

SUPPLY UNDER GST

➤ Taxability of Corporate Guarantee

(Pg 2.20)

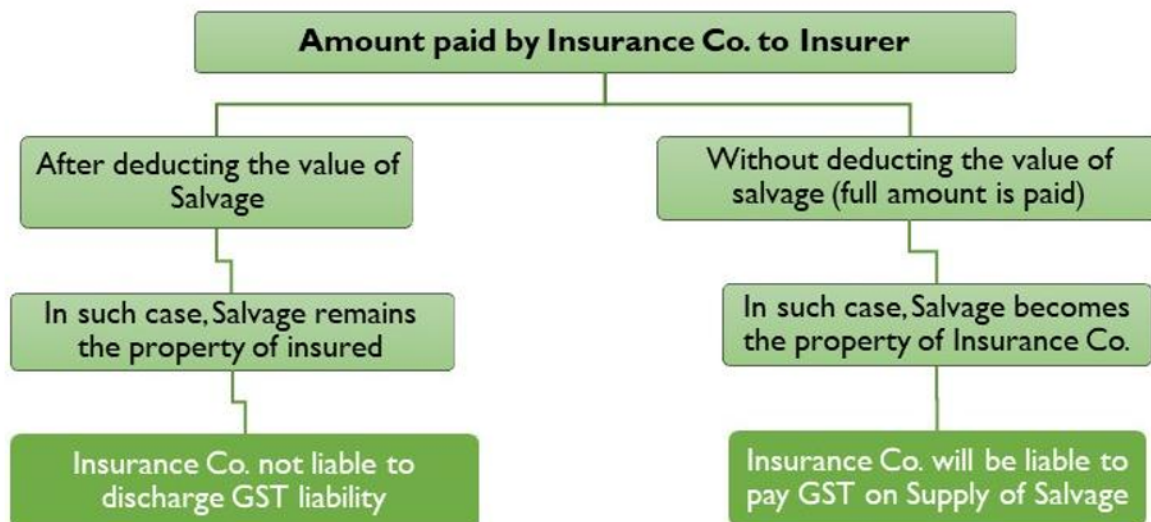
It addresses the taxability of corporate guarantees provided by one company on behalf of another related company or a holding company to secure credit facilities, even when provided **without consideration**. In both cases, the activities are treated as **supplies of service** between **related parties** as per Schedule I of the CGST Act.

To determine the taxable value, Rule 28 of the CGST Rules is employed. However, recognizing the variations in practices followed by field formations and taxpayers in determining the taxable value, **a new sub-rule (2) has been added to Rule 28** of the CGST Rules. This sub-rule provides a standardized method for determining the taxable value of such supplies between related persons.

The circular emphasizes that the new sub-rule (2) will apply to all cases of supply of services involving the provision of corporate guarantees between related persons, ~~irrespective of whether the full ITC is available to the recipient of services or not.~~

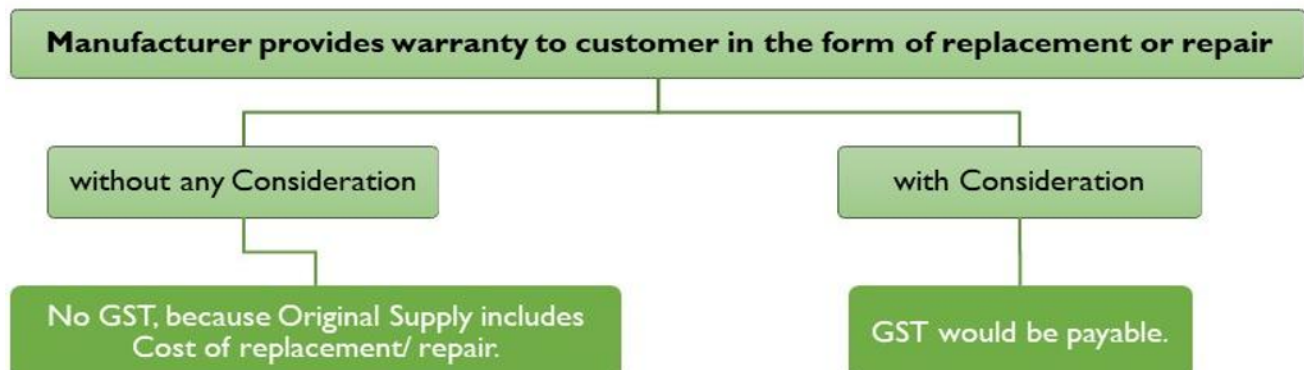
The new sub-rule (2) shall not be applicable for transactions of personal guarantee by directors.

➤ **Salvage/wreck value earmarked in claim assessment of damage caused to motor vehicle**



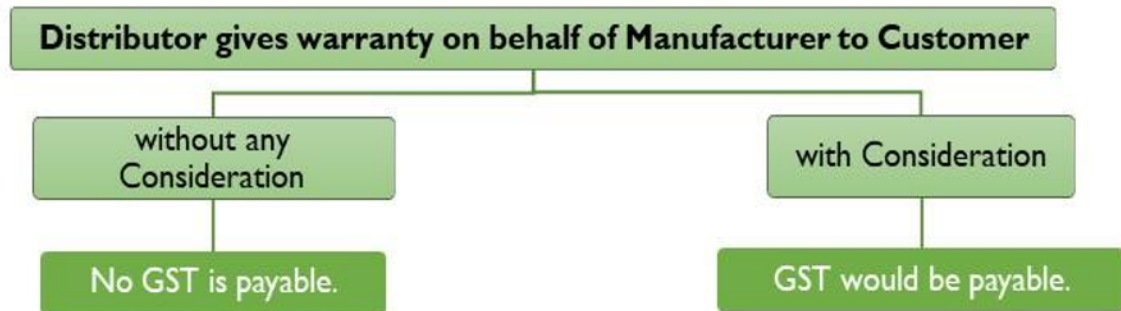
➤ **Applicability of GST in respect of warranty replacement of goods or its parts &/ repair services during warranty period:**

Case I: When manufacturer provides warranty to Customer in the form of replacement of Goods/ Repair services:

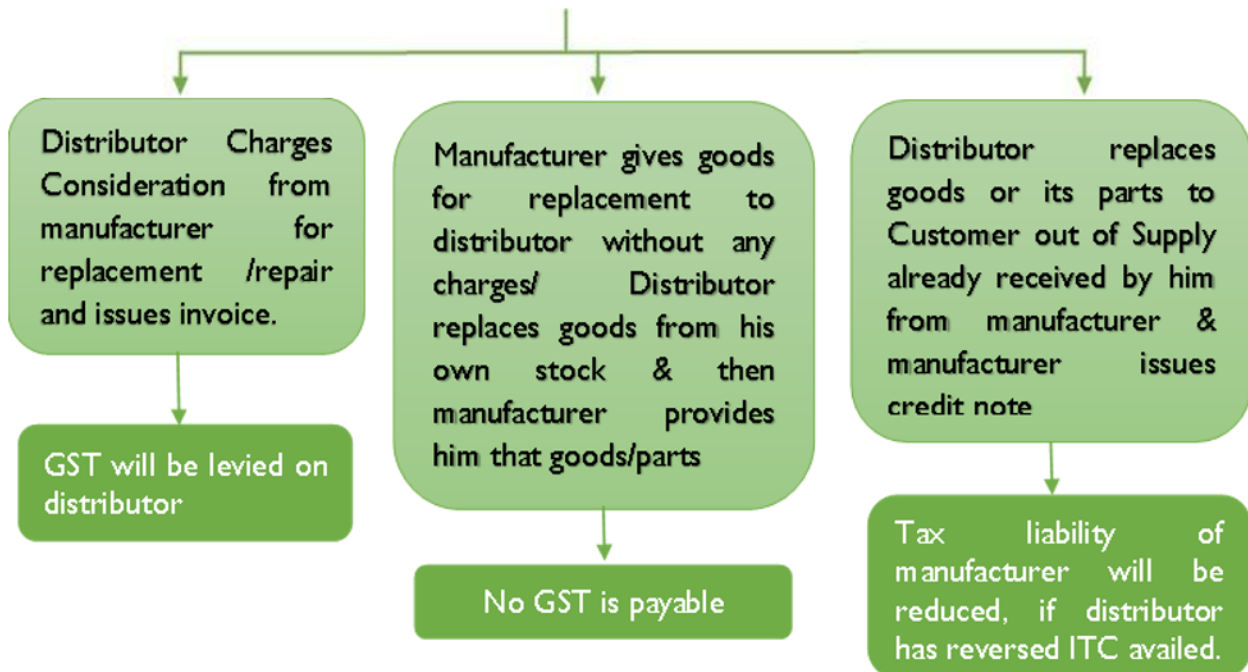
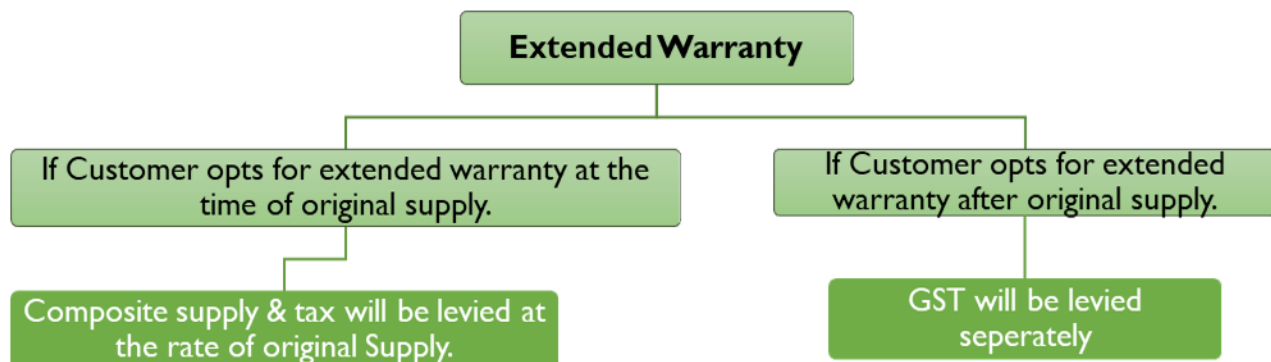


Case II:

- **Part-I: When distributor gives warranty on behalf of Manufacturer to Customer.**



- **Part-II: When distributor gives warranty & any activity /transaction undertakes between Distributor & Manufacturer:**

**Case III: GST Implication in case of Extended Warranty:**

- **Applicability of GST on Preferential Location Charges (PLC) collected along with consideration for sale/transfer of residential/commercial properties.**
 - PLC is part of consideration charged for supply of construction services before issuance of completion certificate.
 - PLC forms part of the composite supply where supply of construction services is the main service and PLC is naturally bundled with it and eligible for same GST rate as the main supply of construction service.
- **ESOP/ESPP/Restricted Stock unit (RSU) provided by a company to its employees through its Overseas Holding Co.:**
 - Where securities of the Foreign Holding Co. are transferred to the employees of Domestic Subsidiary Co. as Employee Stock Purchase Plan (ESPP) / Employee stock option Plan (ESOP)/RSU, GST is not leviable on the Compensation paid in form of Securities [Sch. III].
 - However, if the Foreign Holding Co. charges any additional fees from Domestic Co. for issuing ESOP/ESPP/RSU, in such cases, GST shall be payable by Domestic Holding Co. on RCM basis.

CHARGE OF GST

Addition as below: Supply of goods taxable under RCM u/s 9(5) of CGST Act

(Pg 3.2)

S. No.	Description of supply of goods	Supplier of goods	Recipient of supply
8.	Metal scrap	Any unregistered person	Any registered person

New Entry 5AB inserted:

(Pg 3.6 before Entry 5B)

5AB: Services by way of renting of any immovable property other than residential dwelling.

Supplier: Any Unregistered Person; **Recipient:** Any Registered Person

EXEMPTION FROM GST

RENTING OF IMMOVABLE PROPERTY

(Pg 4.3)

ENTRY 12: Services by way of renting of residential dwelling for residence **except** where the residential dwelling is rented to a registered person.

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, –

- (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and
- (ii) such renting is on his own account and not that of the proprietorship concern.

Explanation 2 – Nothing contained in this entry shall apply to-

- (a) accommodation services for students in student residences;
- (b) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.

- **ENTRY 12A:** Supply of accommodation services having value of supply less than or equal to ₹ 20,000 per person per month provided that the accommodation service is supplied for a minimum continuous period of 90 days.

➤ Clarification on ancillary or incidental services provided by GTA

(Pg 4.8 before Entry 61A & after GTA chart)

It is clarified by CBIC that **ancillary or incidental services provided by GTA** in the course of transportation of goods by road, such as loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be **treated as composite supply** of transport of goods.

The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service. However, **if such services are not provided in the course of transportation of goods** and are **invoiced separately**, then these services will **not be treated as composite supply** of transport of goods.

➤ Granting of loan by a person to a related person or by an overseas affiliate to its Indian entity, where the consideration being paid is only by way of interest or discount

(Pg 4.9 before Hiring Service & after Entry 34)

There is no consideration in the nature of processing fee/administrative charges/loan granting charges etc. involved in granting such a loan and the consideration is only by way of interest/discount, cannot be deemed to be a "Supply of Service" between the said related persons u/s 7(1)(c) read with paras 2 & 4 of Schedule I of CGST Act, 2017.

➤ New Entry 66A inserted:

(Pg 4.10 before Educational Institutions & after Edu. Table)

ENTRY 66A: Services of affiliation provided by a **Central or State Educational Board or Council** or any other similar body, by whatever name called, **to a school** established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity.

➤ Substitution of words in Vocational Educational Courses

(Pg 4.11)

VOCATIONAL EDUCATIONAL COURSES

- a course run by an Indian Training Institute / Industrial Training Centre affiliated to the National Council for Vocational **Education and** Training (NCVET) or State Council for Vocational Training (SCVT).
- a Modular Employable Skill Course approved by NCVET.

➤ Approved flying training courses conducted by FTO approved by the DGCA

(Pg 4.11 after Example of Keyur Transporters)

The approved flying training courses conducted by Flying Training Organizations approved by Director General of Civil Aviation (DGCA), wherein the DGCA mandates the requirement of a completion certificate are **exempt** as services provided by educational institutions (an institution providing services by way of education **as a part of a curriculum** for obtaining a qualification recognized by any law for the time being in force) to its **students, faculty and staff are exempt from levy of GST.**

➤ **Affiliation provided by universities to colleges**

The affiliation services are to monitor and ensure whether institutions possess necessary infrastructure (space, technical prowess, financial liquidity, faculty strength, etc.) & eligible to conduct courses/programs for degrees/titles extended by the university to enrolled students.

These services are **not related to student admissions or the conduct of examinations** by the affiliated colleges and thus **not exempt**.

➤ **Affiliation provided by Central & State educational boards or Councils to schools**

The affiliation services are **not related to student admissions or the conduct of examinations** by such schools. Thus, such services provided to schools by Central or State educational boards or councils, other similar bodies, by whatever name called, **are taxable**.

However, it may be noted that the affiliation services provided by Central and State educational boards or Councils, or other similar bodies to **GOVERNMENT SCHOOLS** i.e. schools established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government **entity are exempt vide Entry 66A** of Exemption Notification.

➤ **Two Examples added as below:**

(Pg 4.12 added under Few more examples)

- Affiliation services to **other than Govt. Schools** by Central or State educational boards – Taxable
- Affiliation services to **Govt. Schools** by Central or State educational boards – Exempt

➤ **Statutory collections made by the Real Estate Regulatory Authority (RERA)**

(Pg 4.13 after Entry 4 & before Entry 5)

RERA is constituted under the Real Estate (Regulation and Development) Act, 2016. RERA performs function of regulating the real estate development and construction of the building entrusted to them which fall under Entry No. 1 and 2 of the 12th Schedule of the Indian Constitution.

RERA is a 'governmental authority' and is covered under the scope of entry no. 4. It is hereby clarified that **statutory collections made by RERA are covered under the entry no. 4** and thus, **exempt from GST**.

➤ **New Entries 9E, 9F & 9G inserted:**

(Pg 4.14 before Entry 34A)

ENTRY 9E: Services provided by Ministry of Railways (Indian Railways) to individuals by way of –

- (a) sale of platform tickets;
- (b) facility of retiring rooms/waiting rooms;
- (c) cloak room services;
- (d) battery operated car services.

ENTRY 9F: Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways).

ENTRY 9G: Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) to use the infrastructure built and owned by them during the concession period against consideration and services of maintenance supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration.

➤ **New Entry 69 inserted:****(Pg 4.19 before Entry 78 & after Entry 9AB)****ENTRY 69:** Any services provided by –

- (a) the National Skill Development Corporation set up by the Government of India;
- (b) the National Council for Vocational Education and Training;
- (c) an Awarding Body recognized by the National Council for Vocational Education and Training;
- (d) an Assessment Agency recognized by the National Council for Vocational Education and Training;
- (e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training,

in relation to –

- (i) the National Skill Development Programme or any other scheme 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 National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.

ENTRY 70: 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.

ENTRY 71: Services provided by training providers (Project implementation agencies) under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)** implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational **Education and** training courses certified by the National Council for Vocational Training.

➤ **New Entry 25A inserted:****(Pg 4.20 before Entry 77 & after Entry 81)**

ENTRY 25A: Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.

➤ **New Entry 44A inserted:****(Pg 4.21 after Entry 48)**

ENTRY 44A: Research and development services against consideration received in the form of grants supplied by –

- (a) a Government Entity; or
- (b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961.

The condition to be fulfilled in this case is that the research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 is so notified at the time of supply of the research and development service.

➤ **Applicability of GST on retrocession services under Insurance Services:**

(Pg 4.21)

The term “re-insurance” includes “retrocession” services which means a re-insurance transaction whereby a part of assumed reinsured risk is further ceded to another Indian Insurer or a CBR (Cross Border Re-insurer).

➤ **Import of services by establishment of a foreign company:**

Import of services by an establishment of a foreign company in India, which is an airline company, from a related person or from any of its other establishments outside India, when made without consideration.

Explanation: Foreign company shall have the same meaning as assigned to it in sub-section (42) of section 2 of Companies Act, 2013.

Conditions to be fulfilled:

- GST at applicable rates is paid by the establishment of the foreign airline company in India on transport of goods and passengers as may be applicable.
- Ministry of Civil Aviation certifies that the establishment of the foreign company in India is that of an airline company which has been designated by the foreign government under the applicable bilateral air services agreement with India.
- Ministry of Civil Aviation certifies that on a reciprocal basis, designated Indian airlines are not subject to levy of similar taxes by whatever name called for the same services appearing under the entry, by the Government of the country designating the foreign airline company.

PLACE OF SUPPLY

➤ **Place of supply of the goods (particularly being supplied through ECO) to unregistered persons where billing address is different from address of delivery of goods**

- As per the provisions of section 10(1)(ca), the place of supply of goods shall be **the address of delivery of goods recorded on the invoice** where the delivery address is located.
- Also, in such cases involving supply of goods to an unregistered person, where the billing address and delivery address are **different, the supplier may record the delivery address as the address of the recipient on the invoice** for the purpose of determination of place of supply of the said supply of goods.

➤ **Place of supply of Custodial Services provided by banks to Foreign Portfolio Investors (FPIs)**

- **‘Custodial Services’** in relation to securities means safekeeping of securities of a client and providing services like maintaining accounts of securities of a client, collecting the benefits accruing to the client in respect of securities, maintaining and reconciling records of the services, etc.
- Banks provide custodial services to FPIs, which include maintaining their securities accounts and handling transactions. These services help FPIs invest in other countries by managing regulatory requirements.
- Section 13(8) covers services supplied by banking companies to account holders. However, **custodial services are not considered as services provided to account holders but rather to non-account holders.**
- Therefore, **the place of supply for custodial services to FPIs** is not determined under Section 13(8). Instead, it falls under the **default provision of Section 13(2).**

➤ Place of supply of Advertising Services provided to foreign clients



Issue 1: Whether the advertising company can be considered an "intermediary" between the foreign client and the media owners?

Clarification:

- In the given case, advertising agency raises invoice to foreign clients & payment is received in foreign currency.
- Media company also bills the advertising agency & the payment is made by advertising agency.
- Thus, **advertising company is not acting as an intermediary** but is providing the services to the client on its own account.

Issue 2: Who will be considered as the "recipient of the services" - the representative of foreign client in India or the target audience of the advertisement in India?

Clarification:

- The "recipient" of the services means the person who is liable to pay consideration.
- In the given case, the foreign client is liable to pay the consideration to the advertising company. So, **the recipient is the foreign client.**
- Even if a representative of foreign client based in India, including a subsidiary or related person is interacting with the advertising company on behalf of foreign client & the payment is made by such foreign client to advertising company, then also **recipient is the foreign client not his Indian representative.**

Issue 3: Whether the advertising services provided by the advertising companies to foreign clients can be considered as performance-based services as per section 13(3) of the IGST Act?

Clarification:

- The supply of advertising services **does not require physical presence** of the goods / recipient. Hence, it will **not be covered u/s 13(3).**
- POS shall be determined as per the default provision, i.e. **Section 13(2)**, i.e. **the location of the recipient of the services** & the said service can be considered to be **export of services** as the location of the said foreign client is outside India.

➤ Place of supply in cases where the advertising company located in India merely acts as an agent of the foreign client in engaging with the media owner for providing media space to the foreign client

- The media owner invoices the foreign client directly, and the foreign client pays the media owner directly for providing media space & broadcast of advertisement to foreign client.
- Thus, **the advertising company is an "intermediary"** and accordingly, the place of supply in respect of the said services is determined as per **section 13(8)**, i.e. the **location of the supplier** of such said services, i.e. **location of the advertising company.**

➤ **Place of supply of data hosting services provided by service providers located in India to cloud computing service providers located outside India**

- ❖ Data Hosting Service Providers (DHSPs) contract with foreign Cloud Computing Service Providers (CCSPs) to host cloud computing services using Indian data centers.
- ❖ DHSPs may own/lease the premises for data centers & independently manage infrastructure.
- ❖ DHSPs have no direct contact with the end users of the foreign CCSPs.
- ❖ Services provided by DHSPs include data collection, storage, processing, distribution, etc.
- ❖ CCSPs provide cloud-based applications & software services to end users for various purposes such as data storage, analytics, AI, machine learning, processing, and database analysis.
- ❖ End users access these services seamlessly over the internet through technology hosted on data centers.

Clarification:

- (a) DHSPs provide data hosting services on a principal-to-principal basis, not as brokers or agents.
 - (b) Data hosting services are not related to goods "made available" by CCSPs to DHSPs in India.
 - (c) Data hosting services are not considered as services directly related to immovable property or physical premises.
- The place of supply is determined by the **default provision** under **section 13(2)**, which is the **location of the recipient of the services**.
- If the **CCSP receiving the data hosting services is located outside India**, the place of supply is considered to be **outside India**.
- Thus, **the supply of data hosting services** by a DHSP in India to **an overseas CCSP** can be **considered as an export of services**.

TIME OF SUPPLY

➤ **Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model**

Issue: Under the Hybrid Annuity Mode (HAM) model of National Highways Authority of India (NHAI), the concessionaire has to construct the new road and provide Operation & Maintenance of the same which is generally over a period of 15-17 years and the payment of the same is spread over the years. What is the time of supply for the purpose of payment of tax on the said service under the HAM model?

Clarification:

- HAM contracts are Design, Build, Operate, and Transfer (DBOT) models where the concessionaire undertakes both construction and O&M of highways.
- The contract is treated as a single entity covering both construction and O&M services, and cannot be split into separate contracts for tax purposes.
- Payments are made in installments over the contract period, based on specified periods or completion of events. **The services under HAM contracts are considered a "continuous supply of services"** as defined in section 2(33) of the CGST Act, 2017.

Time of supply of services under HAM contract, including construction and O&M portion:

- ❖ As per section 13(2) read with section 31(5), if an invoice is **issued on or before** the specified date/event completion: **EARLIER** of
 - date of issuance of such invoice, or
 - date of receipt of payment.
- ❖ If the invoice is **not issued on or before** the specified date/event completion: **EARLIER** of
 - date of provision of the service (i.e., the due date of payment as per the contract), or
 - date of receipt of payment.

Interest Component:

Installments/annuities payable by NHAI include an interest component, which must **be included in the taxable value** for tax payment purposes.

➤ **Clarification on time of supply of services of spectrum usage and other similar services under GST**

Under the spectrum allocation model followed by Department of Telecommunications (DoT), bidder (the telecom operator) bids for securing the right to use spectrum offered by the Government.

- Service Provider:** Government of India (through DoT).
- Service Recipient:** Telecom operator (bidder).

GST is to be discharged on the supply of spectrum allocation services by the **recipient of services** (the telecom operator) on **reverse charge basis**.

In case where **full upfront payment is made** by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is **earlier**.

In case where **deferred payment is made** by the telecom operator in specified installments, same shall be considered as '**continuous supply of services**', since the supply of services (spectrum usage) is agreed to be provided by the supplier (DoT) to the recipient (telecom operator) continuously for a period which is exceeding three months with periodic payment obligations.

If the **due date of payment is ascertainable** from the contract, **invoices must be issued on or before the due date of each installment**. Accordingly, tax invoice will be required to be issued in respect of the said supply of services, on or before such due date of payment as per the option exercised by the telecom operator. Thus, in this case, GST would be payable as and when the **payments are due or made**, whichever is **earlier**.

Similar treatment applies to the allocation of other natural resources by the Government for use over a period of time with payment options either upfront or in deferred installments, constituting continuous supply of services.

VALUE OF SUPPLY

Providing certificate/undertaking u/s 15(3)

(Pg 7.2 before Discount chart)

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. [The recipient is required to provide an undertaking / a certificate of ITC reversal if amount of tax (CGST+SGST+IGST and including compensation cess, if any) involved in the discount given by the supplier to the recipient through tax credit notes is upto ₹ 5,00,000 in a F.Y. or if said amount exceeds ₹ 5,00,000, then a certificate issued by CA/CMA required.]

➤ Amendment in Rule 28(2)

(Pg 7.4)

Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a to a recipient who is a related person **located in India**, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be **deemed to be 1% of the amount of such guarantee offered per annum, or the actual consideration**, whichever is **higher**.

Provided that where the recipient is **eligible for full input tax credit**, the value declared in the invoice shall be deemed to be the value of said supply of services.

➤ Value of supply of service of providing corporate guarantees to banks/financial institution by a supplier to a related person

Issue	Clarification
Loan only partly availed or not availed at all	The value of supply of corporate guarantee will be calculated based on the amount guaranteed and not based on the amount of loan actually disbursed. Also, full ITC will be available to the recipient.
Takeover of existing loans	GST is not payable, unless there is issuance of fresh corporate guarantee or there is a renewal of the existing corporate guarantee. However, GST would be payable if the takeover of the loan is followed by issuance of fresh corporate guarantee .
Intra-group corporate guarantee	<ul style="list-style-type: none"> • Domestic corporate issue intra-group guarantees – GST under FCM • Corporate guarantee by foreign/overseas entity – GST under RCM
Export of service	In cases of export of the services of providing corporate guarantee between related persons, i.e where the recipient of service between related persons is located outside India , above provisions will not apply .
Corporate guarantee for multiple years or for less than 1 year	<ul style="list-style-type: none"> • <u>If provided for a particular number of years:</u> Value of supply shall be 1% of amt of such guarantee x number of years for which guarantee is offered or actual consideration, whichever is higher. • <u>If provided for a period of less than a year:</u> Valuation to be done on proportionate basis for the said period. For e.g. say 6 months, (6/12 x 1%) or actual consideration, w.e. higher
Corporate guarantee by multiple related entities / co-guarantor	<ul style="list-style-type: none"> • We first need to determine which of the two values is higher – sum of actual consideration paid to co-guarantors or 1% of total guaranteed amount. • If total actual consideration is higher, value of supply will be said amount. If 1% of total guaranteed amount is higher, GST shall be payable by each co-guarantor proportionately on 1% of the amount guaranteed by them.

➤ Applicability of GST on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions

(Pg 7.10 – Deleted from New ICAI Study Material)

INPUT TAX CREDIT

➤ **Clarification on time limit u/s 16(4) in respect of RCM supplies received from unregistered persons** (Pg 8.3 before Amended Rule 37 para)

In cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under RCM and where invoice is to be issued by the recipient only (self-invoicing), **the relevant FY for calculation of time limit for availment of ITC u/s 16(4) will be the FY in which the invoice has been issued by the recipient.**

➤ **Section 16(6): Time limit for taking ITC in case of revoked registration cancellation**

In case where registration of a taxpayer is cancelled & then it is revoked, return for the period from date of cancellation till the date of revocation of cancellation cannot be filed on the portal by the taxpayers till their cancellation of registration is revoked.

In such cases, where the recipient has not claimed the ITC because of lapse of time limit specified u/s 16(4), a **relaxation** has been given to avail ITC u/s 16(4) **till the date of filing return - if return is filed within 30 days of revocation of cancellation of registration**, subject to the condition that the time limit to avail ITC in respect of said invoice u/s 16(4) had not already expired on the date of cancellation of registration.

➤ **Amendment in Rule 37A** (Pg 8.3)

- If receiver **avails ITC** on the basis of GSTR-1, **as amended in Form GSTR-1A if any**, which have been furnished by supplier **but such details are not furnished** by the supplier in GSTR-3B for such tax period till 30th September following the end of such FY, then **receiver needs to reverse the ITC availed** on or before 30th November following the end of such FY.
- **If receiver fails** to do so, then such amount shall be payable along with **interest @ 18% p.a.**
- If the supplier **subsequently furnishes** the return in GSTR-3B, then such registered person may **re-avail** the amount of such credit.

➤ **Addition in taxability of services procured internally from HO** (Pg 8.20 – In Table 2nd S.No.)

Services procured internally from HO (when full ITC is available to the concerned BOs)

Also, applicable in case of import of services by a registered person in India from a related person located outside India, the tax is required to be paid by the registered person in India under reverse charge mechanism. In such cases, the registered person in India is required to issue self-invoice under section 31(3)(f) and pay tax on RCM basis.

➤ **Clarification on the requirement of reversal of ITC in respect of the portion of the premium for life insurance policies which is not included in taxable value**

- Life insurance business includes policies or instruments that combine investment and insurance components, where both investment and life insurance risk coverage are provided by the insurer.
- The **premium portion not includible in taxable value** is neither nil-rated nor wholly exempt from tax and also not a non-taxable supply; hence, same **cannot be considered as pertaining to an exempt supply.**

- ITC reversal is required only for supplies used:-
 - (i) partly for business and partly for other purpose or
 - (ii) partly for taxable supplies including zero rated supplies and partly for exempt supplies.
- It is clarified that the amount of the premium for taxable life insurance policies, not included in the taxable value, **cannot be considered as non-taxable/exempt supply** & therefore, **no reversal of ITC** is required as per provisions of Rule 42/43.

➤ **Clarification on ITC availability in respect of demo vehicles which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver)**

- Demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making 'further supply of such motor vehicles'. Hence, **ITC** in respect of demo vehicles is **not blocked** under clause (a) of section 17(5).

Issue	Clarification
Where demo vehicles are used by an authorized dealer for purposes other than for making further supply of such motor vehicles, say for transportation of its staff employees/ management etc.	In such cases, the same cannot be said to be used for making 'further supply of such motor vehicles' and therefore, ITC is not available.
Where the authorized dealer merely acts as an agent or service provider to the vehicle manufacturer for providing marketing service & the sale invoice for the vehicle is directly issued by the vehicle manufacturer to the customer.	Authorized dealer acting as marketing agent so ITC is not available.

➤ **Clarification on ITC availability on demo vehicles in cases where such vehicles are capitalized in the books of account by the authorized dealers**

- Demo vehicles are **used** by the authorized dealers **to promote further sale** of motor vehicles of the similar type & therefore used in the course or furtherance of business of the dealers.
- Where such vehicles are **capitalized** in the books of accounts by the authorized dealer, the said vehicle falls in the definition of "capital goods" & accordingly, **availability of ITC is not affected** by way of capitalization.
- Where the registered person **has claimed depreciation** on the tax component of the cost of capital goods and plant and machinery - **ITC shall not be allowed.**
- If demo vehicle, which is capitalized, is **subsequently sold** by the authorized dealer, then the **authorized dealer to pay an amount** or tax.

➤ **Clarification on availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5)**

- Ducts and manholes are used as part of the OFC network generally laid with the use of PVC ducts for making outward supply of transmission of telecommunication signals from one point to another.
- Ducts and manholes used in network of OFCs **have not been specifically excluded** from the definition of "plant and machinery" as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.
- Hence, it is clarified that **ITC is not restricted & allowed** on ducts & manholes used in OFCs.

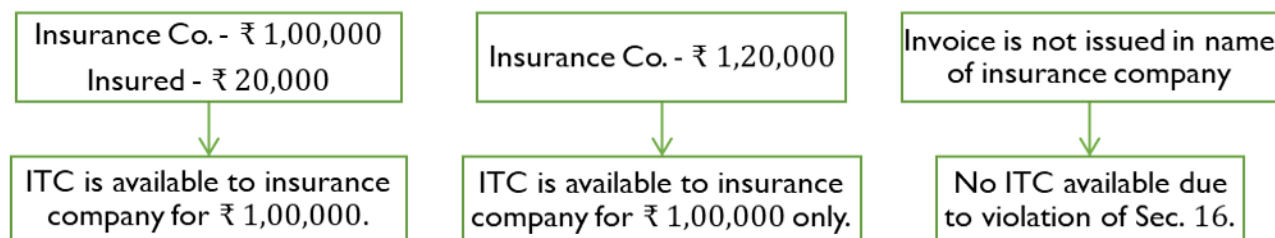
➤ **Clarification in respect of entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement**

- Under **reimbursement** mode, the insured visits non-network garages & **payment is first made** by the insured and **then reimbursed** by the insurance company to the insured to the extent of **approved claim cost**, then the insurance company will be **eligible to avail ITC upto approved reimbursement, if invoices are issued in the name of insurance company.**
- Under **cashless** mode, the insured visits a network garage & repair is carried out, it means the insurance company will **directly pay to the garage** and no amount will be paid by the insured. In such cases, entire invoice will be issued in the name of insurance company & the insurance company will be **eligible to claim ITC.**

Issue	Clarification
Extent of ITC available in case of issue of two separate invoices by the garage for repair service - one to the insurance company for the approved claim cost & another to the customer for excess amount?	ITC is available to insurance company only on the invoice issued to it subject to reimbursement of said amount by insurance company to customer.
Extent of ITC available in case of issue of single invoice by the garage - covering the full amount for repair service & the insurance company reimburses only the approved claim cost?	ITC is available to the insurance company only to extent of the reimbursement of the approved claim cost to the insured, and not on the full invoice value.
ITC is available to the insurer if invoice for vehicle repair is not in insurance company's name ?	ITC is not available to the insurance company as it violates section 16.

Let us understand with the help of an example:

Total repair charges paid by the insured is ₹ 1,20,000 & the insurance company has approved claim cost of ₹ 1,00,000 and the invoice is issued by the garage in the name of as below –



➤ **Clarification on availability of ITC in respect of warranty replacement of goods or its parts and/ repair services during warranty period**

Case I: When original equipment manufacturer offering replacement of goods or its parts / repair services under warranty to the customer:

Manufacturer provides warranty to customer in the form of replacement or repair

without any Consideration

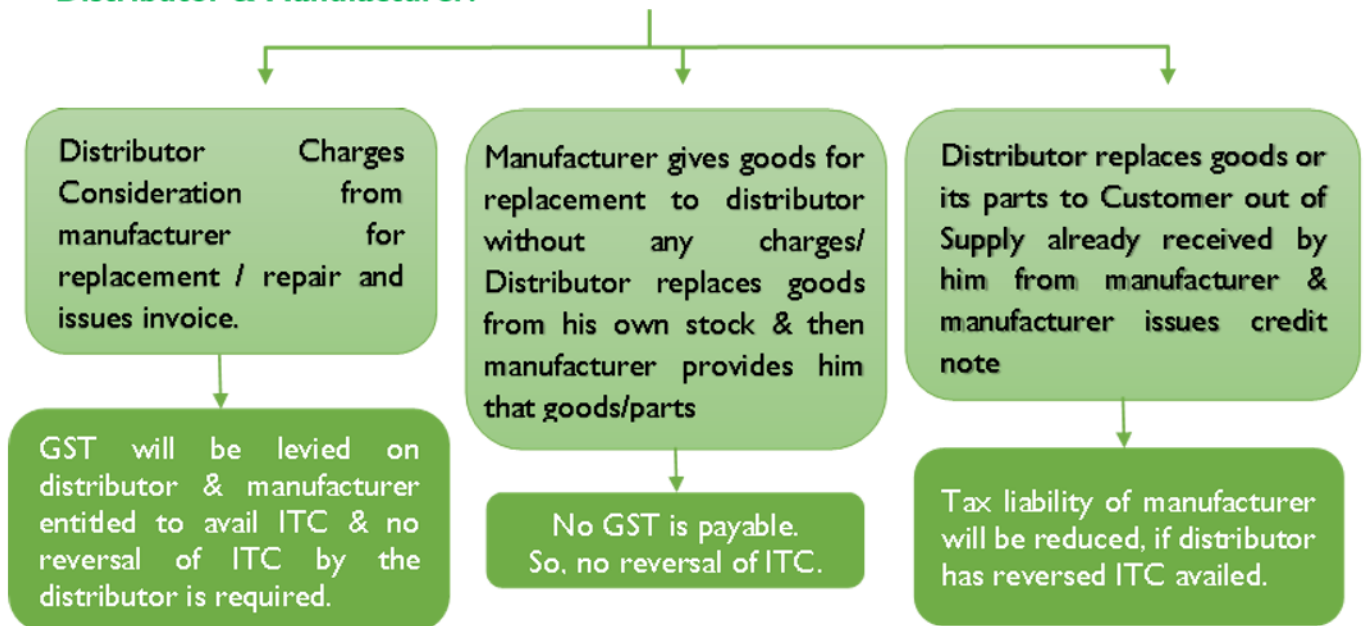
Not an exempt supply because Original Supply includes Cost of replacement/ repair.
Thus, No REVERSAL of ITC.

Case II:

- **Part-I: When distributor gives warranty on behalf of Manufacturer to Customer.**



- **Part-II: When distributor gives warranty & any activity /transaction undertakes between Distributor & Manufacturer:**



REGISTRATION

- **Amendment in Section 24:**

[Pg 9.4 in Point (iii)]

Persons who are required to **pay tax under RCM** on inward supplies received (*except suppliers of metal scrap*)

- **Amendment in Section 23:**

(Pg 9.5 in Chart)

Person making only **reverse charge supplies** (*except any person exclusively engaged in supply of metal scrap*)

- **Aadhaar Authentication** (Pg 9.10 – Refer changes from below as per New ICAI Study Material)
- Every (i) individual applicant or (ii) an applicant, other than an individual, shall undergo authentication/furnish proof of possession of Aadhaar number.
- (i) **Where an applicant opts for authentication of Aadhaar number:**
He shall, while submitting an application for registration, undergo authentication of Aadhaar number. Said authentication is required to be eligible for grant of registration.
- Date of submission of application: **EARLIER** of
- The date of authentication of Aadhaar number, or
 - 15 days from submission of application in Part B of Form GST REG-01.
- In case of failure – registration is deemed to be invalid.
- In case applicant is 'other than individual', then Aadhaar authentication will be done on the basis of Aadhaar number of : (Notified individuals)
- Any partner for Partnership Firm
 - Proprietor for Proprietorship Firm
 - Trustee for Trust
 - Karta for HUF
 - MD / WTD for Company
- **Person / class of persons exempt from Aadhaar authentication:**
- Not a citizen of India
 - Department of Central or State Government, Local Authority, PSU.
 - Statutory Body
 - Person applying for Unique Identity Number u/s 25(9).
- **Risk-based biometric-based Aadhaar authentication of registration applicants**
- An applicant who has opted for authentication of Aadhaar number is identified on the common portal, based on data analysis & risk parameters, shall be followed by biometric based Aadhaar authentication & taking photograph: (~~currently in Andhra Pradesh, Gujarat & Puducherry on pilot basis~~) **(i.e. now, extended to the whole of India)**
- of the applicant where the applicant is an individual, or
 - of notified individuals in relation to the applicant where the applicant is not an individual, along with verification of original copy of the documents uploaded with the application form.
- (ii) **Where an applicant does not opt for authentication of Aadhaar number:**
- The application of a person who has not opted for authentication of Aadhaar number, shall be followed by taking photograph:
- of the applicant where the applicant is an individual, or
 - of notified individuals in relation to the applicant where the applicant is not an individual, along with verification of original copy of the documents uploaded with the application form.
- If Aadhaar number is not assigned, Rule 10B is applicable.

➤ **Amendments in Rule 21:**

[Pg 9.16 – Amendment in point (f) & insertion of new point (ga)]

f) **Furnishes the details of outward supplies** in Form GSTR-1, **as amended in Form GSTR-1A if any** u/s 37 for one or more tax periods which is **in excess of the outward supplies declared by him** in his valid return u/s 39 for the said tax periods; or

ga) violates the provisions of third or fourth proviso to rule 23(1); (i.e. does not furnish all returns due within 30 days from date of order of revocation of cancellation of registration)

➤ **Amendments in Rule 21A:**

(Pg 9.20)

(2A) Where,-

(a) (i) a comparison of the returns furnished by a registered person under section 39 with:

- the details of outward supplies furnished in FORM GSTR-1, **as amended in GSTR-1A if any,** or
- the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, **as amended in GSTR-1A if any, of the previous tax period, if any,** or

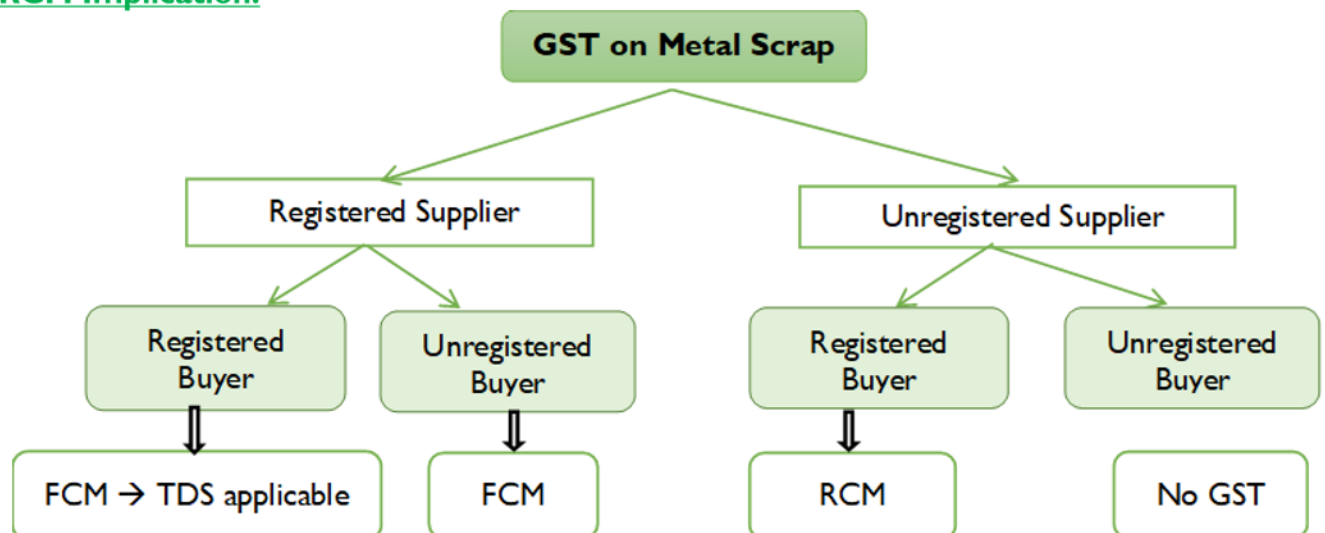
(ii) such other analysis, as may be carried out on the recommendations of the Council,

show that there are significant differences or anomalies indicating contravention of the provisions of the CGST Act or the rules made thereunder, leading to cancellation of registration of the said person, or

(b) there is a contravention of the provisions of rule 10A by the registered person,

the registration shall be suspended and the said person shall be intimated in prescribed form by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of 30 days, as to why his registration shall not be cancelled.

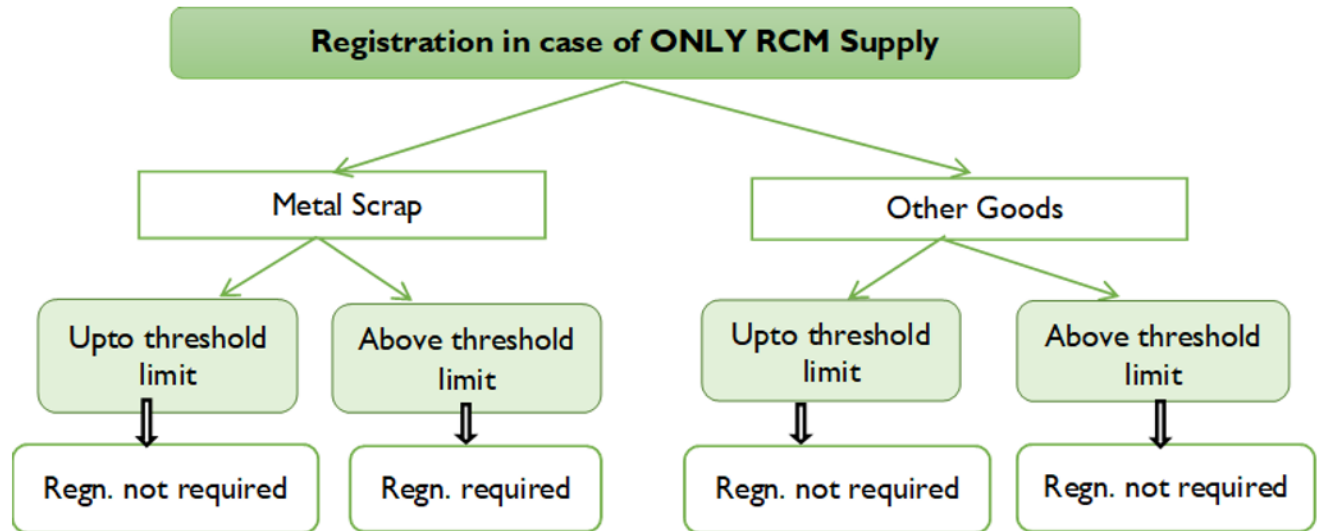
Further, third proviso has been inserted to rule 21A(4) to provide that where the registration has been suspended as above for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

➤ **Metal Scrap**• **RCM Implication:**

- **Registration:**

As per Section 23, a person who exclusively makes reverse charge supplies is not required to obtain registration, regardless of their turnover.

However, in the case of metal scrap, if an unregistered person is supplying metal scrap, they must obtain registration once their turnover exceeds the prescribed threshold limit.



APPEALS & REVISION

➤ **Section 109:**

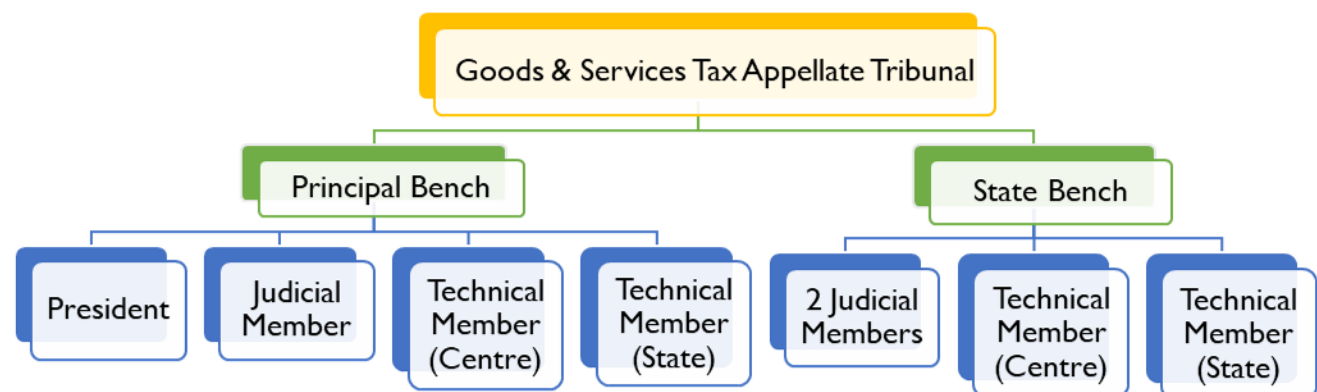
(Pg 14.6 – Refer this section from below as per New ICAI Study Material)

✚ **Constitution:**

The Government shall, on the recommendations of the Council, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the **Goods and Services Tax Appellate Tribunal** for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority **or for conducting an examination or adjudicating the cases referred to in section 171(2), if so notified under the said section.**

The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches.

✚ **Composition:**



✚ Jurisdiction [Section 109(5)]:

- The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority.
- However, the cases in which any one of the issues involved relates to the **place of supply**, shall be heard only by the **Principal Bench**.
- **Further, matters referred to in section 171(2) shall be examined or adjudicated only by the Principal Bench.**
- **Government may, on the recommendations of the Council, notify other cases or class of cases which shall be heard only by the Principal Bench.**

✚ Transfer of cases

Subject to above jurisdiction given in section 109(5), the President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.

Vice president for State Benches

The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.

✚ Single member bench:

The cases can be heard by a bench consisting of a **single member**, if following conditions are fulfilled:

- Amount of tax or ITC involved or the amount of fine, fee or penalty determined **does not exceed ₹ 50,00,000**.
- Matter does not involve any **question of law**.
- **Prior approval of the President** has been obtained.
- **Any other** prescribed conditions.

✚ Majority rule in case of difference of opinion:

In case of difference of opinion between Members, the President shall refer such case for hearing, -

- **where the appeal was originally heard by Members of a State Bench** - to another Member of a State Bench or, where no such other State Bench is available, to a Member of a State Bench in another State.
- **where the appeal was originally heard by Members of the Principal Bench** - to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench.

Note: Case shall be decided on **majority basis** including the opinion of the Members who first heard the case previously.

+ Transfer of members for administration efficiency:

- The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench.
- However, a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.

+ Defect in constitution not to render proceedings invalid:

No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

The President and members of Appellate Tribunal their qualification, appointment, conditions of service, etc. shall be in the manner prescribed u/s 110 of the CGST Act.

➤ Section 111:

(Pg 14.7 – Addition of Note below as per New ICAI Study Material)

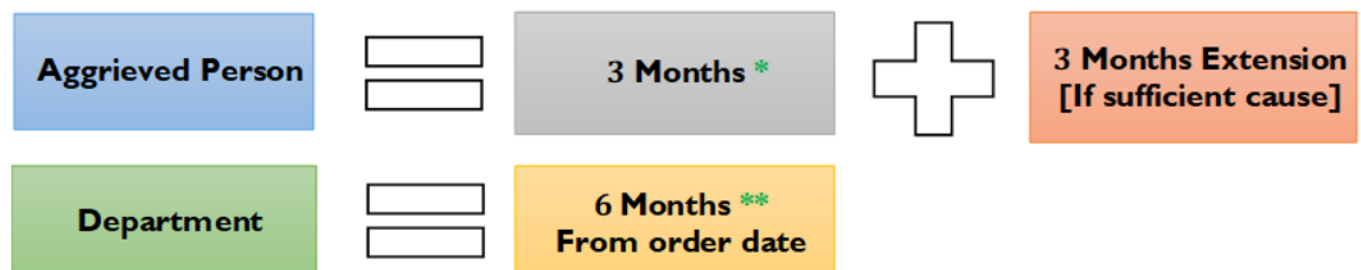
- The AT shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 except in respect of certain matters such as summoning and enforcing the attendance of person & examining him on oath, requiring the discovery and production of documents, receiving evidence on affidavits, etc.
- The Appellate Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.
- All proceedings before the AT shall be deemed to be judicial proceedings within the meaning of sections 193, 228, and for the purposes of section 196 of the Indian Penal Code.

The Indian Penal Code (IPC) has been replaced with the Bharatiya Nyaya Sanhita, the Code of Criminal Procedure with Nagarik Suraksha Sanhita and the Indian Evidence Act has been replaced with the Bharatiya Sakshya Adhiniyam from 1st July 2024, however the corresponding changes is yet to be made in the GST Law.

➤ Section 112 & 113: (Pg 14.8 & 14.9 – Refer this section from below as per New ICAI Study Material)

A. Appeal by the aggrieved person (taxpayer)

➤ Time Limit for Filing Appeal



* **The start of the 3 months period shall be considered to be the later of the following dates:-**

- (i) date of communication of order; or
- (ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office.

** **The start of the 6 months period shall be considered to be the later of the following dates:-**

- (i) date of communication of order; or
- (ii) the date on which the President or the State President, as the case may be, of the Appellate Tribunal after its constitution under section 109, enters office.

➤ **Form for filing appeal by the aggrieved person (taxpayer)**

- An appeal to the AT shall be filed in FORM GST APL-05, along with the relevant documents, **electronically** and a provisional acknowledgement shall be issued to the appellant immediately.
- An appeal to the AT may be filed **manually** in FORM GST APL-05, along with the relevant documents, **only if the Registrar allows** the same by issuing a special or general order to that effect, subject to such conditions and restrictions as specified in the said order, and in such case, a provisional acknowledgement shall be issued to the appellant immediately.

➤ **Power of Tribunal to refuse to admit an appeal:**

The Appellate Tribunal can refuse to admit an appeal if the tax or ITC involved or the difference in tax or ITC involved or the amount of fine, fee or penalty determined by such order **does not exceed ₹ 50,000**.

➤ **Memorandum of Cross Objections:**

It is provided that on receipt of notice that an appeal has been filed (by the appellant), the party **against whom the appeal has been preferred** (i.e., the respondent) may, notwithstanding, that he may not have appealed against such order or any part thereof, file **within 45 days** a memorandum of cross objections **electronically** (The Tribunal can **condone the delay of upto 45 days** beyond the specified time period of 45 days, if it is satisfied that there was sufficient cause for the delay).

➤ **Fees for Filing Appeal:**

The fees for filing of appeal or restoration of appeal shall be **₹ 1,000 for every ₹ 1,00,000 of tax** or ITC involved or the difference in tax or ITC involved or the amount of fine, fee or penalty determined in the order appealed against. However, the **fee shall not exceed ₹ 25,000 and a minimum of ₹ 5,000**.

Fees for filing of an appeal in respect of an order not involving any demand of tax, interest, fine, fee or penalty shall be ₹ 5,000.

There shall be no fee for application made before the Appellate Tribunal for rectification of errors.

➤ **Mandatory Pre-Deposit:**

No appeal shall be filed before Appellate Tribunal, unless the appellant has paid –

- (a) **Full amount** of tax, interest, fine, fee, & penalty arising from the impugned order, as is **admitted by him**; and
- (b) **20%** of the remaining amount of **tax in dispute**, in addition to the amount deposited before the AA, arising from the said order, subject to a **maximum of ₹ 50 Cr [₹ 100 Cr in case of IGST]**, in relation to which appeal has been filed.

B. Department appeal

- An application to the AT shall be filed in FORM GST APL-07, along with the relevant documents, **electronically** and a provisional acknowledgement shall be issued to the appellant immediately.
- Such application may be filed **manually** in FORM GST APL-07, along with the relevant documents, **only if the Registrar allows** the same by issuing a special or general order to that effect, subject to such conditions and restrictions as specified in the said order, and in such case, a provisional acknowledgement shall be issued to the appellant immediately.

Common provisions in case of appeal by the aggrieved person (taxpayer) and Departmental appeal

(I) Memorandum of cross objections

A memorandum of cross-objections to the Appellate Tribunal, if any, shall be filed **electronically** in FORM GST APL-06.

However, the memorandum of cross-objections may be filed manually in FORM GST APL-06, **only if the Registrar allows** the same by issuing a special or general order to that effect, subject to such conditions and restrictions as specified in the said order.

(II) Date of filing appeal

(i) Where the order appealed against is **uploaded** on the common portal

a final acknowledgement, indicating appeal number, shall be issued in FORM GST APL-02 on removal of defects, if any, and the date of issue of the provisional acknowledgement shall be considered as the date of filing of appeal.

(ii) If the order appealed against is **not uploaded** on the common portal

the appellant shall submit/ upload, as the case may be, a self-certified copy of the said order within a period of 7 days from the date of filing of FORM GST APL-05/ FORM GST APL-07 and a final acknowledgement, indicating appeal number, shall be issued in FORM GST APL-02 on removal of defects, if any, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.

(iii) Where the said **self-certified copy** of the order is **submitted/uploaded after a period of 7 days** from the date of filing of FORM GST APL-05/ FORM GST APL-07

a final acknowledgement, indicating appeal number, shall be issued in FORM GST APL-02 on removal of defects, if any, and the date of submission or uploading of such self-certified copy shall be considered as the date of filing of appeal.

- The appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.
- The appeal and the memorandum of cross objections shall be signed in the manner specified in the prescribed manner.

C. Orders of the Appellate Tribunal (Section 113):

- The tribunal, after hearing both the sides may pass such orders thereon as it thinks fit, **confirming, modifying or annulling** the decision or order appealed against or **refer the case back to the AA or to the RA**, or to the original Adjudicating Authority.
- The Tribunal may, if sufficient cause is shown, grant upto **3 adjournments** to hearing of appeal for reason to be recorded in writing.
- **Time Limit:** Law provides **advisory time limit of 1 year** from the date of filing of appeal for the tribunal to decide the appeal.
- Every order passed by the Tribunal shall be final and binding on the parties unless the dispute is taken to a higher appellate forum.

Rectification of Errors [Section 113(3)]:

- The tribunal can **correct its own order** for any apparent mistakes, but it has **no power of review**.
- The tribunal may amend any order passed by it so as to **rectify any error** apparent on the face of the record if such error is noticed in the order by its own accord, or is brought to its notice by the commissioner or SGST/UTGST Commissioner or the other party to the appeal **within a period of 3 months from the date of the order**.
- No amendment which has the effect of enhancing an assessment or reducing a refund of ITC or otherwise increasing the liability of the other party, shall be made, unless the party has been given an **opportunity of being heard**.

D. Withdrawal of appeal or application filed before the Appellate Tribunal

- The appellant may, at any time before the issuance of the order, in respect of any appeal filed in FORM GST APL-05 or any application filed in FORM GST APL-07, file an application for withdrawal of the said appeal or the application, by filing an application in Form GST APL-05/07W.
- Where the final acknowledgment in GST APL-02 has been issued, the withdrawal of the said appeal or the application, would be subject to the approval of the Appellate Tribunal within 15 days of filing of such application.
- Any fresh appeal or application, as the case may be, filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in A or B above.

Authority	Pre-Deposit	
	When the tax involved is CGST	When the tax involved is IGST
AA	Admitted CGST Liability in full + 10% of the CGST in dispute, subject to a maximum of ₹ 25 Crores. *	Admitted IGST Liability in full + 10% of the IGST in dispute, subject to a maximum of ₹ 50 Crores.
AT	Admitted CGST Liability in full + 20% of the CGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of ₹ 50 Crores. *	Admitted IGST Liability in full + 20% of the IGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of ₹ 100 Crores.

* Equivalent amount of SGST is also required to be deposited.

➤ **Section 115: Interest on Refund of Pre-Deposit**

If the pre-deposit made by the appellant before the AA or the Tribunal is required to be refunded consequent to any order of the AA or of the Tribunal, as the case may be, interest as provided under section 56 shall be payable from the date of payment of the amount (and not from the date of the order of the AA or of the Tribunal) till the date of refund of such amount.

➤ **Clarification regarding monetary limits for filing appeals or applications or Special Leave Petition by the Department before GSTAT, High Courts and Supreme Court**

Following monetary limits have been fixed for filing appeals/ applications/ Special Leave Petition by the Department before GSTAT, High Courts and Supreme Court subject to specified exclusions:-

Appellate Forum	Monetary Limit (amount involved in ₹)
GSTAT	20 Lakh
High Court	1 Crore
Supreme Court	2 Crore

Amount to be considered for applying the monetary limit for filing appeal has been explained in the below table in relation to the category of disputes:-

S. No.	Dispute pertains to demand of	Amount to be considered for applying the monetary limit for filing appeal
1.	Tax (with or without penalty and/or interest) only	Aggregate of the amount of tax in dispute (including CGST, SGST/UTGST, IGST & Compensation Cess)
2.	Interest only	Amount of interest
3.	Amount of interest	Amount of penalty
4.	late fee only	Amount of late fee
5.	Interest, penalty and/or late fee (without involving any disputed tax amount)	Aggregate of amount of interest, penalty and late fee
6.	Erroneous refund	Amount of refund in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess)

Monetary limit shall be applied on the disputed amount of tax/interest/penalty/late fee, as the case may be, in respect of which appeal or application is contemplated to be filed in a case.

In a composite order which disposes more than one appeal/demand notice, the monetary limits shall be applicable on the total amount of tax/interest/penalty/late fee, as the case may be, and not on the amount involved in individual appeal or demand notice.

Exclusions - Monetary limits specified above shall not be applicable in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:

- (i) Where any provision GST law has been held to be ultra vires to the Constitution of India; or
- (ii) Where any rules/regulations made under GST law have been held to be ultra vires parent Act; or
- (iii) Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of the GST law or the Rules made there under; or
- (iv) Where the matter is related to –
 - (a) Valuation of goods/services; or
 - (b) Classification of goods/services; or
 - (c) Refunds; or
 - (d) Place of Supply; or
 - (e) Any other issue, which is recurring in nature and/or involves interpretation of the provisions of the Act /the Rules/ notification/ circular/order/instruction etc.; or
- (v) Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or
- (vi) Any other case or class of cases, where it is necessary to contest in the interest of justice or revenue.

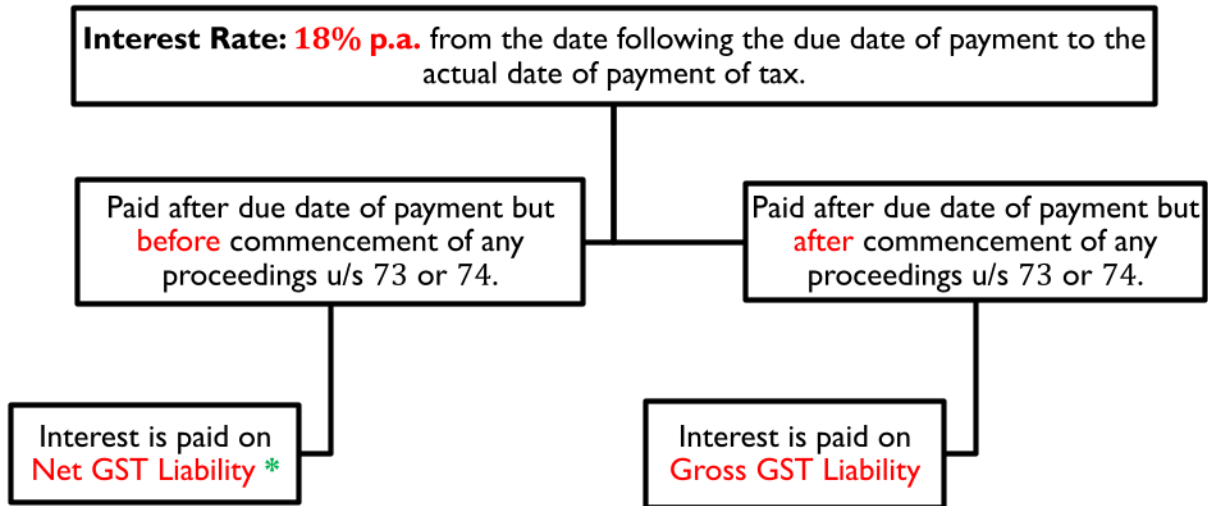
Non-filing of appeal based on the above monetary limits, shall not preclude the tax officer from filing appeal or application in any other case involving the same or similar issues in which the tax in dispute exceeds the monetary limit or case involving the questions of law.

PAYMENT OF TAX

➤ Section 50:

(Pg 17A.3 – Amendment in Case I)

- **Case I: Interest because of delay in payment of tax (either in full or any part thereof):**



* Any amount credited in the Electronic Cash Ledger on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

TDS – TCS UNDER GST

➤ Section 51: TDS

[Pg 17B.1 – Amendment in Notified Persons under clause (d) of Section 51(1)]

NOTIFIED PERSONS under clause (d) of section 51(1)

(a) An authority or a board or any other body, -
 (i) set up by an Act of Parliament or a State Legislature; or
 (ii) established by any Government,
 with 51% or more participation by way of equity or control, to carry out any function;

(b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;

(c) Public sector undertakings:

(d) Any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975, from other registered person

➤ Tax is not liable to be deducted at source in the following cases

(Pg 17B.1)

- When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person.
- When supply of goods and/or services takes place between one person to another person specified under clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act, **except the person referred to in clause (d). (i.e. recipient of metal scrap)**

➤ **Section 52: TCS****(Pg 17B.2 – Amendment in Rate of TCS)****Applicable only to ECO (operator) @ 0.5% of Net value of taxable supplies**

Notwithstanding anything to the contrary contained in this Act,

- **every electronic commerce operator** not being an agent, shall collect an amount calculated at such rate not exceeding **0.5% (0.5% IGST or 0.25% CGST & 0.25% SGST, as the case may be)**, as may be notified by the Government on the recommendations of the Council.

“**net value of taxable supplies**” shall mean the **aggregate** value of **taxable supplies** of goods or services or both, other than services notified u/s 9(5), made during any month by all registered persons through the operator **reduced** by the aggregate value of taxable supplies **returned** to the suppliers during the said month.

- The amount collected shall be **paid** to the Government by the operator **within 10 days** after the end of the month in which such collection is made.

➤ **Rule 78: Matching of details furnished by the e-commerce operator with the details furnished by the supplier**

The following details relating to the supplies made through an e-commerce operator, as declared in FORM GSTR-8, shall be matched with the corresponding details declared by the supplier in FORM GSTR-1, **as amended in FORM GSTR-1A, if any,**

- State of place of supply; and
- net taxable value.

Provided that where the time limit for furnishing FORM GSTR-1 under section 37 has been extended, the date of matching of the above-mentioned details shall be extended accordingly.

Provided further that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching to such date as may be specified therein.

REFUNDS UNDER GST

➤ **Cases when Refunds are allowed** **(Pg 19.2 – Add before point: Refund of excess payment of tax)**

Refund of additional IGST paid on account of upward revision in price of the goods subsequent to exports, and on which the refund of IGST paid at the time of export of such goods has already been sanctioned [Sec 54(1)].

➤ **Addition in Table of Relevant Date****(Pg 19.2 – Addition of Note as below in first case)**

Cases	Relevant Date
✚ Goods exported** out of India	
• By sea / air	Date on which ship / aircraft leaves India
• By land	Date on which such goods pass the frontier
• By post	Date of dispatch of goods by Post Office

** In case of upward revision of the price of the goods subsequent to exports, refund of additional IGST paid on the same can be claimed within 2 years from the relevant date mentioned here.

➤ **Deletion of Rule 89(4A) & 89(4B)** (Pg 19.4, 19.5 & Last Page Refund Chart – Changes as below)

Net ITC: -

	Inputs	Input Services	Capital Goods
Rule 89(4)	✓	✓	x
Rule 89(5)	✓	x	x

* ~~Net ITC does not include ITC for which refund is claimed under sub-rules [4A] or [4B] or both.~~

TURNOVER OF ZRS OF GOODS

The value of zero rated supply of goods made during relevant period without payment of tax under bond or LUT

OR

the value which is **1.5 times the value of like goods domestically supplied, whichever is less.**
~~other than the turnover of supplies in respect of which refund is claimed under sub-rules [4A]/[4B]/both.~~

TURNOVER OF ZRS OF SERVICES

Payment received during current period	xxx
Add: ZRS of service provided in current period for which advance payment had been received in past	xxx
Less: ZRS of service to be provided in future but advance payment received in current period	(xxx)
Total Turnover of ZRS of services	xxx

~~Note: Turnover of 89(4A)/(4B) is not to be considered while calculating turnover of ZRS of services.~~

ADJUSTED TOTAL TURNOVER

Sum Total of the value of:

- Turnover in a state or a UT excluding turnover of services; &
- Turnover of ZRS of services as above and non zero-rated supply of services,

excluding:

- (i) Value of exempt supplies other than ZRS during the relevant period. &-
- ~~(ii) Turnover of supplies in respect of which refund is claimed under Rule 89[4A]/[4B]/both, during the relevant period.~~

➤ **Section 54(3): Refund of Un-utilised ITC**

(Pg 19.5 – Refer this section from below)

Refund of accumulated ITC is also restricted to ITC as per those invoices, the details of which are uploaded by supplier in Form GSTR-1 and are reflected in Form GSTR-2B of the applicant for the said tax period or for any of the previous tax periods and on which the ITC is available to the applicant.

Refund of un-utilised ITC shall not be allowed in 2 Cases:

- ❖ Where the **goods exported** out of India are subjected to export duty;
- ❖ If the supplier of goods or services or both **avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.**

(Pg 19.6 – Addition in table as below)

➤ Section 54(4): Documentary Evidences

Refund claimed is on account of	Documentary Evidence* (Statement showing following details)
Refund order	Copy of the order passed or reference number of the pre-deposit
Export of Goods	Shipping Bills or bills of export and export invoices
Export of Services	Invoices & Bank Realization Certificates or Foreign Inward Remittances Certificates (BRC / FIRC)
Supply of services made to a SEZ unit or a SEZ developer	Statement containing the number and date of invoices, the evidence regarding receipt of services for authorised operations as endorsed by the specified officer of SEZ [A declaration to the effect that tax has been collected from the SEZ unit or SEZ developer]
Deemed Exports [Similar to SEZ - Sec 54(1)]	(i) Acknowledgement by the Jurisdictional Tax Officer of deemed exporter that the said supplies have been received by the deemed exporter (ii) Undertaking by the recipient of deemed export supplies that no ITC on such supplies has been availed of by him (iii) He shall not claim the refund and the supplier may claim the refund
Addl. IGST paid for upward revision in price of the goods subsequent to exports	A statement containing number & date of export invoices/ shipping bills or its copies, BRC/FIRC, details of refund already sanctioned, number & date of supplementary invoices, a reconciliation statement.

*The documentary evidences given in this table are given here only for the reference of the students. They are not relevant for the examination purpose.

➤ Refund of GST paid on inward supplies of goods received by Canteen Stores Department [Rule 95B]

Canteen Stores Department (CSD), under the Ministry of Defence, has been notified as a person who shall be entitled to claim **a refund of 50% of the applicable CGST/IGST paid by it** on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

For the purpose of claiming the said refund, Canteen Stores Department:

- shall apply for refund in different prescribed form once in every quarter, electronically on the common portal.
- Such application shall be dealt in a same manner as application for refund filed in Form GST RFD-01 in accordance with the provisions of rule 89.
- The refund of tax paid by the applicant shall be available, if-
 - (i) the inward supplies of goods were received from a registered person against a tax invoice and details of such supplies have been furnished by the said registered person in his details of outward supply in Form GSTR-1 AND supplier has furnished his return in Form GSTR-3B for the concerned tax period;
 - (ii) name and GSTIN of the applicant is mentioned in the tax invoice; and
 - (iii) goods have been received by CSD for the purpose of subsequent supply to the Unit Run Canteens of the CSD or to the authorised customers of the CSD.

RETURNS UNDER GST

- **Additional details to be furnished in Form GSTR-1A:** (Pg 20.1 – Amendment as below)

Form for submission of details of outward supplies: The details of outward supplies are required to be furnished, electronically in **Form GSTR-1** and additional details or the amendments of the details of outward supplies of goods or services or both furnished in **Form GSTR-1A**, as per the requirement of the registered person.

- **How are the details of outward supply furnished in the current period amended?** [Proviso to rule 59(1)] (Pg 20.2 before furnishing of returns u/s 39)

In cases where a taxpayer, after having filed Form GSTR-1, realizes that some amendment (downward or upward) is required to be made in his tax liability in Form GSTR-1, an optional Form GSTR-1A is provided to him.

This allows him to add any particulars of the current tax period missed out in reporting in Form GSTR-1 of current tax period or amend any particulars already declared in Form GSTR-1 of current tax period (including those declared in IFF, for the first and second months of a quarter, if any, for quarterly taxpayers).

A registered person may, after furnishing the details of outward supplies of goods or service or both in Form GSTR-1 for a tax period but before filing of return in Form GSTR-3B for the said tax period, at his own option, amend or furnish additional details of outward supplies of goods or services or both in Form GSTR-1A for the said tax period [Proviso to rule 59(1)].

For e.g., A supplier issued two invoices INV1 and INV2 in the month of January. Then, he furnished the details of the invoice INV1 on 8th Feb in Form GSTR-1. However, he misses one invoice INV2 and furnishes the details of the same in Form GSTR-1A on 15th Feb.

In this case, INV1 will go to Form GSTR-2B of the recipient for the month of January made available on 14th Feb. Further, INV2 will be made available in Form GSTR-2B of the recipient for the month of February made available on 14th March.

Key features of Form GSTR-1A are as follows:

- Form GSTR-1A is an optional facility.
- It can be filed only once for a return period.
- It allows to amend the records filed in the Form GSTR-1 of current tax period only.
- The corresponding effect of the changes made through Form GSTR-1A on the liability of the taxpayer shall be reflected in Form GSTR-3B for the same tax period.
- At the recipient's end, the ITC for the supplies declared or amended by the suppliers through Form GSTR-1A will be available to the recipient in Form GSTR-2B generated for the next tax period.
- It can be amended only electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.
- There is no due date for filing of GSTR-1A.

For the taxpayers filing Form GSTR-1 on monthly basis:

- ❖ Form GSTR-1A will be available on the portal every month from the due date of filing of Form GSTR-1 or the actual date of filing of Form GSTR-1, whichever is **later**, and will be available till the actual filing of corresponding Form GSTR-3B of the same tax period.
- ❖ From the liability perspective, the net impact of particulars declared or amended through Form GSTR-1A, along with the particulars declared in Form GSTR-1, shall be auto-populated in Form GSTR-3B for same tax period as that of Form GSTR-1.

For the QRMP taxpayers, who files Form GSTR-1 on Quarterly basis:

- ❖ Form GSTR-1A shall be available quarterly after actual filing of Form GSTR-1 (Quarterly) or the due date of filing of Form GSTR-1 (Quarterly), whichever is **later**, and will be available till the actual filing of Form GSTR-3B of the same tax period.
 - ❖ The supplies reported in Form GSTR-1 of the current tax period (including those declared in IFF, for the first month, M1 and second month, M2 of a quarter, if any) can be amended through corresponding quarterly GSTR-1A.
 - ❖ From the liability perspective, the net impact of the particulars declared in GSTR-1A (Quarterly), along with particulars furnished in Form GSTR-1 (Quarterly) (or through IFF of Month M1 and M2, if filed), shall be auto-populated in Form GSTR-3B (Quarterly) of the same tax period.
- In case where change is required to be made in GSTIN of a recipient for a supply reported in Form GSTR-1 of a tax period, the same can be rectified through Form GSTR-1 for the subsequent tax period only.

➤ Amendment in furnishing of invoice wise and consolidated details of outward supplies:

- For B2B supplies, details of all invoices need to be uploaded in GSTR-1 / **Form GSTR-1A** irrespective of whether they are intra-State or inter-State supplies.
- For Inter-State B2C supplies, invoice-wise details shall be uploaded if invoice value exceeds **₹ 1,00,000** ~~₹ 2,50,000~~.
- For Inter-State B2C invoices upto **₹ 1,00,000** ~~₹ 2,50,000~~, State-wise summary is sufficient & for all intra-state B2C invoices, only consolidated details need to be given.
- Debit and credit notes, if any, issued during the month for invoices issued previously shall be shown accordingly.

➤ Amendment in Form GSTR-2B:**(Pg 20.7 – Amendment in below para)**

Details of outward supplies furnished by suppliers upto the due date for filing return and additional details or amendments in details of outward supplies furnished by his supplier in Form GSTR-1A filed between the day immediately after the due date of furnishing of Form GSTR-1 for the previous tax period to the due date of furnishing of Form GSTR-1 for the current tax period are reflected in GSTR-2B.

➤ Annual Return Exemption:**(Pg 20.8 – Amendment in below para)**

In exercise of the powers conferred, the Commissioner, on the recommendations of the Council, has **exempted** the registered person whose aggregate turnover in the financial year **2022-23 2023-24 is upto ₹ 2 Crores**, from filing annual return for the said financial year.

➤ Maximum time-limit for furnishing Form GSTR-8**(Pg 20.9 – Add before GSTR-10)**

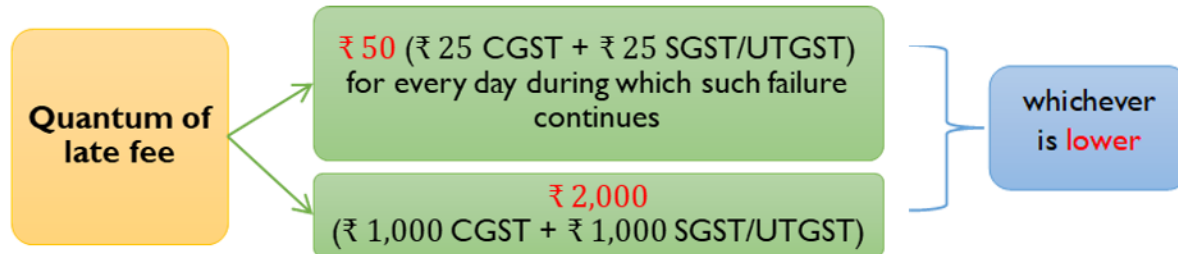
Maximum time-limit upto which ECO can furnish Form GSTR-8 is **3 years** from the relevant due date of filing such statement.

This time limit can be extended by the Government for an ECO or a class of ECOs subject to such conditions and restrictions as may be specified therein.

➤ **For delayed filing of GSTR-7:**

(Pg 20.13 – Addition as below)

Total amount of late fee payable under section 47 by any registered person, required to deduct tax at source under the provisions of section 51 for delayed filing of GSTR-7, shall be as follows:



Where the total amount of Central and State tax deducted at source in a month is Nil, the total amount of late fee stands waived.

➤ **Amendment in time limit of filing GSTR-4:**

(Pg 20.17 – Amendment in table as below)

2	Composition Taxable Person	GSTR-4	Annual (Return for FY)	30 th April June of next FY
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MISCELLANEOUS PROVISIONS

➤ **Anti-Profiteering Authority:**

(Pg 23.2 – Refer amendments from below)

The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods/services/both supplied by him.

"Authority" includes the "Appellate Tribunal".

The Principal Bench of the Appellate Tribunal, constituted under section 109(3) has been empowered to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods and/or services supplied by that registered person*.

However, the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods and/or services supplied by him.

The term "request for examination" mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods/services/both supplied by him.

* Note: It may be noted that the Central Government had constituted the National Anti-Profiteering Authority (NAA) to handle the cases relating to anti-profiteering. NAA was operational until November 2022. The Competition Commission of India (CCI) was empowered to examine the anti-profiteering cases w.e.f. 01.12.2022.

Further, a sunset date i.e. 01.04.2025 in section 171 has been introduced, which deals with the anti-profiteering measures, so as to allow filing of any application under anti-profiteering provisions only upto the said date vide Notification No. 19/2024 CT dated 30.09.2024.

➤ **Amendment in Rule 163:****(Pg 23.4 – Refer amendment as below)**

- (1) Where a registered person opts to share the information furnished in —
 - (a) application for registration in Form GST REG-01 as amended from time to time;
 - (b) return in Form GSTR-3B for certain tax periods;
 - (c) Form GSTR-1, **as amended in Form GSTR-1A if any**, for certain tax periods, pertaining to invoices, debit notes and credit notes issued by him, as amended from time to time, with a system referred to in section 158A(1), the requesting system shall obtain the consent of the said registered person for sharing of such information and shall communicate the consent along with the details of the tax periods, where applicable, to the common portal.
- (2) The registered person shall give his consent for sharing of information furnished in Form GSTR-1 above only after he has obtained the consent of all the recipients, to whom he has issued the invoice, credit notes and debit notes during the said tax periods, for sharing such information with the requesting system and where he provides his consent, the consent of such recipients shall be deemed to have been obtained.
- (3) The common portal shall communicate the information referred to in this rule with the requesting system on receipt from the said system-
 - (a) the consent of the said registered person, and
 - (b) the details of the tax periods or the recipients, as the case may be, in respect of which the information is required.

LEVY OF & EXEMPTIONS FROM CUSTOMS

➤ **Amendment in time limit for re-importation:****(Pg 2.1 – Refer amendments from below)**

3-years 5 years + extendable upto 2 years. **In case of Bhutan, time limit is 7 years which can be extended further for a period up to 3 years for machinery and equipment exported.**

➤ **Exemption to re-import of goods & parts thereof for repairs, reconditioning, reprocessing, remaking or similar other process** **(Pg 2.4 – Addition in table as per New ICAI Study Module)**

Particulars	Time limit for re-importation from the date of exportation
Goods manufactured in India & re-imported for repairs / reconditioning other than specified goods	3 years In case of Nepal & Bhutan – 10 years
Goods manufactured in India & re-imported for reprocessing / refining / re-making / any similar process	1 year
Specified goods manufactured in India and re-imported into India for repairs or for reconditioning	7 years (10 years in case of Nepal and Bhutan) subject to Goods be re-exported within 1 year of the date of re-importation.

IMPORT EXPORT PROCEDURE

- **Section 51A: Phased implementation of ECL** (Pg 4.9 – Omitted as per New ICAI Study Module)
 - (ii) ~~with respect to goods imported or exported at international courier terminals [exempted only till 29.02.2024] (In other words, payments relating to Courier shipments would be required to be done through ECL from 01.03.2024 onwards); [omitted]~~

VALUATION UNDER CUSTOMS ACT

- **Notification of Exchange Rates** (Pg 5.2 – Changes as per New ICAI Study Module)

The CBIC notifies the rates periodically. Generally, every fortnight. There are separate rates for Import goods (Selling rate) and Export goods (Buying Rates). The CBIC Board notifies the exchange rates twice a month, i.e. every 1st and 3rd Thursdays. These notified exchange rates become effective from midnight of the following day. Where a due date, i.e. 1st or 3rd Thursday, falls on a holiday, the rates are notified on the previous working day.
- **Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAVR, 2023) notified** (Pg 5.10 & 5.11 – Omitted as per New ICAI Study Module)

REFUNDS UNDER CUSTOMS

- **Appeal should be filed and not a refund claim when adjudication order has been issued or even when self-assessment made:** (Pg 8.7 after Priya Blue Industries Ltd. judgement)

An adjudication order should be appealed against, if assessee is aggrieved by adjudication order. The order cannot be challenged by filing refund application.

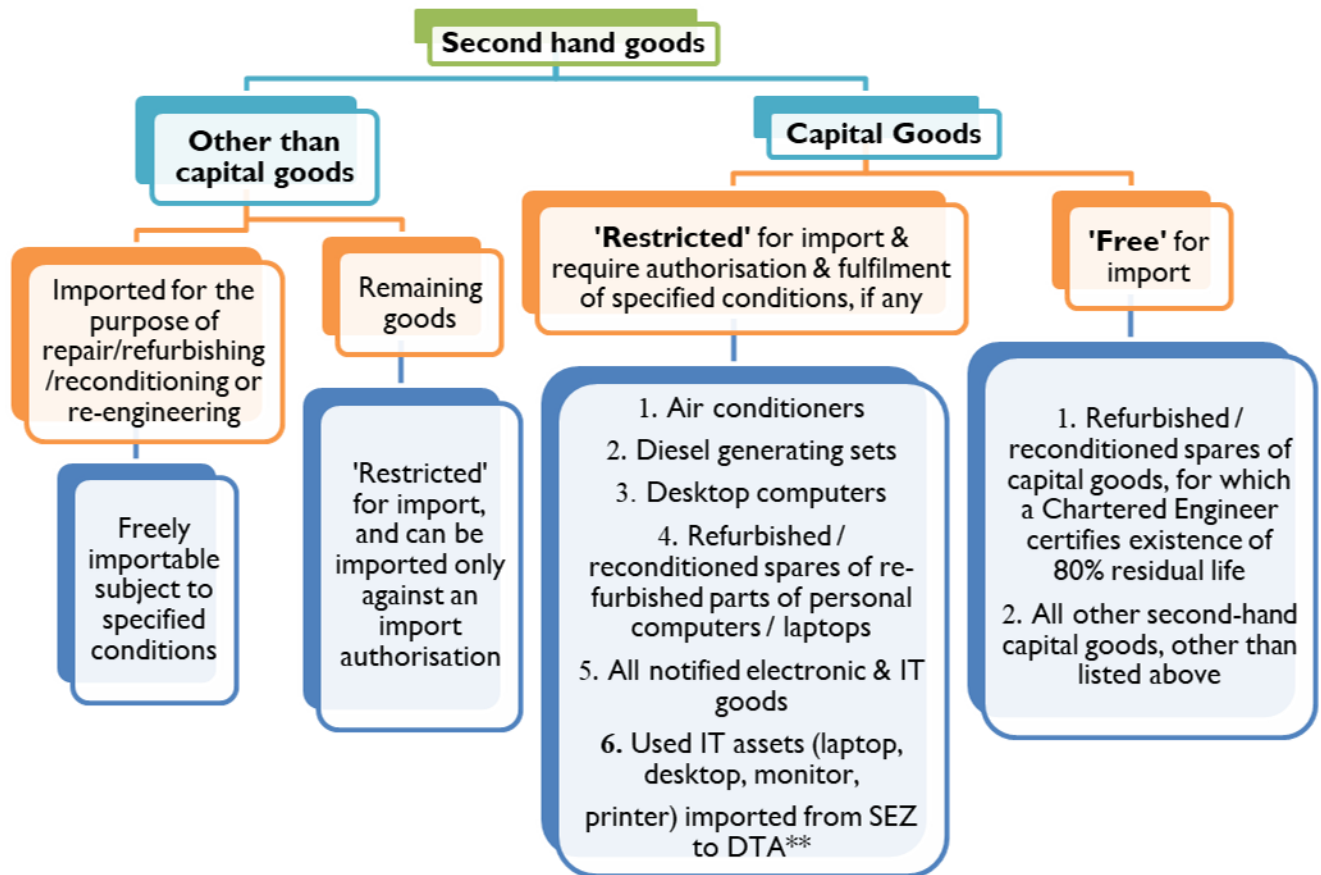
In *CCE v. Flock (India) Pvt. Ltd. 2000 (120) E.L.T. 285 (S.C.)*, it was observed, “Refund is in nature of execution of a decree/order. Thus, issue of clarification (which has become final as no appeal was filed) cannot be agitated in refund proceedings. If the order is appealable, appeal should be filed. Otherwise, provisions of appeal will become redundant. Refund claim cannot be used as an appeal against an adjudication order.

- **Important Judgments on Refund** (Pg 8.7 as per New ICAI Study Module)

Refund claim cannot be a substitute for appeal	Priya Blue Industries Limited v. CCus, 2004 (172) ELT 145 (SC)
Burden of proof that incidence of duty has not been passed on to consumers is on assessee.	Banmore Foam v. CCE 2006 (193) ELT 112 (Tribunal-Delhi)
It has been held that appeal is required to be filed and not refund claim, even in respect of self-assessment.	ITC Limited v. CCE, 2019 (368) ELT 216 (SC)

FOREIGN TRADE POLICY 2023

1. Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA notified (Pg 9.5)



**** Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA, subject to fulfilment of specified conditions, has been notified in the FTP. The said import is restricted and requires authorization.**

2. Merchant trading carried out within one specific foreign country permitted

Earlier, merchanting trade of shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary was allowed, subject to RBI guidelines, except for goods in the CITES[#] and SCOMET lists.

Now, merchanting trade carried out within one specific foreign country is also permitted, subject to RBI guidelines, except for goods in the CITES and SCOMET lists.

[#] CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten the survival of the species.

3. Import of items under Advance Authorisation (AA)/EOU/SEZ enabled without compliance to mandatory Quality Control Orders (QCOs)

Quality Control Orders (QCOs) are regulatory mandates issued by the Indian government to ensure that products meet specific quality standards. These orders, typically issued by the Bureau of Indian Standards (BIS) under the BIS Act, 2016, apply to a wide range of products to protect consumer safety, health, and environment. Domestic manufacturers as well as importers need to ensure that products covered by QCOs must not be manufactured/imported without compliance with specific standards.

Enabling provisions have been incorporated in FTP for exempting inputs imported by AA holders, EOUs and SEZ from mandatory QCOs. However, import of inputs under AA/EOU/SEZ without compliance to mandatory QCOs, shall be subjected to the following conditions:

(i) **For Advance Authorisation:**

- Import of inputs under the AA without compliance to the mandatory QCOs shall be with pre-import condition. Such inputs shall be utilised in the manufacturing of the export product (making normal allowance for wastage) and shall be exported under the same authorization.
- Unutilized imports shall not be transferred to DTA, even after regularization of default in fulfilment of export obligation & shall be destroyed in the presence of jurisdictional GST/Customs authorities or may be re-exported. In addition, such unutilised imports shall be liable to payment of effective duty along with interest to customs authorities and specified composition fee to DGFT.
- Exemption shall be specifically endorsed in the AA on the request of the authorization holder.
- Exemption from QCO will be available for physical exports only and not allowed for deemed exports for Advance Authorisation Holders.
- Import of Inputs without compliance to the mandatory QCOs under DFIA scheme is not allowed.

(ii) **For EOUs**

- Exemption from applicability of mandatory QCOs shall be provided to EOU on import of inputs which are required for export production. No DTA clearance of such inputs or goods manufactured made out of such inputs, are allowed.
- An undertaking to that effect will be submitted to the Customs authorities by the EOU at the time of importation and a copy of the same shall also be submitted to the Development Commissioner concerned.
- Exemption from QCO will be available for physical exports only and not allowed for deemed exports.

(iii) **For SEZ**

- Exemption from applicability of mandatory QCOs issued shall be provided to SEZ on import of inputs which are required for export production. No DTA clearance of such inputs or goods manufactured made out of such inputs, are allowed.
- An undertaking to that effect will be submitted to the concerned Development Commissioner of the SEZ by the SEZ Unit at the time of importation.
- Exemption from QCO will be available for physical exports only.

Above exemption shall be applicable only for the list of notified Ministries/Departments whose notifications on mandatory QCOs are exempted by the DGFT for goods to be utilised/consumed in manufacture of export products.

4. **Amendment in ineligible supplies/ items/ categories under RoDTEP**

(Pg 9.10)

Amendment in categories of exports/exporters ineligible for rebate under the RoDTEP scheme has been highlighted in below table:

Ineligible supplies under RoDTEP: (Refer list from here)

✓ Export of imported goods in same or substantially the same form	
✓ Exports through trans-shipment, i.e., exports originating in third country but trans-shipped through India	
✓ Export products which are subject to minimum export price or export duty	
✓ Products which are restricted / prohibited for export under FTP	
✓ Deemed Exports	
✓ Supply of products manufactured by DTA units to SEZ units	
✓ Products manufactured in EHTP and BTP	
✓ Products manufactured partly/wholly in a warehouse under section 65 of the Customs Act	
✓ Products manufactured or exported availing the benefit of <i>Notification No. 32/1997 Cus. dated 01.04.1997</i> (job work and re-export of goods supplied by the foreign supplier)	
✓ Exports for which the electronic documentation in ICEGATE EDI has not been generated/ exports from non-EDI ports	
✓ Goods which have been taken into use after manufacture	
✓ Products manufactured or exported in discharge of EO against an AA/DFIA/Special AA issued under a duty exemption scheme of relevant FTP.	Inclusion of exports made under these categories in RoDTEP scheme will be decided later.
✓ Products manufactured/exported by a unit licensed as 100% EOU in terms of the provisions of FTP or by any of the units situated in Free Trade Zones(FTZ)/Export processing Zones (EPZ)/Special Economic Zones (SEZ).	