient and the transporter, as the case may be.⇒ Upon generation of e-way bill, a unique e-way bill number (EBN) shall be made available to supplier, recipient and the transporter on the common portal [Rule 138(4)].
2	What are the benefits of E-way Bill?
	<ol style="list-style-type: none">1. Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts.2. It will facilitate faster movement of goods.3. It will improve the turnaround time of trucks and help logistics industry by increasing the average distances travelled, reducing the travel time & costs.
3	What are pre-requisites for generation of e-way bill?
	<ul style="list-style-type: none">⇒ Pre-requisite for generation of e-way bill is that person who generates e-way bill should be:-<ul style="list-style-type: none">➤ a registered person on GST portal and➤ he should register on the e-way bill portal using his GSTIN.⇒ If the transporter generating e-way bill is not registered person under GST law, then it is mandatory for him to get enrolled on e-waybill portal before generation of the e-way bill to get 15-digit Unique Transporter Id called TRANSIN which is a unique number generated by EWB system for unregistered transporter.

4 When & who is required to generate an e-way bill? [Rule 138(1)]

I) Consignment value > Rs 50000:-

As per Rule 138(1), Every **registered person who causes movement** of goods of consignment value >Rs 50000:-

- in relation to a supply or
- for reasons other than supply or
- due to inward supply from an unregistered person

shall furnish the information relating to the said goods in Part A of Form GST EWB-01 before commencement of such movement.

II) ECO or Courier agency:-

A registered person liable to generate e-way bill can authorize the transporter, ECO or courier agency to furnish details in Part A of e-way bill (Form GST EWB-01).

III) Voluntary generation of e-way bill:-

A registered person or the transporter may voluntarily generate an e-way bill even if consignment value is ≤ ₹ 50,000.

Explanation to Rule 138(1):- Consignment Value of Goods=

- Value as per Sec 15 as declared in an invoice/ a bill of supply/ a delivery challan, issued in respect of the said consignment &
- **also includes** the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document &
- **shall exclude** the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Note:-

1. Who causes movement of goods for the purpose of E-way bill?

If supplier is registered & transports goods,	movement is caused by supplier.
If recipient arranges transport,	movement is caused by recipient.
If goods are supplied by an unregistered supplier to a registered known recipient,	movement is caused by recipient, if he is known at time of commencement of movement of goods.

2. As clarified by CBIC FAQs on E-way Bill, the value given in delivery challan should be adopted in e-way bill as, in case of movement of goods for reasons other than supply, delivery challan is issued which has to necessarily contain the value of goods.

3. Consignment value is checked invoice-wise to decide whether to generate E-way bill or not.

Example:- A truck contains 3 consignments based on 3 invoices, Invoice 1 for ₹ 55,000/-, invoice 2 for ₹35,000/- and invoice 3 for ₹ 90,000/- . How many E-Way Bill will be generated?

Solution:- E-Way Bill will be generated Bill/ Invoice wise, i.e. when value of invoice exceed ₹50,000/-. Therefore, in this case E-Way bill will be generated for Invoice no. 1 & 3 only.

5 Cases for Mandatory Generation of E-Way Bill, irrespective of consignment value:-

1. Interstate Job Work:-

Goods sent by a principal from one state/UT to job worker located in another state/UT,

- Principal or the Job worker (if registered) shall generate an e-way bill, irrespective of consignment value (3rd proviso to rule 138(1)).

2. Handicraft Goods:-

If handicraft goods are transported from one State/UT to another State/UT by a person exempted from obtaining registration u/s 24(i)/(ii),

- e-way bill shall be generated by the said person irrespective of value of consignment.

6

E-way Bill in case of "Bill to Ship to" Model:-

⇒ In this model there are 3 persons involved in a transaction, namely:-

'A' is the person who has ordered 'B' to send goods directly to 'C',
'B' is the person who is sending goods directly to 'C' on behalf of 'A', and
'C' is the recipient of goods.

⇒ Here, 2 supplies are involved & accordingly 2 tax invoices are required to be issued as under:-

Invoice 1: Issued by 'B' to 'A'	Invoice 2: Issued by 'A' to 'C'
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⇒ **Clarification (Press release dated 23.04.2018):-**

For movement of goods taking place from "B" to "C" on behalf of "A":-

➤ Either A or B can generate e-way bill but note that only 1 e-way bill is required to be generated.

7

Who is required to generate an E-way bill in the given cases?**A) Goods transported by registered person by Road:-**

E-way bill shall be generated by furnishing information in Part B- by the *registered person as a consignor or the recipient as the consignee*, whosoever transports goods by road:-

- whether in his own conveyance or
- a hired one or
- a public conveyance.

B) Goods not transported by registered person but handed over to transporter:-

If e-way bill is not generated by registered person & goods are handed over to transporter for transportation of goods by road,

- the registered person shall furnish information relating to the transporter in Part B on the common portal and also generate E-way bill on the basis of information furnished by registered person in Part A.

C) Goods transported by Railways or Air or Vessel:-

E-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01.

Proviso:-	RAILWAYS shall deliver goods only when e-way bill is produced at the time of delivery.
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Note:- Railways need to carry invoice or delivery challan or bill of supply along with goods & not E-way bill. E-way bill generated for the movement is required to be produced at the time of delivery only as per above proviso without which goods shall not be delivered.

D) Movement of goods is caused by an unregistered person:-

If movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter,

- he or the transporter may, at their option, generate the e-way bill.

8 Information to be furnished in E-Way Bill:-

⇒ An e-way bill Form GST EWB-01 contains two parts as under:-

Part -A		Part-B (details by person transporting goods)
<ul style="list-style-type: none"> ➤ GSTIN of Supplier, ➤ Place of Dispatch, ➤ GSTIN of Recipient, ➤ Place of Delivery (PIN Code also), 	<ul style="list-style-type: none"> ➤ Document Number, ➤ Document Date, ➤ Value of Goods, ➤ HSN Code, ➤ Reason for Transportation, etc. 	<ul style="list-style-type: none"> ➤ Transporter document number (Goods Receipt No. or Railway Receipt No. or Airway Bill No. or Bill of Lading No.) & ➤ Vehicle number, in case of transport by road

Note on vehicle no.:-

1. E-way bill is not valid for movement of goods without vehicle number on it.
2. E- Way Bill may be updated with vehicle number any number of times.
3. The latest vehicle number should be available on e-way bill and should match with the vehicle carrying it in case checked by the department.

Notes:-

Information in Part A:- It is to be furnished by registered person causing movement of goods of consignment value > ` 50,000. But, information may be furnished by:-

- ⇒ transporter, on an authorization received from such registered person [1st proviso to rule 138(1)] or
- ⇒ ECO or courier agency, if goods to be transported are supplied through them, on an authorization received from consignor [2nd proviso to rule 138(1)].

Information in Part B:- It is to be furnished by person who is transporting the goods.

- ⇒ Once the consignor/consignee enters all details in Part-A of e-way bill, a Part-A slip is generated which contains a temporary number which can be:-
 - **Either** shared with transporter
 - **or** used by supplier himself later
 to enter the details in Part-B of e-way bill and generate the e-way bill.
- ⇒ This will be useful, when supplier has prepared invoice relating to his business transaction, but doesn't have the transportation details. Thus, he can enter invoice details in Part A of e-way bill and keep it ready for entering details of mode of transportation in Part B of e-way bill.
- ⇒ Once goods are ready for movement from the business premises and transportation details are known, user can enter Part-B details & generate e-way bill for movement of goods.
- ⇒ E-way Bill can be generated only after entering the details of Part-B.

9 Case where information in Part B of E-way bill is not required to be furnished:-

E-way bill is valid for movement of goods by road only if details of conveyance is furnished in Part-B.

Exceptions:-

Where the goods are transported for a distance of upto 50 Kms within the State or UT:-

- ⇒ from place of business of consignor to place of business of transporter for further transportation, or
- ⇒ from place of business of transporter finally to the place of business of consignee.

10 Who shall update details of conveyance in Part-B of E-Way Bill on common portal for Transfer of goods from one conveyance to another:- [Rule 138(5)]

- ⇒ Goods may be transferred from original conveyance to another - due to unforeseen exigencies like break down of vehicle or sometimes consignments are transported by transporter through transshipment using multiple vehicles.
- ⇒ **Before such transfer and further movement of goods**, the following persons shall update the details of conveyance in Part-B of E-way Bill:-
 - the consignor or the recipient, who has provided information in Part A, or
 - the transporter.
- ⇒ User can update Part-B (Vehicle details) **any number of times** to move goods to destination. However, the updating should be done **within validity period** of E-way Bill.
- ⇒ In cases where 1 e-way bill goes through multiple modes of transportation before reaching destination, the EWB can be updated with new mode of transportation by using the option of 'Update Vehicle Number'.

11	Assignment of e-way bill number to another transporter:- [Rule 138(5A)]	
	<p>The following persons may assign e-way Bill number to another registered/ enrolled transporter for updating information in Part B for further movement of consignment:-</p> <ul style="list-style-type: none"> ➤ The consignor /recipient, who furnished the information in Part A, or ➤ The transporter. <p>Proviso:- Once the transporter updates details of conveyance in Part B, then consignor/recipient shall not be allowed to assign the e way bill number to another transporter.</p> <p>Clarification [Press Release No. 144/2018 dated 31.03.2018]:-</p> <p>Situation:- 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. How would the e-way bill be generated in such situations?</p> <p>Clarification:-</p> <ul style="list-style-type: none"> ➤ In such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill 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 e-way bill 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	Information submitted for e-way bill can be used for filing GST Returns [Rule 138(8)]:	
	<p>The information furnished in Part A of e-way bill shall be made available to registered supplier on common portal who may utilize the same for furnishing the details in Form GSTR-1.</p> <p>Proviso:- If information is furnished by an unregistered supplier/unregistered recipient, he shall be informed electronically, if the mobile number or the e-mail is available</p>	
13	Communication of acceptance or rejection of E-way Bill:-	
	Rule 138(11):-	<ul style="list-style-type: none"> ➤ Details of e-way bill generated shall be made available on common portal to:- <ul style="list-style-type: none"> ➤ supplier (if registered)- if information in Part A is furnished by recipient/ transporter or ➤ recipient (if registered)- if information in Part A is furnished by supplier/ transporter. ➤ Supplier/recipient should communicate his acceptance or rejection of consignment covered by E-way bill.
	Rule 138(12):-	<p>Information in Part A shall be deemed to be accepted, if supplier/ recipient (as above) does not communicate his acceptance or rejection within EARLIER of:-</p> <ul style="list-style-type: none"> ➤ 72 hours of details being made available to him on common portal or ➤ Time of delivery of goods.
14	Cancellation of e-way bill:-	
	Rule 138(9):-	<p>E-way bill may be cancelled electronically on common portal within 24 hrs of its generation, if after generation of e-way bill,</p> <ul style="list-style-type: none"> ➤ goods are not transported or ➤ are not transported as per the details in E-way bill.
	Proviso	E-way bill cannot be cancelled if it has been verified in transit as per Rule 138B.
	Proviso	Unique EWB No. generated is valid for 15 days for updation of Part B.
	<p>Note:- If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.</p>	

15 Explain the validity of E-way bill From the Relevant Date [Rule 138(10):-

Type of Cargo	Distance	Validity
Cargo other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	Upto 200 Km	1 day
	For every 200 Km or part thereof thereafter	1 day additional
Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	Upto 20 km	1 day
	For every 20 km or part thereof thereafter	1 day additional

Extension of validity of E-way Bill:-

Once the validity of E-way bill expires, the goods are not supposed to be moved. Generally, the validity of e-way bill cannot be extended.

Exception:-

- ⇒ Commissioner may extend validity for certain notified goods on recommendations of Council.
- ⇒ Transporter may extend validity **within 8 hours** from the time of its expiry in exceptional circumstances, if consignment is not reached to the destination, after updating the details in Part B (if required).

Notes:-

1. Relevant date = date of generation of e-way bill and the period of **validity:-**

- shall be counted from the time at which the e-way bill has been generated and
- each day shall be counted as the period **expiring at midnight of the day immediately following** the date of generation of e-way bill.

Example:- Suppose an e-way bill is generated at 00:04 hrs. on 14th March. 1st day would end on 12:00 midnight of 15 - 16 March. 2nd day ends on 12:00 midnight of 16 - 17 March & so on.

2. Validity of e-way bill starts when first time the entry is made in Part-B. It is not re-calculated for subsequent entries in Part-B.

3. **Over Dimensional Cargo:-** means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

Clarification [CBIC Press Release dated 31.03.2018]:-

Situation:- A consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. How the validity of e-way bill be calculated?

Clarification:-

- ⇒ The validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time.
- ⇒ Here, 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 on Monday and the validity period of the e-way bill will start from Monday.

16 Specify the cases where E-way is not required to be generated? [Rule 138(14)]

a) If following goods are transported:-

S.No.	Description of Goods
1	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2	Kerosene oil sold under PDS
3	Postal baggage transported by Department of Posts
4	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal
5	Jewellery, goldsmiths' and silversmiths' wares and other articles excepting Imitation Jewellery
6	Currency
7	Used personal and household effects
8	Coral, unworked and worked coral

Amended by N/No. 26/2022
CT dt. 26.12.2022

- b) Goods transported by non-motorised conveyance.
- c) Goods transported from customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs.
- d) Movement of goods within notified areas under rule 138(14)(d) of State or UT GST Rules in that particular State or UT.
- e) Goods [other than de-oiled cake] transported are exempt from tax.
- f) Goods transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (petrol), natural gas or aviation turbine fuel.
- g) Supply of goods transported is not treated as supply under Schedule III of CGST Act.
- h) Goods are transported:-
 - i) Under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 - ii) under customs supervision or under customs seal.
- i) Goods transported are transit cargo from or to Nepal or Bhutan.
- j) Goods transported are exempt from tax under:-
 - Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers &
 - Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL).
- k) Any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee.
- l) CG, SG or local authority is the consignor of goods for transport of goods by rail.
- m) Transportation of empty cargo containers.
- n) Goods transported upto a distance of 20 Km from place of business

Condition:- Movement of goods is accompanied by a delivery challan issued rule 55.

- o) Movement of empty cylinders for packing of liquefied petroleum gas for reasons other than supply.

17 Consolidated E way Bill:-

In cases where E-way Bill are already generated i.e. each consignment value > Rs 50000:-

- If transporter intends to transport multiple consignments of various consignors and consignees in 1 conveyance, then
 - he may **generate a consolidated e-way bill in Form GST EWB-02** electronically on common portal prior to movement of goods, in which, he may indicate the serial number of e-way bills generated for each such consignment [Rule 138(6)].
- So, instead of carrying separate document for each consignment, transporter generates a single document called "consolidated e-way bill".
- Multiple E-way Bills, for which a consolidated E-way bill is generated, have different validity periods. Hence, Consolidated EWB does not have any independent validity period & thus, each consignment shall reach the destination as per the validity period of individual EWB.

In cases where E-way Bill is not generated i.e. consignment value not exceeding Rs 50000:-

- If the consignor/consignee has not generated e-way bill in Form GST EWB-01 & the aggregate of the consignment value of goods carried in the conveyance is >₹ 50,000, then prior to the movement of goods:-
 - Transporter shall generate e-way bill on basis of invoice or bill of supply or delivery challan only in respect of inter-State supply &
 - He may also generate a consolidated e-way bill in Form GST EWB-02.

Exception:- In case of transportation of goods by railways, air and vessel [Rule 138(7)].

18 What documents & devices to be carried by a person-in-charge of a conveyance? (Rule 138A)

The person in charge of a conveyance shall carry:-

- a) Invoice/ bill of supply/ delivery challan, as the case may be, &
- b) a copy of the e-way bill in physical form or e-way bill number in electronic form or e-way bill number mapped to Radio Frequency Identification Device (RFID) embedded on to the conveyance.

Proviso:-	Clause b) is not applicable in case of movement of goods by rail/ by air/ by vessel.
Proviso:-	For imported goods, the person in charge of conveyance shall also carry a copy of bill of entry filed by importer of such goods & shall indicate the number and date of the bill of entry in Part A of E-way bill.

Comment:- Carrying e-way bill number in electronic form implies that person-in-charge of conveyance can merely quote the e-way bill number to the proper tax officer. Tax officer will do all the requisite verifications, based on that number.

19 How should the verification of documents and conveyances be done by Department? [Rule 138B]

- ⇒ The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.
- ⇒ **Radio Frequency Identification Device (RFID) readers:-**
 - The Commissioner shall get RFID readers installed at places where the verification of movement of goods is required to be carried out and
 - verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.
- ⇒ **Physical verification:-**

The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf.

Proviso:- 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 Commissioner or an officer authorised by him in this behalf.

20 How should the report pertaining to inspection be uploaded by the Department? (Rule 138C)

- ⇒ The proper officer shall record online:-
 - A summary report of every inspection of goods in transit in Part A of FORM GST EWB-03 within 24 hours of inspection &
 - A Final report in Part B of FORM GSTE WB-03 **within 3 days** of inspection.

Proviso:- where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period **not exceeding 3 days**.

Note :- 24 hours/ 3days shall be counted from midnight of date on which vehicle was intercepted.

- ⇒ If physical verification of goods being transported on any conveyance has been done during transit at one place within the State or UT or in any other State or UT,
 - **No further physical verification** of the said conveyance shall be carried out again in the State or UT.

Exception:- where a specific information for evasion of tax is made available subsequently.

21 Facility for uploading information regarding detention of vehicle (Rule 138D)

If vehicle intercepted and detained for > 30 minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.

Note:- Here, Student can write "in specified form" instead of form no.

22 Explain the restriction of furnishing of information in part A of FORM GST EWB 01 OR Blocking of e-waybill generation facility:- (Rule 138E)

Rule 138E contains provisions pertaining to blocking of e-way bill generation facility, i.e. disabling the generation of e-way bill.

A person (including a consignor, consignee, transporter, ECO or a courier agency) shall not be allowed to furnish information in PART A of FORM GST EWB-01 in respect of any outward movement of goods of a registered person who being a-

a)	Person paying tax u/s 10	not furnished statement in FORM GST CMP-08 for payment of self-assessed tax for 2 consecutive quarters.
b)	Person paying tax under regular scheme	not furnished returns for a consecutive period of two tax periods.
c)	Person paying tax under regular scheme	not furnished GSTR-1 for any 2 months / quarters.
d)	Being a person, whose	registration has been suspended under rule 21A.

Proviso:- On receipt of an application from a registered person in prescribed form, on sufficient cause being shown & for reasons to be recorded in writing, commissioner may allow furnishing of the said information in PART A of FORM GST EWB 01 by order, subject to such conditions and restrictions as may be specified by him.

Proviso:- An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard.

Proviso:- Permission granted/ rejected by the Commissioner of State tax or Commissioner of UT tax shall be deemed to be granted / rejected by the Commissioner.

Comment:-

- Blocking of GSTIN for e-way bill generation is only for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN.
- Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.
- In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation as per rule 138E. E-way bills can be generated for inward supplies of said registered person.

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, (a regular return filer) wants to generate an e-way bill for goods to be supplied to Mr. A.

- 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.
- But if Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked as it's an outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

23	Short Note on Invoice reference number (IRN) in lieu of tax invoice:-
	<ul style="list-style-type: none"> ➤ The e-invoice issued under rule 48(4) have an embedded Invoice Reference Number (IRN) in the Quick Reference (QR) code. ➤ It can be produced electronically for verification by the proper officer in lieu of the physical copy of such tax invoice. ➤ In such case, registered person will not have to upload information in Part A of e-way bill for generation of e-way bill & the same shall be auto-populated by common portal based on the information furnished in the prescribed form. ➤ IRN eases the process of documentation to a great level and reduces the burden. ➤ The Commissioner may, by notification, require a class of transporters to obtain a unique RFID and get the said device embedded on to the conveyance and map the e-way bill to the RFID prior to the movement of goods.

24	Documents in lieu of e-way bill:-
	<p>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 e-way bill:-</p> <ul style="list-style-type: none"> (a) tax invoice or bill of supply or bill of entry (for import of goods). (b) a delivery challan, where the goods are transported for reasons other than by way of supply.

25	Rule 55A:- Tax invoice or bill of supply to accompany transport of goods
	Person-in-charge of conveyance shall carry a copy of tax invoice or bill of supply issued as per rules 46, 46A or 49 if such person is not required to carry an e-way bill under E-way bill rules.

Note:-

1. The expressions 'transported by railways', 'transportation of goods by railways', 'transport of goods by rail' and 'movement of goods by rail' used in this chapter does not include cases where leasing of parcel space by railways takes place.
2. **E-way bill generated in one State is valid in another State:-**
The e-way bill generated under rule 138 of GST Rules of any State or UT shall be valid in every State and UT [Rule 138(13)].



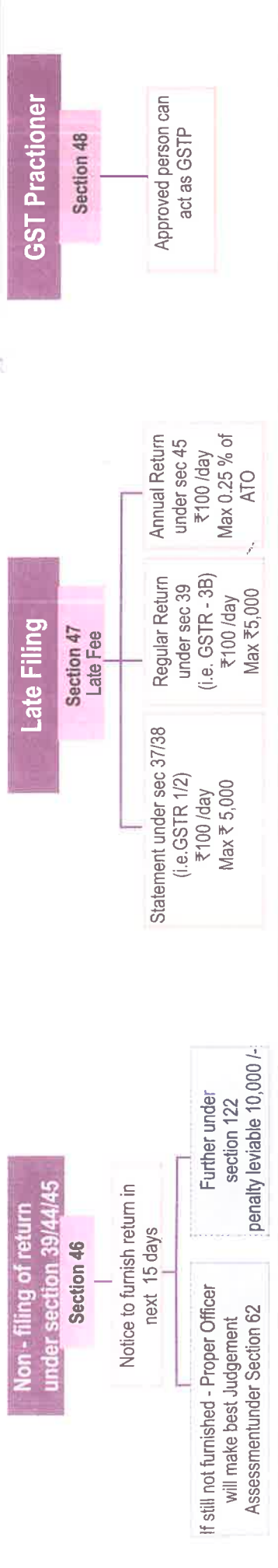
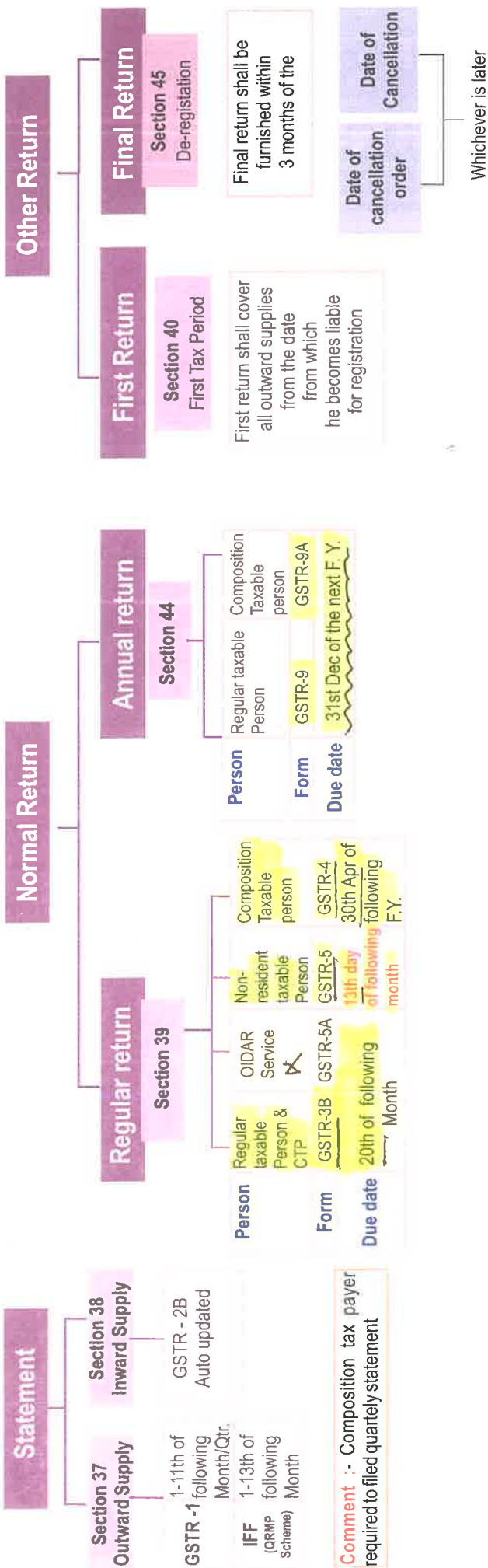
CHAPTER - 15

RETURNS

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Statement / Return



Important definitions relevant for this chapter:-

2(94):- Registered Person means	a person who is registered under section 25 but does not include a person having a Unique Identity Number.
2(92):- Quarter	shall mean a period comprising three consecutive calendar months , ending on the last day of March, June, September and December of a calendar year.
2(106):- Tax Period	means the period for which the return is required to be furnished.
2(117):- Valid Return	means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

Introduction

Meaning:-

- ➔ The term "return" ordinarily means statement of information (facts) furnished by the taxpayer, to tax administrators, at regular intervals which enables the Government/ tax administrator to estimate the tax collection for a particular period and determine correctness of tax compliance.
- ➔ All details are consolidated & stored at common portal which is common for both, i.e. CG & Sgs.

Necessity of Filing of Return:-

The return serves the following purposes:-

- a) Mode for transfer of information to tax administration.
- b) Compliance verification program of tax administration.
- c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation.
- d) Providing necessary inputs for taking policy decision.
- e) Management of audit and anti-evasion programs of tax administration.

The correct and timely filing of returns is of utmost importance because of two reasons:-

1. A taxpayer has to estimate his tax liability on "self-assessment" basis and deposit the tax along with the filing of such return & thus, return filed is a work sheet/supporting document for tax authorities to rely on the computation of tax by authorities.
2. Filing of returns not only determines the tax liability of the person filing the same, but it also has a huge bearing 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 returns:-

All the returns/statements under GST laws are filed **electronically** by using various modes as follows:-

1	GSTN portal (www.gst.gov.in):-	Can be filed directly on the GST common portal online.
2	Offline utilities provided by GSTN:-	Used for preparing the statements offline after downloading the auto populated details and uploading them on the common portal as direct filing on portal may be tedious & time consuming for taxpayers with large number of invoices.
3	GST Suvidha Providers (GSPs):-	GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the common portal. **** MCO

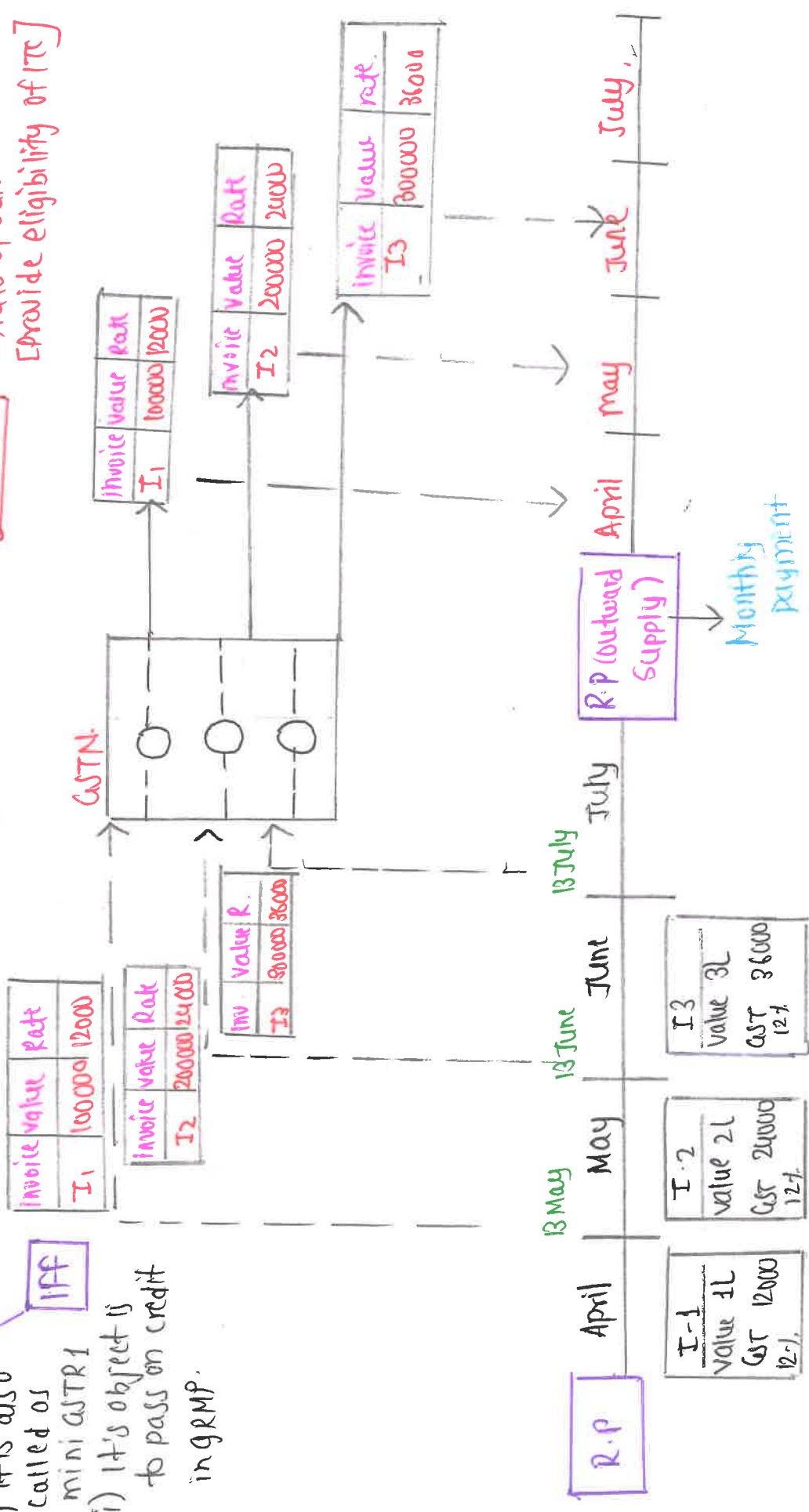
What are the precautions that a taxpayer is required to take for a hassle free compliance under GST?

1. Timely uploading of details of outward supplies in **GSTR-1** by **11th of next month** is very important:-
 - ➔ If the number of invoice are small, the taxpayer can upload all the information in one go. But, if the number of invoices are large, the invoices (or debit/ credit notes) should be uploaded on a regular basis which is always beneficial to taxpayer.
 - ➔ Last minute rush makes uploading difficult & comes with higher risk of possible failure and default.
 - ➔ GST common portal allows regular uploading of invoices even on a real time basis.
2. Taxpayers follow up on uploading the invoices of their inward supplies by their suppliers to ensure that the ITC is available without any hassle and delay.

Imp points

- i) It is optional
- ii) It is also called as **IPF** mini GSTR 1
- iii) It's object is to pass on credit in GRMP.

GSTR-2A - auto update.
GSTR-2B - Auto update [Provide eligibility of ITC]



Sec 37 read with Rule 59 :- Furnishing details of Outward supplies

Pts.	Provision						
1	<p>Who is required to furnish details of outward supplies (GSTR-1)?</p> <p>Every registered person including casual taxable person (registered) except:-</p> <ul style="list-style-type: none"> ➤ input service distributor (ISD) ➤ non-resident taxable person ➤ person paying tax under composition scheme <i>**** MCQ (quarterly statement & yearly return)</i> ➤ person deducting tax at source ➤ person collecting tax at source i.e., e-commerce operator (ECO), not being an agent ➤ supplier of OIDAR service located in non-taxable territory providing services to NTOR <i>Non taxable online recipient</i> <p>These details are required to be communicated to recipient of the said supplies.</p>						
2	<p>Nil GSTR-1:-</p> <ul style="list-style-type: none"> ➤ GSTR 1 filing is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. ➤ Nil GSTR-1 is required to be filed in such cases, which will not have any entry. ➤ Thus, a NIL GSTR-1 can be filed anytime from 1st of the month subsequent of the tax period, through an SMS using the registered mobile number of the taxpayer & is verified by registered mobile number-based OTP facility. 						
3	<p>Due Date of Submission of GSTR-1:-</p> <p>Monthly:-</p> <ul style="list-style-type: none"> ➤ GSTR-1 for a particular month is filed on or before the 11th day of immediately succeeding month but not before 1st of the succeeding month. ➤ It may be extended by Commissioner /Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification. ➤ Commissioner may notify an extended date. <p>Quarterly:-</p> <ul style="list-style-type: none"> ➤ GSTR-1 is allowed to be filed quarterly by small taxpayers with aggregate annual turnover upto Rs 5 crore in P.F.Y. under QRMP Scheme. <i>Quarterly Return - Monthly payment</i> ➤ The time limit for furnishing the details of outward supplies in Form GSTR-1 has been extended <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Class of registered person</th> <th>Time limit for furnishing the details of outwardsupplies in GSTR-1 for each quarter/tax period</th> </tr> </thead> <tbody> <tr> <td>Registered persons opting for QRMP scheme</td> <td>13th day of the month succeeding such tax period (i.e Quarter)</td> </tr> <tr> <td>Others (Normal Case)</td> <td>11th day of the month succeeding such tax period</td> </tr> </tbody> </table> <p>Note:- A taxpayer cannot file GSTR-1 before the end of the current tax period. However, following are the exceptions to this rule:-</p> <ol style="list-style-type: none"> a. Casual taxpayers, after the closure of their business b. Cancellation of GSTIN of a normal taxpayer- after confirming receipt of the application. 	Class of registered person	Time limit for furnishing the details of outwardsupplies in GSTR-1 for each quarter/tax period	Registered persons opting for QRMP scheme	13th day of the month succeeding such tax period (i.e Quarter)	Others (Normal Case)	11th day of the month succeeding such tax period
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Registered persons opting for QRMP scheme	13th day of the month succeeding such tax period (i.e Quarter)						
Others (Normal Case)	11th day of the month succeeding such tax period						
4	<p>Invoice Furnishing Facility (IFF) for taxpayers opting QRMP Scheme:-</p> <ul style="list-style-type: none"> ➤ IFF is an optional facility available to registered person to furnish details of outward supplies for 1st and 2nd months of a quarter upto a cumulative value of ₹ 50 lakh in each of the first 2 months of quarter electronically on common portal. ➤ Only the invoices pertaining to last month of a quarter are to be uploaded in GSTR-1. ➤ IFF is used only for B2B invoices. ➤ Alternatively, a registered person may furnish the details of all outward supplies made during a quarter in Form GSTR-1 only, without using the IFF. ➤ Due to IFF, recipient who made purchases from a person opting for QRMP scheme can avail ITC without much delay 						

as the transaction will be reflected as their inward supplies.

- ⇒ Invoices for a month are to be furnished in IFF between 1st day of succeeding month till 13th day of succeeding month & not after that.

Details of outward supplies required to be furnished in IFF:- It includes-

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

Section 37(4):- Restriction on furnishing of GSTR-1, if previous GSTR-1 is/are not furnished

A registered person shall not be allowed to furnish GSTR-1 for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.

However, Govt. may allow notified persons to furnish GSTR-1, even if he has not furnished GSTR-1 for 1 or more previous tax periods.

My note: Jab tk purana GSTR 1 file nhi hota to he naya GSTR 1 file nhi kr skte. Ci-e GST Portal pe open nhi hoga.

Restriction on furnishing GSTR-1 or IFF:-

(Amended by N/No. 35/2021 CT dt 24/09/2021)

a) A registered person (Monthly Scheme):-

shall not be allowed to furnish the details of outward supplies of goods or services or both u/s 37 in FORM GSTR-1,	if he has not furnished the return in FORM GSTR-3B for preceding month
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b) A registered person (QRMP Scheme):-

shall not be allowed to furnish the details of outward supplies of goods or services or both u/s 37 in FORM GSTR-1 or using IFF,	if he has not furnished the return in FORM GSTR-3B for preceding tax period
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c) Omitted

d) A registered person Intimation in issued under rule 88C(1):-

Newly inserted by N/N 26/2022 CT dt. 26.12.2022

A registered person, to whom an intimation has been issued on the common portal under rule 88C(1) in respect of a tax period,

- ⇒ shall not be allowed to furnish the details of outward supplies of goods or services or both u/s 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period,
- ⇒ unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under rule 88C(2).

Comment:-

- If reply was furnished but found to be not satisfactory, then only recovery proceedings u/s 79 would be triggered as this rule does not prescribe blocking of GSTR-1 / IFF in such case.
- If no action was taken against the issuance of DRC-01B, there would be blocking of GSTR-1/IFF along with initiation of recovery proceedings u/s 79 of CGST Act, 2017.

5 Contents in GSTR 1:-

Basic & Other details	Details of Outward Supplies
<ul style="list-style-type: none"> ⇒ GSTIN ⇒ Legal name ⇒ Trade name, if any ⇒ Aggregate turnover in P.Y. ⇒ Tax period i.e. Year & Month/Qtr ⇒ HSN-wise summary of outward supplies ⇒ Details of documents issued 	<ul style="list-style-type: none"> ⇒ B2B including UIN holders ⇒ B2C inter-State supplies with invoice value > ₹2.5 lakh ⇒ Consolidated details of other B2C supplies ⇒ Zero rated and Deemed exports ⇒ Debit/ Credit notes issued ⇒ Nil rated/ Exempted/ Non-GST ⇒ Amendments for prior period ⇒ Advances received/advances adjusted

6	Details in GSTR-1:-			
	S.No.	Invoice wise details of ALL	Consolidated details of ALL	Debit & Credit notes
	1	Inter-State & Intra-State supplies made to registered persons	Intra-State supplies made to unregistered persons for each rate of tax	Issued during the month for invoices issued previously
	2	Inter-State supplies made to unregistered persons with invoice value > Rs 2,50,000	Inter-State supplies made to unregistered persons with invoice value upto ₹ 2,50,000 for each rate of tax separately for each State	
7	Section 37(3):- Amendment in details of outward supply (GSTR - 1) furnished in prior periods			
	a)	Scope of amendment/ correction entries:- ⇒ Amendments in details of taxable outward supplies furnished in earlier periods can be made in "Amendment Table" given in GSTR-1 of subsequent periods ⇒ Details required for amendment = original invoice (No. & Date), the particulars of which have been wrongly entered in GSTR-1 of the earlier months. ⇒ If the entire original invoice is missed while furnishing the GSTR-1 for a particular previous month, then that missing invoice details are to be furnished in the Amendment Table only & such type of errors is regarded as data entry error.		
	b)	Rectification of errors:- ⇒ If the supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed. ⇒ If there is short payment in the return to be furnished for such tax period, then short tax and interest shall be paid.		
	c)	Time limit for rectification:- The maximum time limit for making amendments is EARLIER of the following dates:- ☆ ⇒ 30th November following the end of the F.Y. to which such details pertain or ⇒ Actual date of filing of the relevant annual return.		

Some Important Notes:-

1. Taxpayer opting for voluntary cancellation of GSTIN has to file GSTR-1 for active period.
2. If taxpayer is converted from a normal taxpayer to composition taxpayer, GSTR-1 is to be filed only for period during which the taxpayer was registered as normal taxpayer. The GSTR-1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.

Sec 38:- Communication of details of inward supplies and ITC

Sub-Sec	Legal Provision
1	The details of furnished GSTR-1 and of prescribed supplies , and an auto-generated statement (GSTR- 2B) containing details of ITC shall be made available electronically to recipients.
2	The auto-generated statement (GSTR-2B) under sub-section (1) shall consist of- (a) Details of inward supplies for which ITC may be available to recipient; and (b) Details of supplies for which ITC cannot be availed , whether wholly or partly, by recipient, on account of details of the said supplies being furnished u/s 37(1),— (blacklist) . (i) by any registered person within such prescribed period of taking registration; or (newly registered) (ii) by any registered person, who has defaulted in payment of tax and such default has continued for prescribed period; or (defaulter) (iii) by any registered person, the output tax payable by whom as per GSTR-1 furnished by him during prescribed period exceeds the output tax paid by him during the said period by prescribed limit; or (cheater) . (iv) by any registered person who, during prescribed period, has availed ITC of an amount that exceeds the credit that can be availed by him as per clause (a) above, by prescribed limit; or (v) by any registered person, who has defaulted in discharging his tax liability as per section 49(12), subject to prescribed conditions and restrictions; or (Utilisation of ITC more than 99% of output tax - Rule 86 B) (vi) by other prescribed class of persons.

Note: Even though above restrictions are prescribed, in 38(2)-cl (b) (blacklist) but govt has not issued any notification.

Rule 60:- Form and manner of ascertaining details of inward supplies

[A] Details in GSTR-2A:-

②-

- ⇒ **Form GSTR-2A** - is a system generated read only statement of **inward supplies** for a recipient which is updated on a real time basis.
- ⇒ The details become available to the recipient for view/download and are updated incrementally as and when supplier(s) upload or change details in their respective form of return/statement, for the given tax period.
- ⇒ The details of outward supplies furnished by the supplier in FORM GSTR-1 or using the IFF shall be made available electronically through common portal to the concerned registered persons (recipients) in:-
 - Part A of FORM GSTR-2A,
 - FORM GSTR-4A (for persons opting composition scheme) and
 - FORM GSTR-6A {for distribution by Input Service Distributor (ISD)}
- ⇒ The details of invoices furnished
 - by a NRTP in Form GSTR-5 &
 - by an ISD in Form GSTR-6,
 - the details of TDS furnished in Form GSTR-7 by deductor and
 The details of TCS furnished in Form GSTR-8 by an ECO, are made available to the recipient, deductee or concerned person, in **Form GSTR-2A**.
- ⇒ Further, details of the integrated tax paid on
 - the import of goods or
 - goods brought in DTA from SEZ unit/developer
 on a bill of entry are also made available in **Form GSTR-2A**.

[B] Details in GSTR-2B:-

⇒ Form GSTR-2B is an auto-generated read only statement containing the details of eligible ITC - is made available to the registered person (recipient) for every month only once. /

⇒ It consists of:-

1. The details of outward supplies furnished by suppliers (other than under QRMP Scheme) in Form GSTR-1 between:-
 - the day immediately after the due date of GSTR-1 for the previous month to
 - the due date of furnishing of Form GSTR-1 for the month.
2. The details of outward supplies furnished by the supplier under QRMP scheme in Form GSTR-1 or using the IFF, by NRTIP in Form GSTR-5 & by an ISD in Form GSTR-6 as the case may be, between:-

For 1st month of quarter	⇒ the day immediately after the due date of furnishing GSTR-1 for the preceding quarter to ⇒ the due date of furnishing details using the IFF for the 1st month of the quarter.
For 2nd month of quarter	⇒ the day immediately after the due date of furnishing details using the IFF for the 1st month of the quarter to ⇒ the due date of furnishing details using the IFF for the 2nd month of the quarter.
For 3rd month of quarter	⇒ the day immediately after the due date of furnishing of details using the IFF for the 2nd month of the quarter to ⇒ the due date of furnishing of Form GSTR-1 for the quarter

3. The details of the integrated tax paid on import of goods or goods brought in the DTA from SEZ unit/developer on a bill of entry in the month.
 - ⇒ GSTR-2B consists of all documents filed by suppliers/ISD in their Form GSTR-1, 5 & 6, between the cut-off dates and import data for the period which are received within 13th of the succeeding month.
 - In case of monthly Form GSTR-1, the cut-off date is 00:00 hours on 12th of the relevant month to 23:59 hours, on 11th of the succeeding month.
 - Whereas for quarterly Form GSTR-1/IFF, Form GSTR-5 and Form GSTR-6, the cut-off date is 00:00 hours on 14th day of relevant month to 23:59 hours, on 13th day of succeeding month.
 - ⇒ The statement in Form GSTR-2B for every month shall be made available to the registered person,-
 - i) for the 1st and 2nd month of a quarter, a day after the due date of furnishing of details of outward supplies for the said month,
 - in the IFF by a registered person opting for QRMP, or
 - in Form GSTR-1 by a registered person other than opting for QRMP, whichever is LATER.
 - ii) in the 3rd month of the quarter, a day after the due date of furnishing of details of outward supplies for the said month, in Form GSTR-1 by a registered person opting for QRMP.

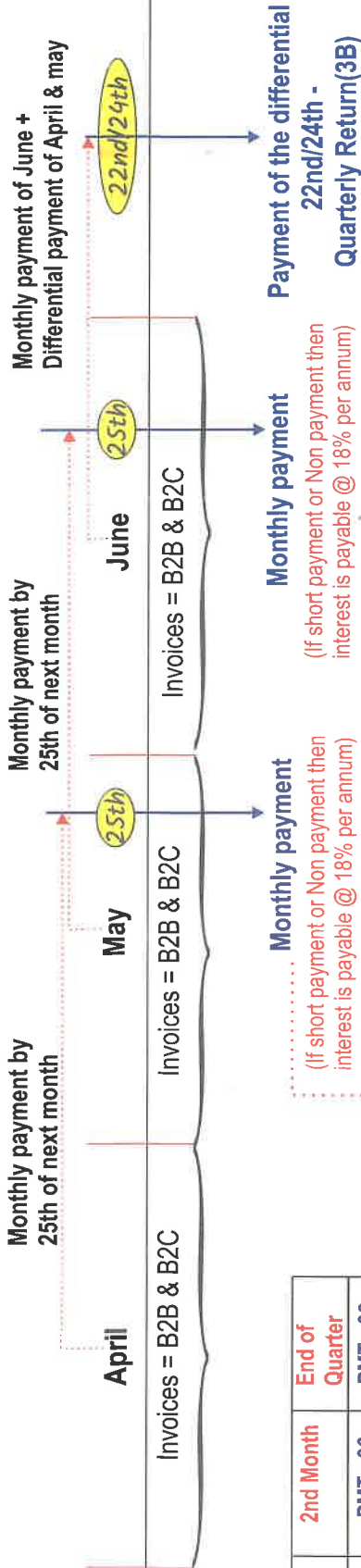
Example:- For the quarter July-September, Form GSTR-2B for a registered person (recipient) who has received supplies from QRMP suppliers as well as from other suppliers will be generated as follows:

Month	Date of generation of GSTR 2B
July	14th August
August	14th September
September	14th October

QRMP - Monthly Payment & Interest Liability

Registered Person
(Supplier)

(Whose Aggregate annual turnover upto 5 Cr in P.F.Y)



Particulars	1st Month	2nd Month	End of Quarter
Payment challan	PMT - 06	PMT - 06	PMT - 06
Due date of Payment	25th of succeeding month	25th of succeeding month	along with return

Monthly payment
(If short payment or Non payment then interest is payable @ 18% per annum)

Monthly payment
(If short payment or Non payment then interest is payable @ 18% per annum)

Monthly payment of June +
Differential payment of April & may
22nd/24th
Payment of the differential
22nd/24th -
Quarterly Return(3B)

Payment Method

OR

1. Fixed Sum Method (FSM)

Payment of tax in the 1st and the 2nd month of the quarter.

Sr. No.	Type of Taxpayer	Tax to be paid
1.	Who furnished GSTR-3B quarterly for the last quarter	35% of tax paid in cash(E-Cash Ledger) in the preceding quarter
2	Who furnished GSTR-3B monthly during the last quarter	100% of tax paid in cash in the last month of the immediately preceding quarter

The balancing amount of tax is to be paid in the 3rd month.

2. Self-Assessment Method (SAM)

Here the taxpayer can pay the tax liability by considering the tax liabilities on inward and outward supplies and as per the ITC available.

- **1st Month of Quarter:** The tax liability is Nil. OR The balance in the electronic cash ledger is adequate for the tax liability for the same month.
- **2nd Month of Quarter:** The tax liability is Nil. OR The balance in the electronic cash ledger is adequate for the cumulative tax liability for the first two months of the quarter.

Example

In case the last return filed was on quarterly basis for Quarter Ending March, 2021:

Tax paid in Cash in Quarter (January -March, 2021)		Tax required to be paid in each of the months - April and May, 21	
CGST	100	CGST	35
SGST	100	SGST	35
IGST	500	IGST	175
Cess	50	Cess	17.5

In case the last return filed was monthly for tax period March, 2021:

Tax paid in Cash in March, 21		Tax required to be paid in each of the months-April and May, 21	
CGST	50	CGST	50
SGST	50	SGST	50
IGST	80	IGST	80
Cess	----	Cess	----

Sec 39:- Furnishing of Returns

Sec	Pts	Description												
<p>GSTR - 3B <i>My note: Jo GSTR-1 dega, wahi GSTR-3B dega f</i></p>														
39(1) with Rule 61 & 61A	(a)	<p>It prescribes a monthly return in FORM GSTR-3B for every registered person, other than:-</p> <ul style="list-style-type: none"> ➤ An Input Service Distributor, ➤ A non-resident taxable person, ➤ Composition Taxpayer, ➤ Person deducting tax at source, ➤ Person collecting tax at source (i.e. an ECO) and ➤ Supplier of OIDAR services located in non-taxable territory providing such services to non-taxable online recipient. <p>Proviso:- Persons notified by Govt. shall furnish a return for every quarter or part thereof, subject to the specified conditions and restrictions (i.e. QRMP Scheme).</p> <p>Note:-</p> <ul style="list-style-type: none"> ➤ GSTR-3B is summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. and thus, it does not require invoice-wise data of outward supplies. ➤ It can be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. ➤ Further, a Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. ➤ GSTR-3B can be filed monthly or quarterly. 												
	(b)	<p>Due date of filing return GSTR-3B:-</p> <table border="1"> <tr> <td>Monthly GSTR-3B:-</td> <td>on or before 20th of the month succeeding the month for which return is furnished.</td> </tr> <tr> <td>Quarterly GSTR-3B under QRMP Scheme:-</td> <td>on or before 22nd or 24th of the month succeeding the quarter for which return is furnished for the states notified as under:-</td> </tr> <tr> <td colspan="2" style="text-align: center;">Class of Registered Persons <i>non need to learn.</i></td> </tr> <tr> <td>Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.</td> <td>22nd day of the month succeeding such quarter</td> </tr> <tr> <td>Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland,</td> <td>24th day of the month succeeding such quarter</td> </tr> <tr> <td>Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.</td> <td></td> </tr> </table>	Monthly GSTR-3B:-	on or before 20th of the month succeeding the month for which return is furnished.	Quarterly GSTR-3B under QRMP Scheme:-	on or before 22nd or 24th of the month succeeding the quarter for which return is furnished for the states notified as under:-	Class of Registered Persons <i>non need to learn.</i>		Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra , Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	22nd day of the month succeeding such quarter	Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland,	24th day of the month succeeding such quarter	Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	
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Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.														
	(c)	<p>Quarterly Return Monthly Payment (QRMP) Scheme (w.e.f. 01.01.2021):-</p> <p>Eligibility for QRMP scheme:-</p> <ul style="list-style-type: none"> ➤ The registered persons whose aggregate turnover is up to ₹ 5 crore in the P.F.Y. are eligible to opt for QRMP scheme. <p><i>M23:</i></p> <p>Note:- Here, registered person is other than OIDAR service supplier located in non-taxable territory and providing such services to a NTOR.</p> <ul style="list-style-type: none"> ➤ They can furnish their GSTR-1 and GSTR-3B on a quarterly basis while paying their tax on a monthly basis through a simple challan. ➤ For computing agg. t/o, details furnished in returns for tax periods in the preceding financial year shall be taken into account. <p>QRMP Scheme is GSTIN wise:- **** M09</p> <ul style="list-style-type: none"> ➤ Distinct persons can avail QRMP scheme option 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. 												

(d)	<p>Conditions & Restrictions:-</p> <ul style="list-style-type: none"> Registered person shall not be eligible to opt for QRMP scheme, <ul style="list-style-type: none"> if he has not furnished the last return due on the date of exercising such option. If the option is exercised once, the said registered person shall continue to furnish the return on a quarterly basis for future tax periods, unless he:- <ul style="list-style-type: none"> becomes ineligible for this scheme as per the conditions and restrictions notified in this regard or opts to furnish return on a monthly basis, electronically, on common portal. <i>AS SOON AS HE CROSSES 5CR (agg t/o) he have to opt for normal scheme (efy) QRMP withdrawl, from next quarter.</i>
(e)	<p>Time limit to opt for QRMP Scheme:-</p> <p>Preference to opt this scheme shall be indicated</p> <ul style="list-style-type: none"> from 1st day of 2nd month of the preceding quarter till last day of 1st month of the quarter for which the option is being exercised. <i>can apply for QRMP</i>
(f)	<p>Option QRMP scheme to lapse:-</p> <p><i>↓ preceding quarter current quarter</i></p> <p><i>Jan Feb Mar Apr May June</i></p> <ul style="list-style-type: none"> If the agg. t/o crosses ₹ 5 crore during a quarter in a F.Y., then the registered person shall not be eligible to furnish return on quarterly basis from <ul style="list-style-type: none"> the first month of the succeeding quarter. He shall opt for furnishing of return on a monthly basis from the 1st month of the quarter, succeeding the quarter during which his agg. t/o exceeds ₹ 5 crore. The facility for opting out of the scheme for a quarter will be available <ul style="list-style-type: none"> from 1st day of 2nd month of preceding quarter to the last day of the 1st month of the quarter.
(g)	<p>Nil GSTR-3B:-</p> <ul style="list-style-type: none"> Filing of GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-3B is required to be filed which will not have any entry in any of its tables. A Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer and is verified by registered mobile number-based OTP facility. A taxpayer may file Nil GSTR-3B, anytime on or after the 1st day of the subsequent month/quarter for which the return is being filed for.

GSTR-4 i.e. Return for composition supplier:-

<p>39(2) read with Rule 62</p>	<p>(a) A composition dealer is required to file an annual return in Form GSTR-4 for a F.Y. or part thereof and also required to furnish a statement in Form GST CMP-08 containing payment details for every quarter (or part of the quarter), electronically, by the due dates as follows:-</p> <table border="1" data-bbox="191 1478 1404 1646"> <tr> <td data-bbox="191 1478 622 1568">Due date of filing GSTR- 4 for a financial year</td> <td data-bbox="622 1478 1404 1568">By 30th day of the month of April following the end of such financial year</td> </tr> <tr> <td data-bbox="191 1568 622 1646">Due date of filing GST CMP-08 for a quarter</td> <td data-bbox="622 1568 1404 1646">By 18th day of the month succeeding such quarter</td> </tr> </table> <p>Note:-</p> <ul style="list-style-type: none"> A composition supplier is required to file the return GSTR-4 annually, but he is required to pay the tax quarterly. The inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in FORM GSTR-4A for viewing. Composition taxpayers are required to provide consolidated details of outward supplies in GSTR-4 and not invoice-wise details. <ul style="list-style-type: none"> However, details of inter-State and intra-State inward supplies received from registered and un-registered persons are to be provided invoice-wise. They discharge their tax liability only by debiting electronic cash ledger as they are not eligible to take ITC. 	Due date of filing GSTR- 4 for a financial year	By 30th day of the month of April following the end of such financial year	Due date of filing GST CMP-08 for a quarter	By 18th day of the month succeeding such quarter
Due date of filing GSTR- 4 for a financial year	By 30th day of the month of April following the end of such financial year				
Due date of filing GST CMP-08 for a quarter	By 18th day of the month succeeding such quarter				

(b)	<p>Nil GST CMP-08:-</p> <ul style="list-style-type: none"> ➤ Filing of GST CMP-08 is mandatory for composition supplier, even if there is no business activity in any particular tax period (i.e. a Nil GST CMP-08 is required to be filed which will not have any entry in any of its tables). ➤ It can be filed through an SMS using the registered mobile number of the taxpayer and is verified by registered mobile number-based OTP facility. 				
(c)	<p>Statements/return for the period prior to OPTING for composition scheme:-</p> <ul style="list-style-type: none"> ➤ A person opting composition scheme from the beginning of a financial year will furnish statements/return for period prior to paying tax under composition scheme till earlier of:- <ul style="list-style-type: none"> ➢ due date of furnishing return for September of the succeeding F.Y. or ➢ furnishing of annual return of the P.F.Y. ➤ He will not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to their opting to pay tax under composition scheme. 				
(d)	<p>GSTR-4/CMP-08 for the period prior to EXITING from composition scheme:- A registered person opts to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer, then for the period prior to withdrawing from scheme, he shall furnish-</p> <table border="1"> <tr> <td>GST CMP-08</td> <td>By 18th of month succeeding the quarter in which such withdrawal date falls</td> </tr> <tr> <td>GSTR-4</td> <td>By 30th April following the end of F.Y. during which such withdrawal falls</td> </tr> </table>	GST CMP-08	By 18th of month succeeding the quarter in which such withdrawal date falls	GSTR-4	By 30th April following the end of F.Y. during which such withdrawal falls
GST CMP-08	By 18th of month succeeding the quarter in which such withdrawal date falls				
GSTR-4	By 30th April following the end of F.Y. during which such withdrawal falls				

GSTR-5 i.e. Return for Non-Resident Taxable Persons (NRTP):-

39(5) read with rule 63	(a)	<p>Monthly return:-</p> <ul style="list-style-type: none"> ➤ It is a simplified monthly tax return is to be filed in Form GSTR-5 for a NRTP for every calendar month or part thereof. ➤ The details of outward supplies and inward supplies of a NRTP are incorporated in GSTR-5 itself unlike normal taxpayer. <p>Note:- A NRTP is not required to file an annual return.</p>
	(b)	<p>Last date of filing GSTR-5:- It shall be furnished within EARLIER of:- ✖✖</p> <ul style="list-style-type: none"> ➢ 13 days after the end of a calendar month or ➢ 7 days after the last day of the period of registration specified u/s 27(1).
	(c)	<p>Payment of Tax, interest, penalty, fees or any other amount:-</p> <p>Any such amount payable under CGST Act/Rules shall be paid till the last date of filing GSTR-5.</p>

Payment of Tax:-

39(7)	Due date of Payment of Tax:-	
	Persons	Due date of payment of Tax due to Govt. as per return
	Every registered person u/s 39(1) other than below:-	Last date to pay the tax due as per such return is the due date for furnishing of return (i.e. Monthly GSTR-3B).
	Every registered person furnishing return under composition scheme:-	Due date to pay tax for a quarter is 18th of the month succeeding such quarter.
	NRTPs or CTPs:-	Tax is required to be paid in advance equivalent to the estimated tax liability for period for which registration is sought or extension of registration is sought as per sec 27(2).
<p>Every registered person furnishing return under QRMP scheme:-</p> <p>The persons furnishing return under QRMP scheme have an option to pay either the self-assessed tax or a prescribed amount.</p> <p>N/No. 85/2020 – CT New Delhi, dt 10.11.2020:-</p> <p>There is Monthly payment of Tax in FORM PMT-06 though return is filed quarterly under QRMP Scheme.</p>		

Persons	1st Month of Qtr	2nd Month of Qtr	Last month of Qtr
Due date of Payment	25th of succeeding month	25th of succeeding month	Along with return for the Qtr i.e. on or before 22nd or 24th of the month succeeding such Qtr.
Manner of paying tax	balance in electronic cash ledger.	Can use balance in electronic cash ledger excluding the tax due for 1st month.	1st 2 months deposited amount is debited solely for offsetting the liability furnished in that quarter's Form GSTR-3B. Any amount left after filing of that quarter's Form GSTR-3B may either be claimed as refund (only after such Quarterly return is filed) or may be used for any other purpose in subsequent quarters.

Note:- The deposit made for 1st 2 months of Qtr cannot be used by taxpayer for any other purpose till the filing of return for the quarter.

Options for making payment of Tax for 1st 2 months of Qtr:-

1. Fixed Sum Method:-

A facility is available on GST portal for generating an auto-generated/pre-filled challan in Form GST PMT-06. Challan amount is calculated by system which can't be edited.

S.No	Type of Taxpayer	Tax to be paid in each of 1st 2 months
1	Who furnished GSTR-3B quarterly for the last quarter	=35% of tax paid in cash in the preceding quarter.
2	Who furnished GSTR-3B monthly during the last quarter	=100% of tax paid in cash in the last month of the immediately preceding quarter.

The balancing amount of tax as per return is to be paid in the 3rd month.

There are certain situations where no such tax needs to be deposited:-

- **For 1st Month of Quarter:** The tax liability is Nil or the balance in the electronic cash ledger/electronic credit ledger is adequate for the tax liability for the same month.
- **For 2nd Month of Quarter:** The tax liability is Nil or the balance in the electronic cash ledger/electronic credit ledger is adequate for the cumulative tax liability for the first two months of the quarter.

Note:-

- Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month.
- A complete tax period means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

Example (I)

If last return was filed on quarterly basis for Quarter Ending March:-

Tax paid in Cash in Quarter (January-March)		Tax required to be paid in each of the months - April and May	
CGST	Rs 100	CGST	Rs 35
SGST	Rs 100	SGST	Rs 35
IGST	Rs 500	IGST	Rs 175
Cess	Rs 50	Cess	Rs 17.5

Example (ii):-

If last return was filed on monthly basis for tax period March:-

Tax paid in Cash for March		Tax required to be paid in each of the months - April and May	
CGST	Rs 50	CGST	Rs 50
SGST	Rs 50	SGST	Rs 50
IGST	Rs 80	IGST	Rs 80
Cess	-	Cess	-

Applicability of interest under this method:-

- ⇒ While filing GSTR-3B, if it is found that in any or both of the first 2 months of the quarter, **the net tax liability was higher** than the **amount paid** in challan, then, no interest would be charged provided:-
 - system calculated amount for each of first 2 months should have been paid &
 - entire liability for the quarter is discharged in GSTR-3B of quarter by due date.
- ⇒ If the system calculated amount is not paid by due date:-
 - interest is payable at the applicable rate,
 - **from** the due date of furnishing Form GST PMT-06
 - **till** the date of making such payment.
- ⇒ If GSTR-3B for the quarter is furnished beyond the due date:-
 - interest is payable as per sec 50 for the tax liability net of ITC.

2. Self-Assessment Method:-

Taxpayer can pay the tax by considering the tax liabilities on inward & outward supplies as per the ITC available for which GSTR-2B can be used for each month.

Applicability of interest under this method:-

Interest is payable as per sec 50 for the tax liability net of ITC which remains unpaid / paid beyond the due date for the first 2 months of the quarter.

Note:-

- ⇒ Interest payable, if any, shall be paid through Form GSTR-3B.
- ⇒ **No late fee is applicable** for delay in payment of tax in first 2 months of the quarter.

Common points for sec 39(7):-

- ⇒ Every registered person who is required to furnish return shall pay tax, interest, penalty, fees or any other amount payable under GST law as per sec 49 by debiting the
 - electronic cash ledger or
 - electronic credit ledger and include the details in the return.
- ⇒ Tax, fee, etc. are to be paid by depositing the said amount in Form GST PMT-06.
- ⇒ Commissioner may, on recommendations of Council, by notification, extend the due date for depositing the said amount in Form GST PMT-06, for specified class of taxable persons.
- ⇒ Further, any extension of time limit notified by Commissioner of State tax/UT shall be deemed to be notified by the Commissioner.

Rectifications of Errors/Omissions:-

39(9)		<p>Rectifications of Errors/Omissions:- <i>if any mistake/correction in the return then it will be corrected in subsequent return</i></p> <ul style="list-style-type: none">⇒ <u>Under GST law, a return once filed cannot be revised.</u>⇒ But, the details of the transactions (invoices or debit note/credit note) can be amended in any of the future GSTR- 1s in tables specifically provided for the same.⇒ Omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed.⇒ Any tax payable as a result of such error or omission will be paid along with interest. <p>Exception:-</p> <ul style="list-style-type: none">⇒ <i>★</i> Error or omission discovered on account of scrutiny, audit, inspection, or enforcement activities by tax authorities cannot be rectified & assessee may not be able to pass on the ITC to the receiver in respect of tax payments made by him in this case. <p>Time limit for making rectification:- It is EARLIER of-</p> <ul style="list-style-type: none">⇒ 30th November following the end of the financial year or⇒ Actual date of filing of relevant annual return [i.e. 31st December of next F.Y.]
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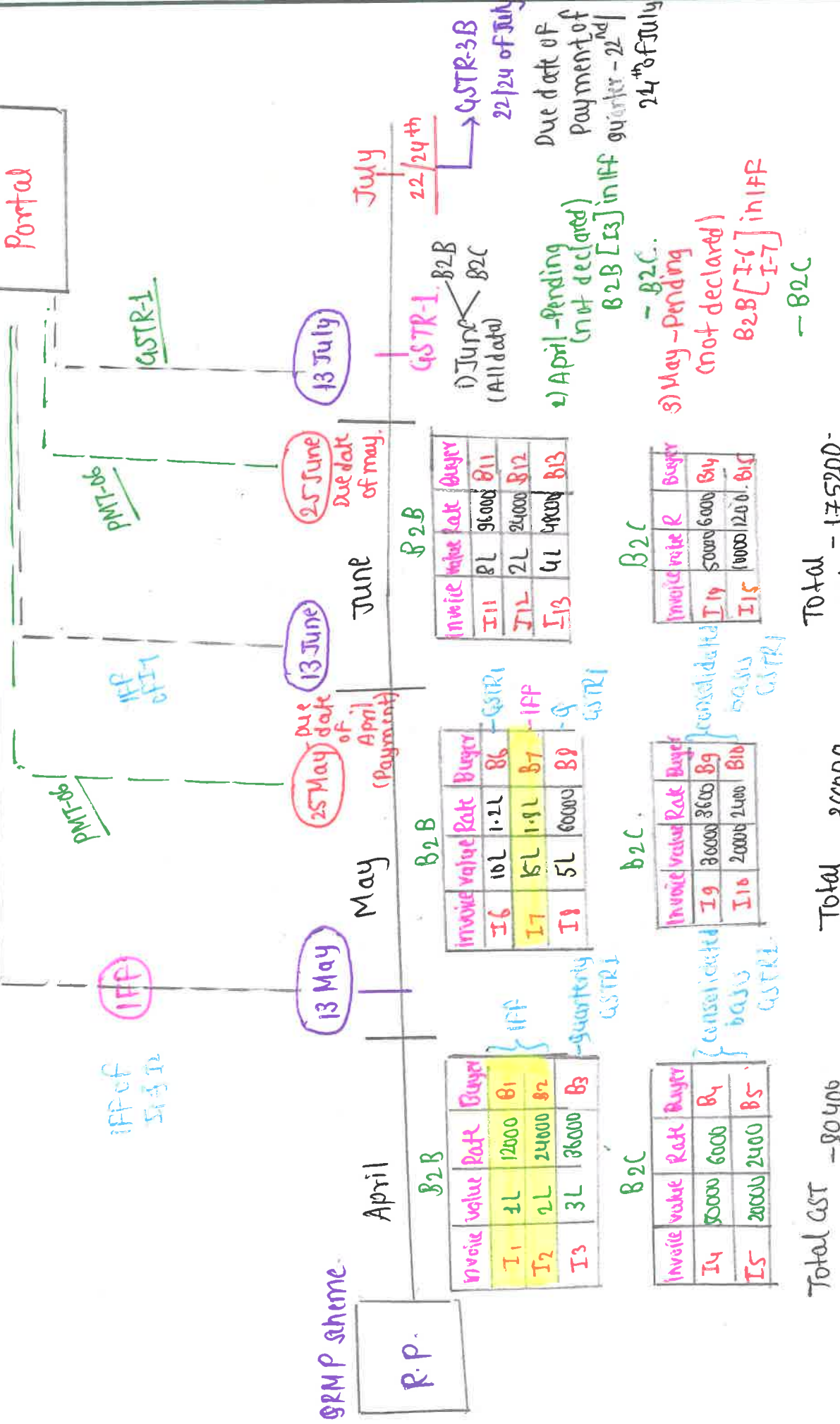
Restrictions on furnishing of return:- *★*

39(10)		<ul style="list-style-type: none">⇒ A registered person shall not be allowed to furnish a return for a tax period if he has not furnished the following:-<ul style="list-style-type: none">➤ the return for any of the previous tax periods or➤ the details of outward supplies u/s 37(1) (i.e. GSTR-1) for the said tax period.⇒ Proviso:- Govt. may allow notified registered person(s) to furnish the return, even if he:-<ul style="list-style-type: none">➤ has not furnished returns for 1 or more previous tax periods or➤ has not furnished the details of outward supplies u/s 37(1) for the said tax period.
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Some Important Notes:-

- ⇒ Return furnished u/s 39(1) on which self-assessed tax is paid in full is considered as a valid return.
- ⇒ Return for current month can be filed only when returns of the previous month have been filed.
- ⇒ A taxpayer has to electronically sign the submitted returns otherwise it will be considered not-filed.
 - Can be electronically signed using a DSC (mandatory for all types of companies and LLPs),
 - E-sign (Aadhaar-based OTP verification), or
 - EVC (Electronic Verification Code sent to registered mobile number of authorized signatory).

GSTN Portal



GRMP scheme

R.P.

April

B2B

Invoice	value	Rate	Buyer
I1	1L	12000	B1
I2	2L	24000	B2
I3	3L	36000	B3

B2C

Invoice	value	Rate	Buyer
I4	30000	6000	B4
I5	20000	2400	B5

May

B2B

Invoice	value	Rate	Buyer
I6	10L	1.2L	B6
I7	5L	1.9L	B7
I8	5L	60000	B8

B2C

Invoice	value	Rate	Buyer
I9	30000	3600	B9
I10	20000	2400	B10

June

B2B

Invoice	value	Rate	Buyer
I11	8L	96000	B11
I12	2L	24000	B12
I13	4L	48000	B13

B2C

Invoice	value	Rate	Buyer
I14	50000	6000	B14
I15	10000	12000	B15

July

GSTR-1

1) June (All data)
2) April - Pending (not declared)
3) May - Pending (not declared)

B2C

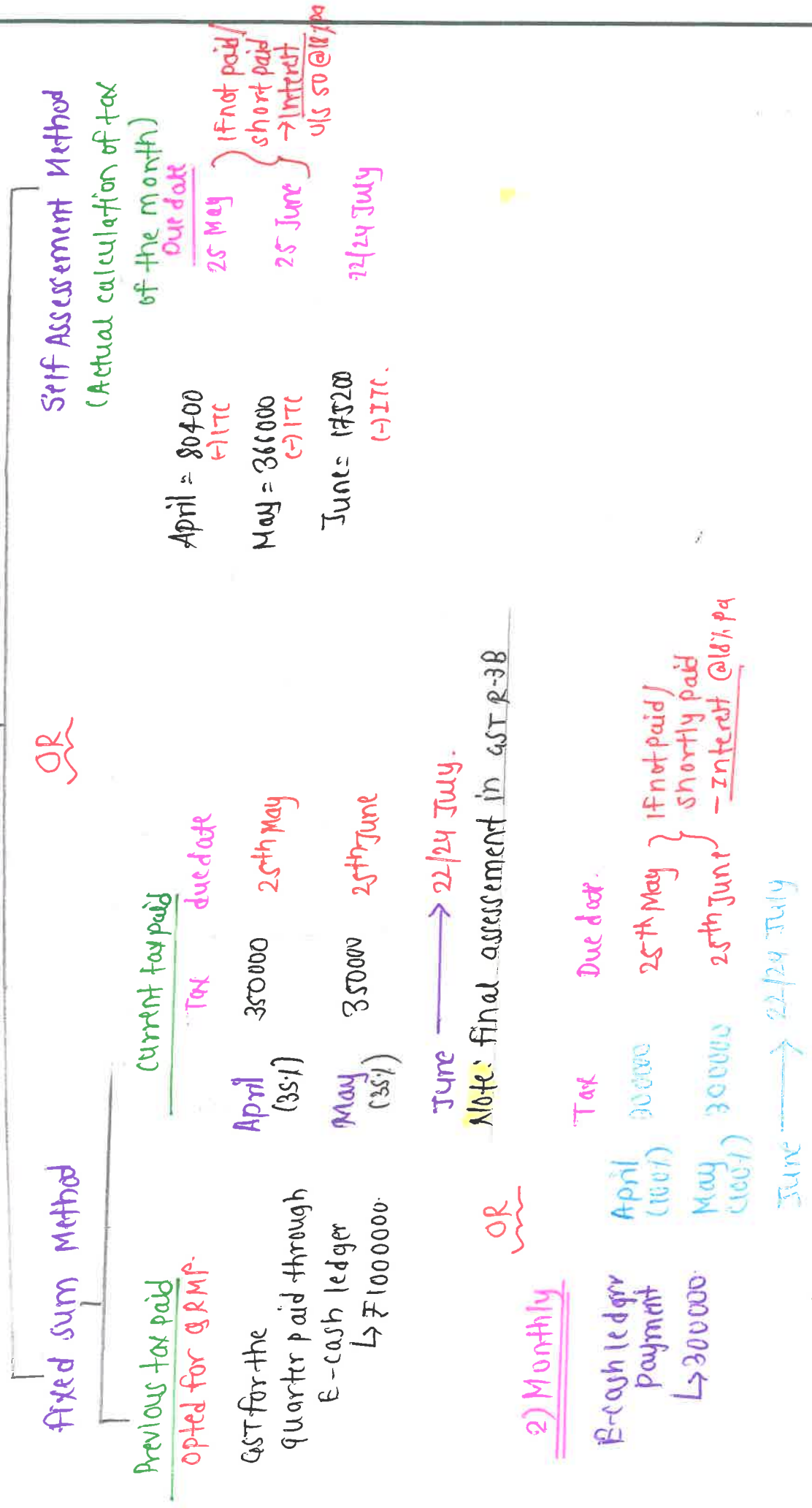
B2B [I-13] in IFF
- B2C
B2B [I-7] in IFF
- B2C

Total GST Payable - 80400

Total GST - 36000

Total GST - 175200

Tax Payment Method for 2 month
by 25th of next month.



Tax Payment Method for 2 month by 25th of next month.

Fixed sum Method

Previous tax paid
opted for GRMF.

GST for the
quarter paid through
E-cash ledger
↳ ₹ 1000000.

Current tax paid

Tax	due date
April (35%) 350000	25th May
May (35%) 350000	25th June

June → 22/24 July.

Note: final assessment in GSTR-3B

OR

Self Assessment Method

(Actual calculation of tax
of the month)

April = 80400 +17%	25 May
May = 360000 (-) 17%	25 June
June = 175200 (-) 17%	22/24 July

If not paid/
shortly paid
→ Interest
@ 18% p.a.

2) Monthly

E-cash ledger
Payment
↳ 300000.

Tax Due date.

April (100%) 300000	25th May
May (100%) 300000	25th June

If not paid/
shortly paid
→ Interest @ 18% p.a.

June → 22/24 July

Note: final assessment in GSTR-3B

Sec 40:- First Return ★

- ⇒ A registered person may make taxable outward supplies in the period between:-
 - the date on which he became liable to registration till
 - the date of grant of registration certificate.
- ⇒ Firstly, he may issue revised tax invoices against the invoices already issued during said period **within 1 month from date of issuance of certificate of registration** (Sec 31(3)(a) read with rule 53).
- ⇒ Registered person shall **declare his outward supplies** made during said period **in the first return** furnished by him after grant of registration so as to enable recipients to avail ITC on such supplies.

Sec 44 read with Rule 80:- Annual Return

Required to be furnished by whom?	Every registered person shall furnish Annual return in prescribed form except:- <ul style="list-style-type: none"> ⇒ Casual Taxable Person (CTP), ⇒ Non-resident taxable person (NRTP), ⇒ Input Service Distributors (ISD) and ⇒ Persons paying tax under section 51 or 52. (TDS/TCG) 	
Due Date?	Annual return for a F.Y. shall be filed by 31st December of Next F.Y. (Note:- It may be extended by Commissioner)	
Manner?	Electronically through the common portal	
Form?	A person paying tax under composition scheme:-	GSTR-9A.
	Any other person:- (normal)	GSTR-9
Other documents?	An annual return may include:- self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the F.Y., with audited annual financial statement for every F.Y.	
Exemption from filing?	On the recommendations of Council, Commissioner may exempt any class of registered persons from filing annual return by a notification.	
Sec 44 N.A. to whom?	This section shall NOT apply to any department of CG or SG or a local authority, whose books of account are subject to audit by the CAG of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.	

Sec 45 read with Rule 81:- Final Return ★ Shakti 120 fee

Furnished by whom?	Every registered person who is required to furnish return u/s 39(1) and whose registration has been surrendered or cancelled.	
Time limit?	The final return has to be filed within 3 months of:- <ul style="list-style-type: none"> -date of cancellation or eg - 1 May -date of order of cancellation whichever is later. - 18 April 	
Form?	GSTR-10	
Manner?	Electronically through the common portal	

Rule 82:- Details of inward supplies of persons having UIN ©

a.	When UIN is issued for claiming refund of taxes paid on inward supplies:	Such person shall furnish the details of the inward supplies of taxable goods and/or services on which refund of taxes has been claimed, in Form GSTR- 11, along with application for such refund claim.
b.	When UIN is issued for purposes other than refund of taxes paid:	Such person shall furnish the details of inward supplies of taxable goods and/or services as may be required by the proper officer in Form GSTR-11.

Section 41:- Claim of ITC and Provisional acceptance thereof

Done in ITC

- (1) Every registered person shall be entitled to avail the credit of eligible input tax, as self-assessed, in his return which shall be credited to his e-credit ledger, subject to prescribed conditions and restrictions.
- (2) ITC availed by registered person on supplies of goods &/or services, the tax payable whereon has not been paid by supplier, shall be reversed by him along with applicable interest.

Proviso:- When supplier makes payment of such tax, the said registered person may re-avail the ITC reversed by him.

Sec 46 & 47:- Default/Delay in Furnishing Return

<p>i. Notice to return defaulters (Sec 46 read with Rule 68):</p>	<p>⇒ A notice is issued electronically, in prescribed form, to a registered person who fails to furnish return under:-</p> <ul style="list-style-type: none"> ➤ Sec 39 (Normal return) ➤ Sec 44 (Annual return) ➤ Sec 45 (Final return) ➤ Sec 52 (TCS Statement) <p>⇒ Notice requires the registered person to furnish the return within 15 days,</p> <ul style="list-style-type: none"> ➤ failing which the tax liability will be assessed u/s 62. (<i>scrutiny assessment</i>) ➤ In addition to tax so assessed, applicable interest and penalty will also be payable.
<p>ii. Late fees levied for delay in filing return (Sec 47):</p> <p><i>90%</i></p>	<p>a) If there is delay in furnishing of following by registered person by the due dates:-</p> <ul style="list-style-type: none"> ➤ Statement of Outward Supplies - GSTR -1 [Sec 37] ➤ Returns (including returns under QRMP Scheme) [Section 39] ➤ Final Return [Section 45] or ➤ TCS Statement [Section 52] <p>then, he is liable to pay late fee which is LOWER of:-</p> <ul style="list-style-type: none"> ⇒ Rs 100 (i.e. 200 for CGST & SGST) for every day during which such failure continues or ⇒ Rs 5000 (i.e. 10,000 for CGST & SGST) <p>b) If a registered person fails to furnish the Annual return u/s 44 by the due date, he is liable to pay late fee which is LOWER of:-</p> <ul style="list-style-type: none"> ⇒ Rs 100 (i.e. 200 for CGST & SGST) for every day during which such failure continues or ⇒ 0.25% (i.e. 0.5% for CGST & SGST) of the turnover of registered person in the State/UT.

Note:-

1. An equal amount of late fee as above would be payable by such person under the respective SGST/UTGST Act. The late fee discussed above is under the CGST Act.
2. The late fee leviable under IGST Act shall be the sum total of the late fee leviable under the CGST Act and the SGST/UTGST Act.

AS ABOVE LATE FEE NOTIFIED U/S 47 IS WAIVED BY GOVT AS FOLLOWS:

The late fee can be waived off partially or fully by CG. Accordingly, the maximum late fees payable u/s 47 for delayed filing of Forms GSTR-1, GSTR-3B, & GSTR-4, is rationalized as under:-

1. For delayed filing of GSTR-1 and/or GSTR-3B:-

Total amount of late fee payable u/s 47 from June, 2021 / quarter ending June, 2021 onwards, by the registered person who fail to furnish Form GSTR-1 and/or Form GSTR-3B by due date:-

Sr.No.	Class of registered persons	Quantum of Late fee
1.	Registered persons who have nil outward supplies in tax period/whose total amount of tax payable in GSTR-3B is Nil	<ul style="list-style-type: none"> ⇒ ₹ 200 (₹100 each under CGST & SGST/ UTGST) for every day during which such failure continues but ⇒ maximum ₹ 500 (₹250 each under CGST & SGST/UTGST)

2.	Registered persons other than in (1) above	Aggregate t/o of ₹1.5 Cr. in preceding FY	<ul style="list-style-type: none"> ➤ ₹ 200 (₹100 each under CGST & SGST/UTGST) for every day during which such failure continues but ➤ maximum ₹2,000 (₹1,000 each under CGST & SGST/UTGST)
		₹ 5 Cr. Aggregate t/o of > ₹ 1.5 Cr. in preceding FY	<ul style="list-style-type: none"> ➤ ₹ 200 (₹100 each under CGST & SGST/UTGST) for every day during which such failure continues but ➤ maximum ₹5,000 (₹2,500 each under CGST & SGST/UTGST)
3.	Registered persons other than (1) and (2) (If Agg. T/O exceeds ₹5 Cr in PFY)	Late fee as specified u/s 47 i.e. <ul style="list-style-type: none"> ➤ ₹200 (₹100 each under CGST & SGST/UTGST) for every day during which such failure continues but ➤ maximum ₹10,000 (₹5,000 each under CGST & SGST/UTGST) 	

2. For delayed filing of GSTR-4:-

Total amount of late fee payable u/s 47 from F.Y. 2021-22 onwards by registered person (composition taxpayer) who fail to furnish Form GSTR-4 by due date:-

Sr. No.	Class of registered persons	Quantum of Late fee
1.	Total tax payable in GSTR-4 is Nil	<ul style="list-style-type: none"> ➤ ₹ 200 (₹100 each under CGST & SGST/UTGST) for every day during which such failure continues but ➤ maximum ₹ 500 (₹ 250 each under CGST & SGST/UTGST)
2.	Registered persons other than in (1)	<ul style="list-style-type: none"> ➤ ₹ 200 (₹100 each under CGST & SGST/UTGST) for every day during which such failure continues but ➤ maximum ₹ 2,000 (₹ 1,000 each under CGST & SGST/UTGST)

Late fee for failure to furnish annual return by due date [[N/No. 07/2023- CT dt. 31/03/2023]]

FA22 ➤ On recommendations of Council, CG waives the late fee referred to in section 47 of CGST Act for the return to be furnished u/s 44 (i.e. Annual Return) for F.Y. 2022-23 onwards for the following class of registered persons who fails to furnish the same by the due date as under:-

Class of registered persons		Maximum Quantum of Late Fee Payable
1)	Registered persons having an aggregate turnover ≤ Rs. 5 Crores in relevant F.Y.	<ul style="list-style-type: none"> ➤ ₹50 per day (i.e. ₹25 per day each under CGST & SGST/UTGST) but ➤ maximum = maximum = 0.04% (i.e. 0.02 % under CGST/SGST each) of turnover in State or Union territory
2)	Registered persons having an aggregate turnover of > ₹5 Crores & and ≤ ₹20 Crores in relevant F.Y.	<ul style="list-style-type: none"> ➤ ₹100 per day (i.e. ₹50 per day each under CGST & SGST/UTGST) but ➤ maximum = 0.04% (i.e. 0.02 % under CGST/SGST each) of turnover in State or Union territory

- Provided that for the registered persons
- who fail to furnish the return u/s 44 by the due date for any of the F.Y. 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22,
 - but furnish the said return between 01.04.2023 to 30.06.2023,
- total late fee payable u/s 47 for the said return which is in excess of ₹10000 shall stand waived.

Sec 48:- Goods & Services Tax Practitioners (GSTP) ~~****~~ Theory

Definition u/s 2(55):-

Goods & services tax practitioner means any person who has been approved under section 48 to act as such practitioner.

Concept of furnishing returns through GSTP:-

- A registered person may authorise an approved GSTP to furnish information, on his behalf, to Govt. At any time, the registered person may withdraw such authorization.
- GSTN provides 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.
- The GSTP can undertake only authorised activities.
- Before confirming submission of any statement prepared by GSTP over email or SMS, registered person ensures that the facts mentioned in the return are true & correct, making the registered person responsible for the same. However, failure to respond to request for confirmation is treated as deemed confirmation.
- The GSTP should prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials.
- If the GSTP is found guilty of misconduct, his enrolment will be liable to be cancelled and a show cause notice would be issued to him.
- A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.

Eligibility criteria for GSTP:-

In order to be eligible for being GSTP, following conditions need to be satisfied:-

1) A person who is

- Citizen of India,
- Person of sound mind,
- Not adjudicated as insolvent and
- Not been convicted by competent court.

2) In addition to above, the person has to satisfy ANY of the following conditions:-

- Retired officer of Commercial Tax Department of any State Govt./CBIC who, during service under Government had worked in a post not lower than the rank of a Group-B gazetted officer for a period ≥ 2 years.
- Enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws for a period of not less than 5 years.
- Has acquired ANY of the prescribed qualifications mentioned below:-
 - Graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force.
 - Degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned above.
 - Any other examination notified by Government, on recommendation of GST Council.
 - Has passed final examination of ICAI/ ICSI/ Institute of Cost Accountants of India.

Activities undertaken by GSTP on behalf of Registered person, if so authorised by him:- ~~****~~

1. Furnish details of outward supplies *GSTR-1/IFF*
2. Furnish monthly, annual or final return *GSTR3B/9/9A*
3. Make deposit for credit in Electronic cash ledger *PMT06*
4. File a claim for refund (Confirmation from the registered person shall be sought)
5. File an application for registration *REG01* amendment/ cancellation (Confirmation from the registered person shall be sought)
6. Appear as authorised representative before any officer of department, appellate authority, or Appellate Tribunal, on behalf of such registered person provided he is enrolled as GSTP under rule 83

7. Furnish information for generation of E-way bill
8. Furnish details of challan in the prescribed form
9. File an intimation to pay tax under the composition scheme or withdraw from the said scheme (Confirmation from the registered person shall be sought)
10. File an application for amendment or cancellation of enrolment under rule 58

Procedures for Enrolment as GSTP:- HW

1. An enrolment application to be made electronically through the common portal in prescribed form.
2. The Application will be scrutinised and GSTP certificate shall be granted in prescribed form.
3. If application is rejected, proper reasons shall have to be given.
4. The enrolment once done remains valid till it is cancelled.
5. No person enrolled as a GSTP is eligible to remain enrolled unless he passes such examination conducted at such periods by NACIN.
6. Any person who has been enrolled as GSTP by virtue of him being enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws can remain enrolled only for a period of 30 months from the appointed date unless he passes the said examination within the said period of 30 months.

Some important notes regarding this chapter:-

- ⇒ The concept of ISD & person deducting/collecting tax at source will be discussed at the Final Level & not at inter-level.
- ⇒ Quantum of late fee waived off partially or fully- not relevant for exam.
- ⇒ Provisions of returns, other than late fee, under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.
- ⇒ State GST laws prescribe identical provisions & provisions of returns, other than late fee, under CGST Act have also been made applicable to IGST Act vide section 20 of IGST Act.