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# CHAPTER 1 – INTRODUCTION TO GST

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## 1. OVERVIEW OF TAXATION SYSTEM IN INDIA

A tax is defined as a "pecuniary burden laid upon individuals or property owners to support the Government, a payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".

tax is nothing but money that people pay to the Government, which is used to provide public services.

### Direct Tax Vs Indirect Tax

A **direct tax** is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed.

If the taxpayer is just a conduit and at every stage the tax-incidence is passed on till it finally reaches the consumer, who really bears the brunt of it, such tax is **indirect tax**. An indirect tax can be shifted by the taxpayer to someone else.

Indirect taxes are regressive in nature because they are not based on the principle of ability to pay. All the consumers, including the economically challenged bear the brunt of the indirect taxes equally.

## 2. GENESIS OF GST IN INDIA

- a) There are mainly 2 types of GST Implementation viz. Unified and Dual.
  - a. Unified GST - a single tax applicable throughout the country.
  - b. Dual GST - GST is levied by both the federal and the State Governments.
- b) Worldwide in different countries GST is implement in different way. India has adopted dual GST model because of its unique federal nature.
- c) For GST implementation in India, the constitution was required to be changed. For this Constitution (122nd Amendment) Bill, 2014 was introduced which received the assent of the President on 8<sup>th</sup> September, 2016 and became the Constitution (101st Amendment) Act, 2016.
- d) After this the Central GST legislations - Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced and passed.
- e) After this State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws. By 30th June, 2017, all States and Union Territories had passed their respective SGST and UTGST Acts except Jammu and Kashmir.
- f) GST law was extended to Jammu and Kashmir on 8th July, 2017.

## 3. CONCEPT OF GST

- ✓ GST is a value added tax levied on supply i.e., manufacture or sale of goods and provision/supply of services.
- ✓ GST offers continuous chain of tax credits from the producer's point/service provider's point up to the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain.

- ✓ The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services known as 'Input Tax Credit' and can set off this credit against the GST payable on the supply of goods and services to be made by him.
- ✓ Since, only the value added at each stage is taxed under GST, there is no tax on tax.

#### **4. NEED FOR GST IN INDIA**

Some deficiencies in earlier indirect tax system created need for GST. Some of them are as follows

1. Certain transactions were subject to double taxation and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was not clear and levied by different authorities. Like sale of software involve sale of goods as well as service.
2. Credit of CENVAT did not include chain of value addition after the stage of production. Similarly, in the State-level VAT, CENVAT credit on the goods was not allowed. Due to this double taxation was there and no proper flow of credit.
3. Set-off with CENVAT and State-VAT was not allowed as CENVAT was a central levy and State-Level VAT was a State levy
4. There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.
5. VAT on goods was not integrated with tax on services, at the State level. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax-collection.
6. CST was another source of distortion in terms of its cascading nature since its credit is not allowed.

#### **GST – A cure for above issues**

Simultaneous introduction of GST at both Centre and State levels has integrated taxes on goods and services for the purpose of set-off relief and ensures that both the cascading effects of CENVAT and service tax is removed and a continuous chain of setoff from the original producer's point/ service provider's point up to the retailer's level/ consumer's level is established.

#### **5. FRAMEWORK OF GST IN INDIA**

##### **Dual GST**

- ✓ India has adopted a Dual GST model in view of the federal structure of the country.
- ✓ The Centre and States simultaneously levy GST on taxable supply of goods or services or both which, takes place within a State or Union Territory.

##### **CGST/SGST/UTGST/IGST**

1. GST is a destination-based tax applicable on all transactions involving supply of goods or services or both.
2. GST in India comprises of
  - a. Central Goods and Services Tax (CGST) - levied and collected by Central Government
  - b. State Goods and Services Tax (SGST) - levied and collected by State Governments/Union Territories with Legislatures
  - c. Union Territory Goods and Services Tax (UTGST) – levied and collected by Union Territories without Legislatures,on intra-State supplies of taxable goods and/or services.

3. Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Services Tax (IGST). IGST is the sum total of CGST and SGST/UTGST and is levied by the Centre on all inter-State supplies.
4. 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.

### **Legislative Framework**

1. There is single legislation – CGST Act, 2017 – for levying CGST.
2. Union Territories without Legislatures [i.e. Andaman and Nicobar Islands, Lakshadweep, Ladakh, Dadra and Nagar Haveli & Daman and Diu and Chandigarh] are governed by UTGST Act, 2017 for levying UTGST.
3. States and Union territories with their own legislatures [i.e. Delhi, Jammu and Kashmir and Puducherry] have their own GST legislation for levying SGST.

### **Compensation Cess**

1. A GST Compensation Cess at specified rate is imposed under the Goods and Services Tax (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST
2. Initially, it was levied for a period of 5 years up to 30th June, 2022. However, its levy and collection has been extended till 31st March, 2026.

### **Classification of goods and services**

1. HSN (Harmonised System of Nomenclature) is used for classifying the goods under the GST.
2. Chapters referred to in the Rate Schedules for goods are the Chapters of the First Schedule to the Customs Tariff Act, 1975.
3. A new Scheme of Classification of Services has been devised wherein the services of various descriptions have been classified under various sections, headings and groups.
4. SAC (Services Accounting Code) is used for classifying the services under the GST.

### **GST Common Portal**

Common GST Electronic Portal – [www.gst.gov.in](http://www.gst.gov.in) – a website managed by Goods and Services Network (GSTN) [a wholly owned Government Company] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States. The GST portal is accessible over Internet by taxpayers and Intranet by Tax Officials

However, it is important to note that the Common GST Electronic Portal for furnishing electronic way bill is [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in)

### **GSPs/ASPs**

- 1) GSTN has selected certain companies, to be called GST Suvidha Providers (GSPs). GSPs have access to GST System and have the capability to develop applications to be used by taxpayers for interacting with the GSTN.
- 2) GSP is an additional channel being made available for facilitating the taxpayers for performing some of the functions and use of their services is optional. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.

Other parts of framework viz composition scheme, registration, exemption, input tax credit, computation, invoice etc. will be discussed in respective chapters.

### **GST – Few Exclusions and inclusions**

GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.

- 1) Alcoholic liquor for human consumption ***and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption*** is outside of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale is subject to CST/VAT respectively.
- 2) GST on Petroleum crude, diesel, petrol, ATF and natural gas will be levied from a date to be notified on the recommendations of the GST Council. Till such date central excise duty on manufacture and CST/VAT on sale is applicable on such goods.
- 3) Tobacco is subject to GST as well as central excise duty.
- 4) Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.
- 5) Further, GST will not be levied on sale/purchase of immovable property.

### **6. TAXES SUBSUMED IN GST**

The various central, State and local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

1. Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
2. Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
3. The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that were not specifically related to supply of goods & services would not be subsumed under GST.
4. Revenue fairness for both the Union and the States individually would need to be attempted.

Taking the above principles into account, following taxes were subsumed in the GST:

Central Taxes	State Taxes
1) Central Excise Duty & Additional Excise Duties	1) State surcharges and cesses in so far as they relate to supply of goods & services
2) Service Tax	2) Entertainment Tax (except those levied by local bodies)
3) Excise Duty under Medicinal & Toilet Preparation Act, 1955	3) Tax on lottery, betting and gambling
4) CVD & Special CVD	4) Entry Tax (All Forms) & Purchase Tax
5) Central Sales Tax	5) VAT/ Sales tax
6) Central surcharges & Cesses in so far as they relate to supply of goods & services	6) Luxury Tax
	7) Taxes on advertisements

### **7. BENEFITS OF GST**

1. **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures.
2. **Boost to 'Make in India' initiative:** GST has given a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive. Further, all imported goods are being charged integrated tax (IGST) which is more or less equivalent to CGST + SGST. This brings parity in taxation on local and imported goods or services.

3. **Boost to investments and employment:** The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services give boost to investments and Indian exports.
4. **Ease of doing business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure.
5. **Certainty in tax administration:** Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods or services along with timelines for every activity ensures certainty in tax administration across India.
6. **Automated procedures with greater use of IT:** GST is largely technology driven. The interface of the taxpayer with the tax authorities is through the common portal (GSTN). There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments.
7. **Easier tax compliance:** Harmonization of laws, procedures and rates of tax has made compliance easier and simple. All this has also helped in reduction in compliance costs, alleviate the need for multiple record keeping for a variety of taxes leading to lesser investment of resources and manpower in maintaining records to the registered person.

## **8. CONSTITUTIONAL PROVISIONS**

- ✓ Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India.
- ✓ In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called ultra vires the Constitution and is illegal and void.
- ✓ The significant provisions of the Constitution relating to taxation are described below.

### **Article 265:**

Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that “no tax shall be levied or collected except by authority of law”.

The term “authority of law” means that tax proposed to be levied must be within the legislative competence of the Legislature imposing the tax.

### **Article 245:**

Part XI of the Constitution deals with relationship between the Union and States. The power for enacting the laws is conferred on the Parliament and on the Legislature of a State by Article 245 of the Constitution. The said Article provides as under:

- ✓ Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a State may make laws for the whole or any part of the State.
- ✓ No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

### **Article 246:**

1. It gives the respective authority to Union and State Governments for levying tax. Seventh Schedule to Article 246 contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.
  - a. List I - UNION LIST: It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.
  - b. List II - STATE LIST: It contains the matters in respect of which the State Government has the exclusive right to make laws.

- c. List III - CONCURRENT LIST: It contains the matters in respect of which both the Central & State Governments have power to make laws.
2. Income tax is levied by virtue of Entry 82 of union list - Taxes on income other than agricultural income
3. Customs duty vide Entry 83 of union list - Duties of customs including export duties.
4. Power to levy Goods and Services Tax (GST) has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101<sup>st</sup> Amendment) Act, 2016.

## **9. NEED OF 101<sup>ST</sup> CONSTITUTIONAL AMENDMENT**

- ✓ The Centre levied excise duty on all goods produced or manufactured in India, the States levied Value Added Tax once the goods entered the stream of trade upon completion of manufacture.
- ✓ In the case of inter-State sales, the Centre had the power to levy a tax but the tax was collected and retained entirely by the States.
- ✓ Services were exclusively taxed by the Centre
- ✓ State specific levies like entry tax, Octroi, luxury tax, entertainment tax, lottery and betting tax, local taxes levied by Panchayats
- ✓ Introduction of the GST required amendment in the Constitution to enable integration of the central excise duty, additional duties of customs, State VAT and certain State specific taxes and service tax into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it.

## **10. SIGNIFICANT PROVISIONS OF CONSTITUTION (101<sup>ST</sup> AMENDMENT) ACT, 2016**

### **New Article 246A: Power to make laws with respect to Goods and Services Tax**

1. This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.
2. Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.
3. However, in respect to the following goods, the aforesaid provisions shall apply from the date recommended by the GST Council:
  - a. Petroleum Crude
  - b. High Speed Diesel
  - c. Motor Spirit (commonly known as Petrol)
  - d. Natural Gas
  - e. Aviation Turbine Fuel
4. The provisions of Article 246A are notwithstanding anything contained in Articles 246 and 254. Article 254 deals with the supremacy of the laws made by Parliament.

### **Article 248 amended: Residuary powers of legislation amended**

1. Article 248 grants the residuary powers to Parliament to make laws with respect to any matter not enumerated in the Concurrent List or State List. Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.
2. This article has been amended. Now, this power has been subjected to Article 246A, namely the power to make laws with respect to goods and service tax to be imposed by the Centre and States.

**Power of Parliament to legislate with respect to a matter in the State List, in the national interest/in case of emergency, extended to GST provided under Article 246A**

1. Article 249 grants the Parliament the power to make laws with respect to a matter in the State list in national interest in a case where the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting on any matter enumerated in the State List.
2. Article 250 grants the Parliament the power to make laws with respect to any of the matters enumerated in the State List if a proclamation of Emergency is in operation.
3. Articles 249 and 250 have been amended to grant power to Parliament to make laws with respect to the Goods and Services Tax provided under Article 246A also along with the matters in the State list, in the national interest/in case of emergency.

**Article 268: Duties levied by the Centre but collected and appropriated by the States**

1. Article 268 pertains to the duties levied by the Centre but collected and appropriated by the States. It stipulates that such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected, in the case where such duties are leviable within any Union territory, by the Government of India, and in other cases, by the States within which such duties are respectively leviable.
2. The amendment omits “and such duties of excise on medicinal and toilet preparations” from Article 268.
3. Duties of excise on medicinal and toilet preparations have been subsumed into the goods and service tax to be levied by the Centre and States.

**Article 268A: Article 268A empowering Union to levy service tax omitted**

Service tax was levied in 1994 under the residual Entry 97 of the Union list. Article 268A was inserted by the Constitution (88th) Amendment Act, 2003 to usher in service tax under a separate entry 92C in the Union List. However, it was not notified ever since. This article has been omitted by the amendment.

**New Article 269A: Levy and collection of GST on inter-State supply**

1. Article 269A stipulates that GST 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.
2. Further, import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce. This will give power to Central Government to levy IGST on the import transactions which were earlier subject to Countervailing duties under the Customs Tariff Act, 1975.
3. Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State respectively.
4. Parliament is empowered to formulate the principles regarding place of supply and when supply of goods, or of services, or both occurs in inter-State trade or commerce.

**Article 270 amended: Distribution of the goods and services tax (GST) between the Centre and the States**

1. Article 270 is amended to provide for distribution of the goods and services tax between the Centre and the States, by order of the President after considering recommendations of the Finance Commission.
2. This applies for those tax amounts apportioned or payable to the Central Government for taxes levied by it under articles 246A(1) and (2) and Clause (1) of 269A.

**Article 271 amended**

Article 271 empowers Parliament to increase any of the duties, or taxes referred to in articles 269 or 270. It further provides that such surcharge is not shareable and remains with the Centre. Now this article is amended to exclude GST from its purview.

**Article 286: Article 286 imposing restrictions as to imposition of tax on the sale or purchase of goods amended**

1. Article 286 restrains the States from framing laws for imposition of any tax on the sale or purchase of goods where such sale or purchase takes place outside the State or in course of the import of the goods into, or export of the goods out of, India.
2. Consequently, States have no right to impose GST on inter-State supply of goods or services or both. It will be levied by Union Government under Article 269A as mentioned earlier.

**GST Council: Article 279A**

1. Article 279A of the Constitution empowers the President of India to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
2. The provisions relating to GST Council came into force on 12<sup>th</sup> September, 2016. President constituted the GST Council on 15<sup>th</sup> September, 2016.
3. The GST Council shall consist of the following members, namely: —
  - (a) the Union Finance Minister is the Chairperson;
  - (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.
4. The Members of the GST Council 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.
5. The GST Council shall make recommendations to the Union and the States on—
  - (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
  - (b) the goods and services that may be subjected to, or exempted from the goods and services tax;
  - (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 [Such States are referred as Special Category States]; and
  - (h) any other matter relating to the goods and services tax, as the Council may decide.
6. GST Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.
7. While discharging the functions conferred by this article, the GST Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

8. One-half of the total number of Members of the GST Council shall constitute the quorum at its meetings.
9. The GST Council shall determine the procedure in the performance of its functions.
10. Every decision of the GST Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:
  - (a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and
  - (b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.
11. No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—
  - (a) any vacancy in, or any defect in, the constitution of the Council; or
  - (b) any defect in the appointment of a person as a Member of the Council; or
  - (c) any procedural irregularity of the Council not affecting the merits of the case.
12. The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute —
  - (a) between the Government of India and one or more States; or
  - (b) between the Government of India and any State or States on one side and one or more other States on the other side; or
  - (c) between two or more States, arising out of the recommendations of the Council or implementation thereof.

**Article 368 amended**

Article 368 has been amended to include Article 279A also within its purview. Consequently, at least two-thirds of the majority in each House of the Parliament and ratification by at least half of the States is required to make any amendment in Article 279A (GST Council).

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# CHAPTER 2 – SUPPLY

## Relevant Sections

<b>Section 7</b>	:	Scope of supply.
<b>Section 8</b>	:	Tax liability on composite and mixed supplies.
<b>Schedule 01</b>	:	Activities to be treated as supply even if made without consideration
<b>Schedule 02</b>	:	Activities or transactions to be treated as supply of goods or supply of services
<b>Schedule 03</b>	:	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

## 1. RELEVANT DEFINITIONS

“person” includes–

1. an individual;
2. a Hindu Undivided Family;
3. a company;
4. a firm;
5. a Limited Liability Partnership;
6. an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
7. any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);
8. any body corporate incorporated by or under the laws of a country outside India;
9. a co-operative society registered under any law relating to co-operative societies;
10. a local authority;
11. Central Government or a State Government;
12. society as defined under the Societies Registration Act, 1860 (21 of 1860);
13. trust; and
14. every artificial juridical person, not falling within any of the above;

**Related persons:** A person who is under influence of another person is called a related person like members of the same family. Person also includes legal persons. The term ‘related person’ has been defined in explanation to section 15 as follows:

Persons shall be deemed to be "related persons" if—

1. such persons are officers or directors of one another's businesses;
2. such persons are legally recognised partners in business;
3. such persons are employer and employee;
4. 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;
5. one of them directly or indirectly controls the other;
6. both of them are directly or indirectly controlled by a third person;
7. together they directly or indirectly control a third person; or
8. they are members of the same family;

Also, 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.

**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 [Section 2(49) of the CGST Act].

**“business”** includes—

1. any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
2. any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
3. any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
4. supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
5. 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;
6. admission, for a consideration, of persons to any premises;
7. 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;
8. activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
9. any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

**“consideration”** in relation to the supply of goods or services or both includes—

- ✓ any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- ✓ the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

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 such deposit as consideration for the said supply;

**Actionable claim:** means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent [Section 2(1) of CGST Act read with section 3 of the Transfer of Property Act, 1882].

**Specified actionable claim:** means the actionable claim involved in or by way of—

1. betting;
2. casinos;
3. gambling;
4. horse racing;
5. lottery; or
6. online money gaming

**Online gaming:** means offering of a game on the internet or an electronic network and includes online money gaming.

**Online money gaming:** means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.

**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:

Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

**Virtual digital asset:** shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961

**Taxable supply:** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108) of CGST Act].

**Taxable territory:** means the territory to which the provisions of this Act apply.

**Money:** means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but **shall not include any currency that is held for its numismatic value.**

**Local authority** means —

- (a) a “Panchayat” as defined in clause (d) of article 243 of the Constitution.
- (b) a “Municipality” as defined in clause (e) of article 243P of the Constitution.
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal fund or local fund.

Explanation.—For the purposes of this sub-clause—

(i) "local fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Panchayat area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called

(ii) "municipal fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Metropolitan area or Municipal area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called.

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006.

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution.

(f) a Development Board constituted under article 371 and article 371J of the Constitution.

(g) a Regional Council constituted under article 371A of the Constitution.

## **2. INTRODUCTION TO “SUPPLY” AND WHY IT IS IMPORTANT**

- ✓ A taxable event is any transaction or occurrence that results in a tax consequence. Before levying any tax, taxable event needs to be ascertained. It is the foundation stone of any taxation system; it determines the point at which tax would be levied.
- ✓ Under GST, taxable event is SUPPLY. If there is no supply then No GST.
- ✓ For a supply to attract GST, primarily two additional conditions need to be satisfied. These are – (i) supply must be made by a taxable person and (ii) supply must be a taxable supply.

## **3. MEANING OF GOODS & SERVICES**

### **Why to differentiate between Goods & Service**

It is important to classify supply either as supply of goods or supply of services because of following reasons.

1. Rates of tax for goods (HSN wise) and Rates of tax for Services (SAC wise) is different.
2. Time of supply for goods and for supply of services is different.
3. Place of supply for goods and for services is different.
4. Conditions for export of goods and export of services is different.
5. Conditions for applicability of composition levy is different for supply of goods and for supply of services.

### **Section 2(52). GOODS**

- Goods means every kind of movable property
- other than money and securities but
- includes
- actionable claim,
- growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Note 1: Movable means anything which can be shifted from one place to another as it is.

Note 2: Actionable claims are unsecured debt, arrears of rent.

Note 3: Money shall be treated as goods so long as same is not used as legal tender as held by High Court of Bombay in CMS Info Systems Ltd. 2019 [Therefore Van used for transportation of money ITC available]

### **Section 2(102). SERVICES**

- 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 form, currency or denomination for which a separate consideration is charged.

Explanation. —For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities.

Note: The Maharashtra AAR held that children are not goods and therefore not subjected to GST when prospective parents pay to adopt a child.

#### **4. SCOPE OF SUPPLY - SECTION 7**

- ✓ “supply” includes—
  - all forms of supply of goods 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;
  - **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.**
  - import of services for a consideration whether or not in the course or furtherance of business and;
  - the activities specified in Schedule I, made or agreed to be made without a consideration
- ✓ where **certain activities** or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.
- ✓ Notwithstanding anything contained in sub-section (1), —
  - activities or transactions specified in Schedule III; or
  - 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 on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.
- ✓ The Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—
  - a supply of goods and not as a supply of services; or
  - a supply of services and not as a supply of goods.

#### **Few Important points**

1. 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
2. Consideration does not always mean money. It can be in money or in kind. It covers anything which might be possibly done, given or made in exchange for something else. Further, a consideration need not always flow from the recipient of the supply. It can also be made by a third person. However, any subsidy given by the Central Government or a State Government is not considered as consideration.
3. A deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

4. Any transaction involving supply of goods and/or services without consideration is not a supply unless it is deemed to be a supply under Schedule I of the CGST Act.
5. For any trade, commerce, or any other similar activity to qualify as business, frequency, volume, continuity or regularity of such transaction is not a pre-requisite.
6. Since 'business' includes vocation, therefore sale of goods or service as a vocation is also a supply under GST.
7. Facilities provided by the club/association to its members for consideration are provided in course or furtherance of business.
8. Admission of persons to any premises for a consideration is also included in business.
9. Business includes activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club.
10. The activities or transactions (involving supply of goods or services) between a person, other than an individual, (i.e. association, club, etc.) and its members or constituents, for cash, deferred payment or other valuable consideration are covered within the ambit of 'supply'. Doctrine of mutuality is not applicable on such transactions.

**Some Examples of whether supply made in course or furtherance of business**

1. Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply.
2. A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.
3. Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.
4. Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

**5. SCHEDULE 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.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.  
Provided that gifts 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.
3. Supply of goods—
  - 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.
4. Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

**Explanation about Point 3 above:**

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?

- ❖ Invoice for further supply is issued by the agent in his name – Para 3 applicable.
- ❖ Invoice is issued by the agent in the name of the principal - Para 3 not applicable.

### **What should be done in case of Del-credere agent?**

A DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.

**There is will same provision for DCA as given in point no 3 above.**

### **How to treat Interest on short term loan given by DCA to recipient.**

If DCA is agent under point 3 then such interest will be included in value of supply by principal supplier to buyer otherwise not.

## **6. SCHEDULE II - ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES**

1. Transfer
  - (i) any transfer of the title in goods is a supply of goods;
  - (ii) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
  - (iii) any transfer of title in goods 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.
2. Land and Building
  - (i) any lease, tenancy, easement, licence to occupy land is a supply of services;
  - (ii) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.
3. Treatment or process - Any treatment or process which is applied to another person's goods is a supply of services.
4. Transfer of business assets
  - (i) 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;
  - (ii) 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;
  - (iii) where any person ceases to be a taxable person, 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-
    - i. the business is transferred as a going concern to another person; or

- ii. the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services - The following shall be treated as supply of services, namely: -

- (i) renting of immovable property;
- (ii) 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-

- i. 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: -

- 1. an architect registered with the Council of Architecture constituted under the Architects Act, 1972; (20 of 1972.) or
- 2. a chartered engineer registered with the Institution of Engineers (India); or
- 3. a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

- ii. the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

- (iii) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (iv) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- (v) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
- (vi) 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

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

- (i) works contract as defined in clause (119) of section 2; and
- (ii) supply, 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.

**7. SCHEDULE III – NEGATIVE LIST UNDER GST**

- 1. Services by an employee to the employer in the course of or in relation to his employment. It is also clarified that perquisite provided by employer to employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST. Only services that are provided by the employee to the employer in the course of employment are outside the scope of supply. However, services provided outside the ambit of employment for a consideration would qualify as supply

2. Services by any court or Tribunal established under any law for the time being in force.
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; (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or (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.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than specified actionable claims.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8. (a) Supply of warehoused goods to any person before clearance for home consumption; (aa) Supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person before clearance for exports or to the Domestic Tariff Area; (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
9. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.
10. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

Explanation 1.- For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

Explanation 2. —For the purposes of clause (a) of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.

Explanation 3. — For the purposes of clause (aa) of paragraph 8, the expressions "Special Economic Zone", "Free Trade Warehousing Zone" and "Domestic Tariff Area" shall have the same meanings respectively as assigned to them in section 2 of the Special Economic Zones Act, 2005 (28 of 2005)

#### **Explanation about Actionable claims.**

‘Actionable claims’ are specifically included in the definition of goods and also Schedule III specifically excludes actionable claims, other than specified actionable claims from the ambit of definition of supply. Co-joint reading of said provisions implies that only specified actionable claims are treated as supply. All other actionable claims are outside the ambit of definition of supply.

Some of the other examples of actionable claims are: Right to recover insurance money, claim for arrears of rent, claims for future rents (if these can be assigned), unsecured loans, unsecured debentures, bills of exchange etc.

## **8. ACTIVITIES/TRANSACTIONS NOTIFIED BY THE GOVERNMENT U/S 7(2)(B)**

Government is empowered to notify the activities/ transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as the activities/transactions which shall be treated neither as a supply of goods nor a supply of services. Following notification in this regard has been issued

### **Notification No. 14/2017 Central Tax - Rate**

The 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 for the said

### **Notification No. 25/2019 Central Tax – Rate**

Services by way of grant of alcoholic liquor licence, against consideration in form of licence fee or application fee or by whatever name it is called.

This special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

It may be noted that services provided by the Government 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.

## **FURTHER, CBIC HAS CLARIFIED THAT FOLLOWING ACTIVITIES/TRANSACTIONS ARE NEITHER SUPPLY OF GOODS NOR SUPPLY OF SERVICES.**

### **[Circular No. 1/1/2017 IGST]**

#### **Inter-State movement of various modes of conveyance**

Inter-State movement of various modes of conveyance, between distinct persons including- Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts,

- (a) carrying goods or passengers or both; or
- (b) for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

### **[Circular No. 21/21/2017-GST]**

#### **Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]**

inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods], such inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no

IGST would be applicable on such movements. But applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

**[CIRCULAR NO. 243/37/2024-GST]**

**CLARIFICATION ON VARIOUS ISSUES PERTAINING TO GST TREATMENT OF VOUCHERS**

**Issue 1** -Whether "transactions in vouchers" falls under the category of supply of goods and/or services?

It is clarified that irrespective of whether voucher is covered as a pre-paid instrument recognized by RBI or not, the voucher is just an instrument which creates an obligation on the supplier to accept it as consideration or part consideration and the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

**Issue 2** -What would be the GST treatment of transactions in vouchers by distributors/sub-distributors/agents etc.?

**Where vouchers are distributed through the distributors/sub-distributors/dealers on Principal-to-Principal(P2P) basis:** In such cases, the distributor/dealer purchases voucher from the voucher issuer typically at a discounted rate and subsequently sells to customers and generate revenue through a trading margin, which is a difference between the acquisition cost and the selling price of the vouchers by the said distributor/dealer. In such cases, distributors/dealers (including sub-distributors) own the vouchers and operate autonomously with full control over the process from purchase to the final sale of the vouchers to the end user. As the transaction in vouchers is neither supply of goods nor supply of services, therefore, pure trading of vouchers in this case would not constitute either supply of goods or supply of services. Accordingly, such trading of vouchers would not be leviable to GST as per section 9 (1) of CGST Act.

**Where vouchers are distributed using distributors/sub-distributors/agents on commission/fee basis:** In such cases, the transactions between the voucher issuer and the distributors/sub-distributors/agents are on principal-agency basis. In such cases, distributors/sub-distributors/agents do not operate autonomously, do not own the vouchers and only act as agent of the voucher issuer. In such cases, GST would be payable by such distributor/sub-distributor/agent, acting as an agent of the voucher issuer, on the commission/fee or any other amount by whatever name called, for such purpose, as a supply of services to the voucher issuer.

**Issue 3** -What would be GST treatment of additional services such as advertisement, co-branding, marketing & promotion, customization services, technology support services, customer support services etc. against a service fee

In such a case, the said service fee/service charge/affiliate charge or other amount for supply of such additional services to the voucher issuer as per the terms of contract/agreement, would be liable to GST at the applicable rate in the hands of the said service provider.

**Issue 4** -What would be the GST treatment of unredeemed vouchers (breakage).

Sometimes, vouchers remain unused/unredeemed at the end of their expiry period. In such cases, the businesses generally make book adjustments and account the said amount on account of unredeemed vouchers in their statement of income. The value of such unredeemed vouchers

accounted for in the statement of income is called breakage. In the case of breakage, there is no redemption of voucher and there is no supply of underlying goods and/or services.

Also, where the voucher is issued for the purpose of redemption in respect of a supply of goods and/or services and there is no express or implied agreement, oral or written, between the issuer of voucher and redeemer for payment of any amount or charges by the redeemer to the voucher issuer in case of non-redemption of the voucher, it cannot be considered that non-redemption of voucher by the redeemer tantamounts to supply of services. Therefore, no GST appears to be payable on such amount attributable to non-redemption of voucher (breakage).

## **9. COMPOSITE AND MIXED SUPPLIES [SECTION 8]**

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely: -

- a) a **composite supply** comprising 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.

### **LET'S UNDERSTAND COMPOSITE SUPPLY**

Composite supply means a supply made by a taxable person to a recipient and:

- ✓ comprises two or more taxable supplies of goods or services or both, or any combination thereof.
- ✓ are naturally bundled and supplied in conjunction with each other, in the ordinary course of business
- ✓ one of which is a principal supply [Section 2(30) of the CGST Act].

This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.

**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.

### **How to determine whether the services are bundled in the ordinary course of business?**

- a) The perception of the consumer or the service recipient
- b) Majority of service providers in a particular area of business provide similar bundle of services.
- c) The nature of the various services in a bundle of services
- d) Other illustrative indicators, like:
  - a. The elements are normally advertised as a package.
  - b. The different elements are not available separately.
  - c. The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

Note: Composite supply do not depend upon the manner of price charged. Even if the price charged is separate for each goods or services still it shall be treated as composite supply if supply is naturally bundled.

### **LET'S UNDERSTAND MIXED SUPPLY**

Mixed supply means:

1. two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person
2. for a single price where such supply does not constitute a composite supply

The individual supplies are independent of each other and are not naturally bundled.

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

A supply can be a mixed supply only if it is not a composite supply. 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.

### **General examples relating to composite supply**

1. Where goods are packed and transported with insurance, packing materials, transport
2. and insurance is a composite supply and supply of goods is a principal supply.
3. Supply of laptop and carry case (laptop branded)
4. Supply of equipment and installation of the same
5. Supply of repair services on computer along with requisite parts
6. Supply of health care services along with consumable medicaments
7. Postal services along with warehousing.

### **General examples of Mixed Supply**

1. A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits etc.
2. 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.
3. Supply of toothpaste and brush
4. Supply of laptop and printer
5. Supply of tuition in a coaching centre and board prescribed text books

## **10. VARIOUS CLARIFICATION ISSUED BY CBIC/GOVT IN RELATION TO CONSIDERATION.**

### **DONATIONS RECEIVED BY CHARITABLE INSTITUTIONS FROM INDIVIDUAL DONORS, WITHOUT QUID PRO QUO**

1. An important feature of consideration is quid pro quo [something for something].
2. Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).
3. Where the three conditions are satisfied namely
  - ✓ the gift or donation is made to a charitable organization,
  - ✓ the payment has the character of gift or donation and
  - ✓ the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, GST is not leviable.

### **ART WORKS SENT BY ARTISTS TO GALLERIES FOR EXHIBITION**

1. Artists give their work of art to galleries where it is exhibited for supply.
2. However, 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.
3. 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.

### **CLARIFICATION ABOUT 'NO CLAIM BONUS'**

There is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and NCB cannot be considered as a consideration for any supply provided by the insured to the insurance company.

## **11. VARIOUS CLARIFICATION ISSUED BY CBIC/GOVT IN RELATION TO SUPPLY.**

### **CLARIFICATION ON SALES PROMOTION SCHEMES**

**Free samples and gifts:** 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.

**Buy one get one free offer:** It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is Buy one Get one free being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. In this case tax will be charged as per provisions of "composite supply" or "mixed supply".

### **CBIC HAS CLARIFIED TAXABILITY OF 'TENANCY RIGHTS'**

- ✓ It has been clarified that the activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST.
- ✓ 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.
- ✓ Such activity is considered at par with renting and all provision including exemption from GST as applicable on renting of immovable property will be applicable on transfer of tenancy rights.

### **CLARIFICATION REGARDING GST APPLICABILITY ON LIQUIDATED DAMAGES, COMPENSATION AND PENALTY ARISING OUT OF BREACH OF CONTRACT OR OTHER PROVISIONS OF LAW**

"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 in Schedule II to the CGST Act, 2017 if the same constitutes a "supply" within the meaning of the CGST Act.

***To be classified as supply, there must be an expressed or implied agreement/contract AND consideration must flow in return to this contract/agreement.***

**Taxability of some of the transactions has been discussed in detail as under:** (Not relevant for CA Inter exams)

#### **Liquidated Damages**

- ❖ 'Liquidated Damages' is generally defined as cash compensation agreed to by a signed, payable to the aggrieved party.
- ❖ Where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are merely a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.
- ❖ Examples of such cases are:
  1. damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright,
  2. penalty stipulated in a contract for delayed construction of houses,
  3. forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or by Government or local authority in the event of a successful bidder failing to act after winning the bid, for allotment of natural resources.
- ❖ But, where 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 as contemplated by the contract as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of prepayment of loan and of making arrangements for the intended supply by the tour operator respectively. Therefore, such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where such supply is taxable. Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply.
- ❖ Examples of such transactions are
  1. A contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty.
  2. A contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up.
  3. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer.

#### **Compensation for cancellation of coal blocks**

- ❖ In the year 2014, coal block/mine allocations were cancelled by the Hon'ble Supreme Court and prior (old) allottee of mines were given compensation in the year 2016 towards the transfer of their rights/ titles in the land, mine infrastructure etc.
- ❖ 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 to them. No such promise or offer was made by the prior allottees to the Government. The allottees had no option but to accept the cancellation.
- ❖ Therefore, it would be incorrect to say that the prior allottees of the coal blocks supplied a service to the Government by way of agreeing to tolerate the cancellation of the allocations made to them by the Government or that the compensation paid by the Government for such

cancellation in pursuance to the order of the Supreme Court was a consideration for such service. Therefore, the compensation paid for cancellation of coal blocks pursuant to the order of the Supreme Court in the above case was not taxable.

### **Cheque dishonour fine/ penalty**

The fine or penalty that the supplier or a banker imposes, for dishonour of a cheque, is a penalty imposed not for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation. Therefore, cheque dishonour fine or penalty is not a consideration for any service and not taxable.

### **Penalty imposed for violation of laws**

Penalty imposed for violation of laws such as traffic violations, or for violation of pollution norms or other laws are also not consideration for any supply received and are not taxable.

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

- ❖ The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation.
- ❖ Further, the employee does not get anything in return from the employer against payment of such amounts.
- ❖ Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.

### **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. Even if this service is described as a service of tolerating the act of late payment, it is an ancillary supply naturally bundled and supplied in conjunction with the principal supply, and therefore should be assessed as the principal supply.

### **Fixed charges for power**

Price for power has two components, namely, a minimum fixed charge (or capacity charge) and variable per unit charge. Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity and are thus not taxable as electricity is exempt from GST.

### **Cancellation charges**

facilitation supply of 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 in such cases should be assessed as the principal supply.

However, forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or such forfeiture by Government or local authority in the event of a successful bidder failing to act after winning the bid for allotment of natural resources, is a mere flow of money. Forfeiture of earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders. Such payments being merely flow of money are not a consideration for any supply and are not taxable.

**CLARIFICATION ON LIABILITY TO PAY GST IN RESPECT OF WARRANTY  
REPLACEMENT OF PARTS AND REPAIR SERVICES DURING WARRANTY PERIOD -  
CIRCULAR NO. 195/07/2023 AND CIRCULAR NO. 216/10/2024 GST**

**Issue 1**

There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services.

Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?

**Clarification:**

The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods.

As such, where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable on such replacement of parts and/ or repair service during warranty period.

However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

**Issue 2**

Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?

**Clarification:**

There may be instances where a distributor of a company provides replacement of parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/ or repair services from the customer. In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/or repair services to the customer.

However, if any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

**Issue 3**

In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer?

**Clarification:**

There can be 4 instances as discussed below: -

- a) There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, GST would be payable by the distributor on the said supply by him to the manufacturer.
- b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty. In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer.
- c) There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of section 34(2) of the CGST Act. Accordingly, the tax liability may be adjusted by the manufacturer.
- d) There may be cases where the distributor replaces the goods or its parts to the customer under warranty by using his stock and then raises a requisition to the manufacturer for the goods or the parts, as the case may be. The manufacturer then provides the said goods or the parts, as the case may be, to the distributor through a delivery challan, without separately charging any consideration at the time of such replenishment. In such a case, no GST is payable on such replenishment of goods or the parts, as the case may be.

#### **Issue 4**

Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?

#### **Clarification:**

In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of repair services in accordance with the provisions of section 2(93)(a) of the CGST Act, 2017.

Hence, GST would be payable on such provision of service by the distributor to the manufacturer.

#### **Issue 5**

Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?

#### **Clarification:**

- a) If a customer enters into an agreement of extended warranty with the supplier of the goods at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.

However, if the supply of extended warranty is made by a person different from the supplier of the goods, then supply of extended warranty will be treated as a separate supply from the original supply of goods and will be taxable as supply of services.

- b) In case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same shall be treated as a supply of services distinct from the original supply of goods and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services.

**CLARIFICATION ON TAXABILITY OF SHARES HELD IN A SUBSIDIARY COMPANY  
BY HOLDING COMPANY - CIRCULAR NO. 196/08/2023**

It is clarified that securities are considered neither as goods nor as services in terms of definition of goods under section 2(52) and the definition of services under section 2(102). Further, securities include 'shares' as per definition of securities. Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

**FOOD SUPPLIED TO THE PATIENTS - CIRCULAR NO. 32/6/2018**

Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

**CLARIFICATION ISSUED ABOUT NATURE OF SUPPLY AND WHAT CONSTITUTE  
PRINCIPAL SUPPLY**

**Related to Printing Industry - Circular No. 11/11/2017 GST**

1. In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.
2. In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods.

**Activity of bus body building - Circular No. 34/8/2018**

In the case of bus body building, there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.

**Retreading of tyres - Circular No. 34/8/2018**

In retreading of tyres, which is a composite supply, the pre-dominant element is process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

Retread tyres are revamped tyres on which the worn-out tread (the part of the tire that makes contact with the surface of the road) is replaced using new tread.

**Clarification about supply of Foods at cinema halls - Circular No. 201/13/2023**

It is hereby clarified that:

1. supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
  - a. the food or beverages are supplied by way of or as part of a service, **and**
  - b. supplied independent of the cinema exhibition service.
2. where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.



# CHAPTER 3 – CHARGE

## Relevant Sections

Section 9	:	Levy and collection.
Section 10	:	Composition levy.

### 1. RELEVANT DEFINITIONS

1. **Central tax:** means the central goods and services tax levied under section 9 [Section 2(21) of the CGST Act].
2. **Integrated tax:** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58) of the CGST Act].
3. **State tax:** means the tax levied under any State Goods and Services Tax Act [Section 2(104) of the CGST Act]. State includes a Union territory with Legislature viz. Delhi, Puducherry and Jammu & Kashmir
4. **Union Territory Goods and Services Tax** levied in Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, Ladakh<sup>1</sup>, Chandigarh and other territory, i.e. the Union Territories without Legislature. This is governed by Union Territory Goods and Services Tax Act, 2017
5. **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.  
Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims; [Section 2(105) of CGST Act]
6. **Recipient:** of supply of goods and/or services 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. [Section 2(93) of CGST Act]
7. **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)/9(4), or under section 5(3)/5(4) of the IGST Act [Section 2(98) of CGST Act].

8. India: "India" means-
  - a. territory of India as referred to in article 1 of the Constitution
  - b. its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to 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
9. Electronic Commerce: means the supply of goods or services or both including digital products over digital or electronic networks.
10. Electronic Commerce Operator: means any person who owns, operates or manages a digital or electronic facility or platform for electronic commerce.

## **2. TYPE OF CHARGE**

### **Intra-State Supply**

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. In this case CGST & SGST is levied.

### **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. In this case IGST is levied.

## **3. EXTENT & COMMENCEMENT OF GST LAW**

1. **Central Goods and Services Tax Act, 2017** extends to the whole of India including Jammu and Kashmir.
2. **State GST** law of the respective State/Union Territory with Legislature extends to whole of that State/Union Territory.
3. **Union Territory Goods and Services Tax Act, 2017** extends to the Union territories of India
4. **Integrated Goods and Services Tax Act, 2017** extends to the whole of India including Jammu and Kashmir.

## **4. LEVY & COLLECTION OF CGST & IGST [SECTION 9 OF THE CGST ACT & SECTION 5 OF THE IGST ACT]**

(1) 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 and un-denatured extra neutral alcohol or rectified spirit used for manufacture 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) 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.

(3) 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) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax 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 such supply of goods or services or both.

(5) 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:

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:

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.

## **5. TAX PAYABLE ON SUPPLY OF GOODS OR SERVICES OR BOTH UNDER REVERSE CHARGE**

- ✓ Reverse charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.
- ✓ All the provisions of the CGST/IGST 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.
- ✓ There are two type of reverse charge scenarios provided in law.
  - Supply of specified categories of goods or services, covered by section 9(3) of the CGST/ SGST (UTGST) Act. Similar provisions are contained under section 5(3) of the IGST Act.
  - Supply of specified categories of goods or services **made by an unregistered supplier** to specified class of registered recipients, covered by section 9(4) of the CGST Act. Similar provisions are contained under section 5(4) of the IGST Act.

## **6. GOODS AND SERVICES NOTIFIED UNDER REVERSE CHARGE MECHANISM UNDER SECTION 9(3) OF THE CGST ACT/ SECTION 5(3) OF THE IGST ACT**

### **SUPPLIES OF GOODS TAXABLE UNDER REVERSE CHARGE, I.E. THE GOODS WHERE TAX IS PAYABLE BY THE RECIPIENT:**

Goods like cashew nuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, used vehicles, seized and confiscated goods, old and used goods, waste and scrap, raw

cotton, etc. are taxable under reverse charge. [Details of Goods on which tax is payable on reverse charge basis not in syllabus.]

**SUPPLY OF SERVICES TAXABLE UNDER REVERSE CHARGE UNDER SECTION 9(3) OF THE CGST ACT, I.E. THE SERVICES WHERE TAX IS PAYABLE BY THE RECIPIENT** [NOTIFICATION NO. 13/2017- CENTRAL TAX (RATE)]

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to-  (a) any factory registered under or governed by the Factories Act, 1948; or  (b) 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; or  (c) any co-operative society established by or under any law; or  (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or  (e) any body corporate established, by or under any law; or  (f) any partnership firm whether registered or not under any law including association of persons; or  (g) any casual taxable person.	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or  (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or  (c) any co-operative society established by or under any law; or  (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or  (e) any body corporate established, by or under any law; or  (f) any partnership firm whether registered or not under any law including association of persons; or  (g) any casual taxable person; located in the taxable territory.
However, reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to- (a) a Department/ establishment of the Central Government/ State Government/ Union territory; or (b) local authority; or			

<p>(c) Governmental agencies, which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.</p> <p><b>Further, nothing contained in this entry shall apply where, -</b></p> <ol style="list-style-type: none"> <li>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</li> <li>ii. the supplier has issued a tax invoice to the recipient charging CGST at the applicable rates and has made the prescribed declaration on such invoice issued by him.</li> </ol>			
2	<p>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</p> <p>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.</p>	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person other than a body corporate	Any body corporate or partnership firm located in the taxable territory.
5	<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -</p> <p>(1) renting of immovable property, and</p> <p>(2) services specified below-</p> <p>(i) services by the Department of Posts and the Ministry of Railways (Indian Railways)</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers.</p>	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
5A	Services supplied by the Central Government excluding the Ministry of Railways	Central Government, State	Any person registered under the Central Goods and Services Tax Act, 2017.]

	(Indian Railways), State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Government, Union territory or local authority	
5AA	Service by way of renting of residential dwelling to a registered person	Any person	Any registered person
5AB	Services by way of renting of any immovable property other than residential dwelling.	Any unregistered person	Any registered person other than a person who has opted to pay tax under composition levy
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter
5C	Long term lease of land (30 years or more) by any person 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 by a promoter.	Any person	Promoter
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957	Author	Publisher located in the taxable territory:

	relating to original literary works to a publisher.		<p>Provided that nothing contained in this entry shall apply where, -</p> <p>(i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of the Central Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) 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;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.]</p>
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India (RBI)	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India
11	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or	Individual Direct Selling Agents (DSAs) other than a body	A banking company or a non-banking financial company, located in the taxable territory.

	non-banking financial company (NBFCs)	corporate, partnership or limited liability partnership firm.	
12	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC)	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.
14	<p>Security services (services provided by way of supply of security personnel) provided to a registered person:</p> <p>Provided that nothing contained in this entry shall apply to, -</p> <p>(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies;</p> <p>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</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p>	Any person other than a body corporate	A registered person, located in the taxable territory.
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, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to	Any body corporate located in the taxable territory.

		the service recipient	
16	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.	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	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

**For purpose of this notification, -**

- a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- b) Body Corporate: has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.  
As per section 2(11) of the Companies Act, 2013, body corporate or corporation includes a company incorporated outside India, but does not include—
  - (i) a co-operative society registered under any law relating to co-operative societies; and
  - (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.
- c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.
- d) 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.
- e) Insurance agent means an insurance agent licensed under section 42 of the Insurance Act, 1938 who receives 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 [Section 2(10) of the Insurance Act, 1938].
- f) Renting of 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.
- g) the provisions of this notification, in so far as they apply to the Central Government, State Government, shall also apply to the Parliament and State Legislature, Courts and Tribunals.

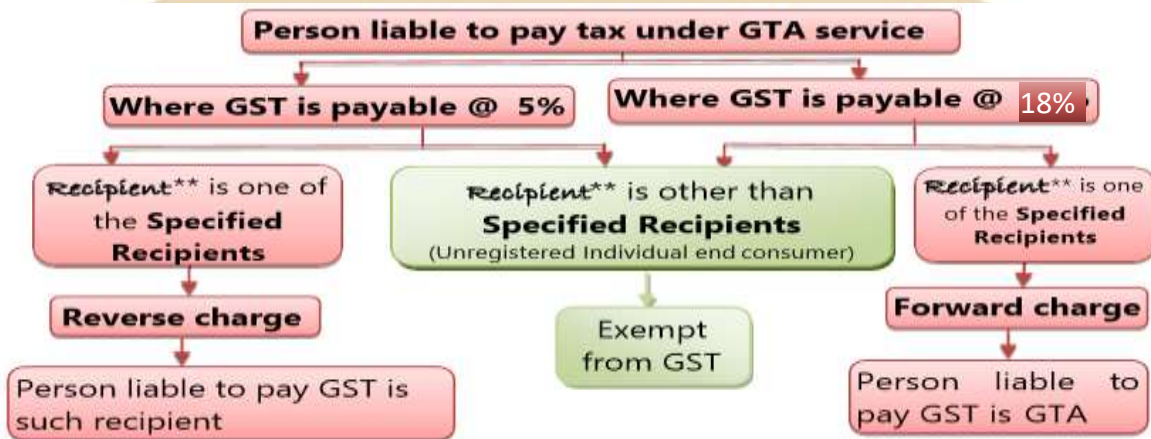
**Clarification whether DDA can be treated as local authority?**

It has been clarified that DDA cannot be treated as local authority under GST law as DDA does not meet requirement of local authority as per section 2(69) of the CGST Act, 2017  
[Circular no 245/02/2025-GST]

**TAX LIABILITY IN CASE OF GOODS TRANSPORT AGENCY [GTA]**

GTA services are taxable at the following two rates:

- @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided GTA has not taken the Input Tax Credit (ITC) on goods and services used in supplying GTA service or
- @ 18% (9% CGST+9% SGST/UTGST or 18% IGST) where GTA opts to pay GST at said rate on all the services of GTA supplied by it. In this case, there is no restriction on availing ITC on goods and services used in supplying GTA service by GTA.



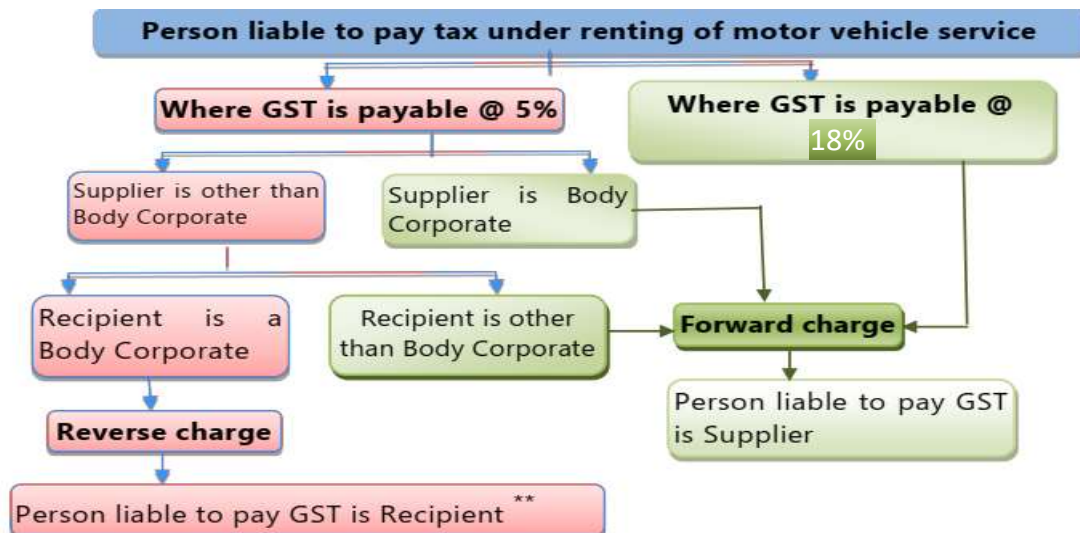
Recipient of GTA service is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.

**TAX LIABILITY IN CASE OF RENTING OF MOTOR VEHICLE**

- GST Rate in case of service 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 are taxable at the following two rates:
  - @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided supplier of services has taken only the limited ITC (of input services in the same line of business) or
  - @ 18% (9% CGST+9% SGST/UTGST or 18% IGST) where supplier of services opts to pay GST at said rate. In this case, there is no restriction on availing ITC on goods or services used in supplying renting of motor vehicles service by the supplier of service.

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2. Now, who is liable to pay GST in such case is explained as under



3. It is important to note here that RCM is applicable here only when the supplier does not issue an invoice charging GST @12%

4. Now there may arise a doubt as to whether RCM is applicable on:

- (i) service of renting of motor vehicle designed to carry passengers
- Or
- (ii) service of transportation of passengers.

***The two services fall under two different headings in the Tariff.***

- 1) Services of renting of motor vehicles designed to carry passengers covers:
  - a. renting of motor vehicle
  - b. for transport of passengers
  - c. for a period of time
  - d. where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.
- 2) 'Passenger transport services' covers passenger transport services over pre-determined routes on pre-determined schedules. Accordingly, 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 'services of renting of motor vehicles designed to carry passengers', and the body corporate shall be liable to pay GST on the same under RCM.

## **7. TAX PAYABLE BY ECOMMERCE OPERATOR [ECO] ON NOTIFIED SERVICES [SECTION 9(5)]**

1. Electronic Commerce Operator (ECO) is any person who owns/operates/manages an electronic platform for supply of goods/services/both.
2. Sometimes, ECO itself supplies the goods or services through 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.

3. 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. Following supplies have been notified vide Notification No. 17/2017 CT (R) / Notification No. 14/2017 IT (R):
- services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, or any other motor vehicle except omnibus;
  - Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.
  - services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1).
  - services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1).
  - supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
  - services by way of local delivery except where the person supplying such services through electronic commerce operator is liable for registration under sub section (1) of section 22 of the Central Goods and Services Tax Act, 2017.

## **8. CLASSIFICATION & RATES OF GOODS**

Broadly, six rates of CGST have been notified in six Schedules of rate notification for goods/Services, viz., 0.125%, 1.5%, 2.5%, 6%, 9% and 14%. SGST/ UTGST at the equivalent rate is also leviable. With regard to IGST, broadly six rates have been notified in six Schedules of GST rates for goods rate notification for goods, viz., 0.25%, 3%, 5%, 12%, 18% and 28%. For certain specified goods, nil rate of tax has been notified.

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

Tariff item, sub-heading, heading and chapters referred in the Schedules of rate notification for goods under GST are the Tariff item, sub-heading, heading and chapters of the

First Schedule to the Customs Tariff Act, 1975. Indian Customs Tariff is based on HSN. HSN stands for Harmonized System of Nomenclature. It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the World.

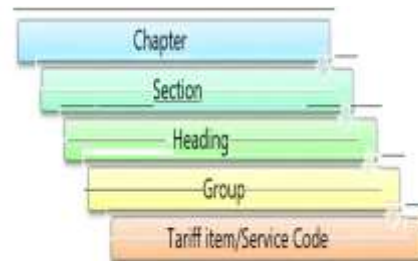


## **9. CLASSIFICATION & RATES OF SERVICES**

Broadly, four rates of CGST have been notified for services, viz., 2.5%, 6%, 9% and 14%. Equivalent rate of SGST/ UTGST will also be levied. For IGST, four rates have been notified for services, viz., 5%, 12%, 18% and 28%. For certain specified services, nil rate of tax has been notified.

Services not covered under any specific heading are taxed at the rate of 18% (CGST @ 9% and SGST @9% or IGST @ 18%).

A new Scheme of Classification of Services has been devised under GST. It is a modified version of the United Nations Central Product Classification. Under this scheme, the services of various descriptions have been classified under various sections, headings and groups. Chapter 99 has been assigned for services. This chapter has following sections:



- ✓ Section 5 Construction Services
- ✓ Section 6 Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services
- ✓ Section 7 Financial and related services; real estate services; and rental and leasing services
- ✓ Section 8 Business and Production Services
- ✓ Section 9 Community, social and personal services and other miscellaneous services

Each section is divided into various headings which is further divided into Groups. Its further division is made in the form of 'Tariff item' / Service Codes.

## **10. GST RATES IN REAL ESTATE SECTOR**

The effective rate of GST on real estate sector for the new projects by promoters are as follows:

- i. 1% without ITC on construction of affordable houses (area 60 sqm in metros/ 90 sqm in non-metros and value upto ` 45 lakh).
- ii. 5% without ITC is applicable on construction of:
  - a. all houses other than affordable houses, and
  - b. commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.
- iii. Conditions:

Above tax rates shall be available subject to following conditions:

  - a. ITC shall not be available.
  - b. 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons.

However, if value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under **section 9(4)** of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under **section 9(4)** of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.

Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates

## **11. COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]**

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to prescribed limit.

**TURNOVER LIMIT FOR COMPOSITION LEVY [SECTION 10(1)]**

Section 10 of the CGST Act provides the turnover limit of 50 lakh for becoming eligible for composition levy. However, proviso to section 10(1) empowers the Government to increase the said limit of 50 lakh upto 1.5 crore, on the recommendation of the Council.

In view of said power of the Government to increase the turnover limit for Composition Levy as granted by first proviso to section 10(1), the turnover limit for Composition Levy has been increased from 50 lakh to 1.5 crore.

However, the said notification further stipulates that the turnover limit for composition levy shall be 75 lakh in respect of 8 of the Special Category States namely Arunachal Pradesh, Mizoram, Uttarakhand, Nagaland, Manipur, Sikkim, Meghalaya, Tripura

While computing the threshold limit of 1.5 crore, 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.

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher. While calculating this limit, 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.

**WHO ARE NOT ELIGIBLE TO OPT FOR COMPOSITION SCHEME? [SECTION 10(2)]**

The registered person shall be eligible to opt under sub-section (1), if—

1. save as provided in sub-section (1), he is not engaged in the supply of services;
2. he is not engaged in making any supply of goods which are not leviable to tax under this Act;
3. he is not engaged in making any inter-State outward supplies of goods;
4. he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52;
5. he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council; and
6. he is neither a casual taxable person nor a non-resident taxable person:

Provided that where more than one registered persons are having the same Permanent Account Number, the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

### **INTIMATION OF OPTING FOR COMPOSITION LEVY [RULES 3 & 4]**

- Intimation by person applying for registration:** 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. The same shall be considered as an intimation to pay tax under composition levy.
- Intimation by a registered person:** A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form on the GST Common Portal [[www.gst.gov.in](http://www.gst.gov.in)], prior to the commencement of the FY for which said option is exercised. He shall also furnish the statement in prescribed form in accordance with the provisions of rule 44(4) of CGST Rules, 2017 within 60 days from the commencement of the relevant FY.  
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.  
The option to pay tax under composition levy shall be effective from the beginning of the FY.

### **CONDITIONS AND RESTRICTIONS FOR COMPOSITION LEVY [RULE 5]**

Person opting for composition levy has to comply with the following conditions:

- he is neither a casual taxable person nor a non-resident taxable person
- the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under reverse charge under section 9(4).
- he shall pay tax under section 9(3)/9(4)19 (reverse charge) on inward supply of goods or services or both.
- he was not engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY. The following goods have been hereby notified vide Notification No. 14/2019 CT dated 07.03.2019:

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
24	All goods, i.e. Tobacco and manufactured tobacco substitutes
2202 10 10	Aerated Water
6815	Fly ash bricks; Fly ash aggregates <sup>1</sup> ; Fly ash blocks
6901 00 10	Bricks of fossil meals or similar siliceous earths
6904 10 00	Building bricks
6905 10 00	Earthen or roofing tiles

- 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
- 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.

### **RATES OF TAX UNDER THE COMPOSITION LEVY SCHEME? [SECTION 10(1) READ WITH RULE 7]**

S.No.	Category	Rate of Tax
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1	Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco, Aerated Water.	½ % of the turnover in the State/Union territory
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [hereinafter referred to as "Restaurant service"]	2½ % of the turnover in the State/Union territory
3	Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II [Composition Levy] of CGST Rules.	½ % of the turnover of taxable supplies of goods and services in the State or Union territory

**Turnover in State/ 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 and cess [Section 2(112) of the CGST Act, 2017].

### **VALIDITY OF COMPOSITION LEVY [SECTION 10(3) READ WITH RULE 6]**

1. Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions  
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.
2. Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme  
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.
3. Denial of option to pay tax under the composition scheme by tax authorities  
In case of denial of option to pay tax under composition levy by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules

In each of the above cases, such person may furnish a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn/denied, within a period of 30 days from the date from which the option is withdrawn/ or the date of the order denying composition scheme.

### **IMPOSITION OF PENALTY IN CASE OF IRREGULAR AVAILMENT OF THE COMPOSITION SCHEME [SECTION 10(5)]**

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.

## **12. OPTION TO PAY TAX AT CONCESSIONAL RATE [SECTION 10(2A)]**

[NOTIFICATION NO. 2/2019 CT (R) DATED 07.03.2019]

Registered Person who is not eligible under normal composition scheme and whose aggregate turnover in the preceding financial year does not exceed 50 lakh are eligible u/s 10(2A) and can pay

tax @ 3% [Effective rate 6% (CGST+ SGST/ UTGST)] on first supplies of goods and/or services upto an aggregate turnover of 50 lakh made on/after 1st April in any financial year, subject to specified conditions.

### **CONDITIONS TO BE FULFILLED**

The conditions for availing the concessional rate of tax under Notification No. 2/2019 CT (R) are primarily same as the conditions for availing the composition scheme with few exceptions. The same have been elaborated as under:

Supplies are made by a registered person who is not:

1. engaged in making any supply of goods or services which are not leviable to tax under this Act;
2. engaged in making any inter-State outward supplies of goods or services;
3. 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;
4. a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
5. a casual taxable person or a non-resident taxable person:

### ***Other significant points***

1. Where more than one registered persons are having the same PAN, tax on supplies by all such registered persons is paid at concessional rate under this notification.
2. The registered person opting to pay tax at concessional rate under this notification shall be liable to pay:
  - a. (CGST @ 3% + SGST/UTGST @ 3%) on taxable outward supplies - first supplies of goods or services or both upto an aggregate turnover of 50 lakh made on or after 1st April in any FY – regardless of any exemption from tax available to such supplies or any notification issued under section 9(1).
  - b. Tax on inward supplies on which he is liable to pay tax under section 9(3)/9(4) (reverse charge) at the applicable rates.
3. In computing aggregate turnover in order to determine eligibility of a registered person to pay tax at concessional rate under this notification, value of supply of exempt services 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.
4. Where any registered person who has availed of ITC opts to pay tax under this notification, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger. Said amount shall be equivalent to the ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the CGST Act and the rules made thereunder.  
After payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.
5. The CGST Rules, 2017, as applicable to a person paying tax under composition scheme shall, mutatis mutandis, apply to a person paying tax under this notification.
6. First supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification, shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

## CHAPTER 4 – PLACE OF SUPPLY

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### 1. RELEVANT DEFINITIONS

**Continuous journey** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

Explanation—For the purposes of this clause, the term “stopover” means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time [Section 2(3)].

The term conveyance has been defined in section 2(34) of the CGST Act to include a vessel, an aircraft and a vehicle.

**Fixed establishment** means a place other than the 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.

**Location of the recipient of services** means:

- (a) where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
- (b) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the recipient.

*The above definition relates only to services. The term 'location of recipient of goods' has not been defined in the Act.*

**Location of the supplier** of services means:

- (a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
- (b) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the supplier.

*The above definition relates only to services. The term 'location of recipient of goods' has not been defined in the Act.*

**Place of business** includes

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called.

**Recipient of supply of goods or services or both**, means—

- where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- 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
- 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

**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.

Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

**'Place of supply'** to mean the place of supply as referred to in Chapter V [Sections 10 to 14] of the Integrated Goods and Services Tax Act, 2017.

**Territorial waters** is the line every point of which is at a distance of 12 nautical miles from the nearest point of the appropriate base line.

## **2. INTRODUCTION**

1. GST is a destination-based tax, i.e the tax is levied at the place where the goods or services are consumed, rather than the place where they are produced.
2. Place of supply is very important factor in ascertaining the nature of Supply i.e. Intra-State or Inter-State.
3. If supply is intra-state, then CGST and SGST/UTGST is levied else IGST will be levied.
4. If an inter-State transaction is wrongly treated as intra-State or vice-versa and tax paid accordingly, the correct tax will be required to be paid and refund to be claimed for tax wrongly paid. Though no interest is levied in such a case.
5. Goods being tangible generally do not pose any significant problems for determination of their place of consumption but Services, being intangible pose problems. The various elements used for determining the place of supply of a service are:
  - a. location of service provider
  - b. location of service receiver
  - c. place where the activity takes place/place of performance
  - d. place where the service is consumed
  - e. place/person to which/whom actual benefit flowsFactor which gives more appropriate result than others is used for determining the place of supply.

### **3. PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10]**

Sub-section (1) of section 10 sets out 6 rules to provide the place of supply of goods. For residual cases, sub-section (2) of section 10 provides the Government may prescribe the manner to ascertain the same. Till now no rules has been prescribed u/s 10(2).

#### **1. SUPPLY INVOLVING MOVEMENT OF GOODS**

1. In case of supply involving movement of goods, the place of supply is the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.
2. This movement, however, can be undertaken by the supplier or recipient or even any other person (like transporter)
3. The provision does not link itself to transfer of property in goods but to the movement of the goods.

#### **2. SUPPLY INVOLVING MOVEMENT OF GOODS WHERE GOODS ARE DELIVERED TO RECIPIENT ON THE INSTRUCTION OF THIRD PERSON – ‘BILL TO SHIP TO’ SUPPLY**

1. Where goods are delivered by the supplier to the recipient or any other person at the instruction of a third person (original buyer), the place of supply is the **principal place of business** of such third person and not of the actual recipient.
2. It is important to identify the two supplies involved in this transaction– one supply is by supplier to third person and second supply is by third person to recipient. This provision deals only with the first part of supply, i.e. supply by supplier to third person.
3. Second part of supply, i.e. supply by third person to recipient will be governed by the provisions of section 10(1)(a), i.e. the place of supply will be the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

#### **4. SUPPLY NOT INVOLVING MOVEMENT OF GOODS**

If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.

#### **4. SUPPLY OF GOODS MADE TO A PERSON OTHER THAN REGISTERED PERSON**

The supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) or clause (c), be

- ✓ the location as per the address of the said person recorded in the invoice issued in respect of the said supply and
- ✓ the location of the supplier where the address of the said person is not recorded in the invoice.

Explanation. —For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person.

**Circular No. 209/3/2024 GST dated 26.06.2024**

Place of supply of the goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods

Clarification: As per the provisions discussed above, the place of supply of goods shall be the address of delivery of goods recorded on the invoice. In 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.

**5. SUPPLY INVOLVING INSTALLATION OR ASSEMBLY OF GOODS**

If the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly.

**6. GOODS SUPPLIED ON BOARD A CONVEYANCE**

1. Place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, motor vehicle is the location where such goods have been taken on board.
2. Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.
3. For example, Raj (New Delhi) boards the New Delhi-Udaipur train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey. The place of supply of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.

**4. PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OF SERVICE AND THE LOCATION OF THE RECIPIENT OF SERVICE IS IN INDIA [SECTION 12]**

Sub-section (1) of section 12 sets out 13 rules to provide the place of supply of Services out of which rule 2 is general rule for services not covered by remaining 12 rules.

**1. GENERAL RULE [SECTION 12(2)]**

Type of Supply	Place of Supply	
	Recipient is Registered	Recipient is Un-registered
Any supply of services other than the ones specified in sub-sections (3) to (14) of section 12	Location of recipient	If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person. b) In other cases, the location of the supplier of services

**2. SERVICES IN RELATION TO AN IMMOVABLE PROPERTY OR LODGING ACCOMMODATION IN A HOTEL/BOAT/VESSEL ETC. [SECTION 12(3)]**

The place of supply of services,—

- a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or
- b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or
- c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or
- d) any services ancillary to the services referred to in clauses (a), (b) and (c), shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

***Immovable property/Boat/Vessel located in more than one State/Union territory:: Manner of determining proportionate value of service in the absence of a contract or agreement (rule 4 of the IGST Rules)***

- a) in case of services provided by **way of lodging accommodation** by a hotel, inn, guest house, club or campsite, by whatever name called (except cases where such property is a single property located in two or more contiguous States or Union territories or both) and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the **number of nights stayed** in such property;
- b) in case of **all other services in relation to immovable property** including services by way of accommodation in any immovable property for organising any marriage or reception etc., and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in two or more contiguous States or Union territories or both, and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or Union territories, **in proportion to the area of the immovable property lying in each State or Union territory**;
- c) in case of services provided by way of **lodging accommodation by a house boat or any other vessel** and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or Union territories, **in proportion to the time spent by the boat or vessel in each such State or Union territory**, which shall be determined on the basis of a declaration made to the effect by the service provider.

**Circular No. 203/15/2023 GST dated 27.10.2023**

Clarification regarding place of supply in case of supply of services in respect of advertising sector

**Issue:** There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?

**Clarification:** The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) and shall be the location where such hoarding/ structure is located.

**Issue:** There may be another case where the advertising company wants to display its advertisement on hoardings/ billboards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location.

During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

**Clarification:** In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property.

Accordingly, the place of supply of the same shall not be covered under section 12(3)(a). Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location.

Therefore, such services provided by the vendor to advertising company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2).

### **3. RESTAURANT AND CATERING SERVICE, PERSONAL GROOMING, FITNESS, BEAUTY AND HEALTH SERVICES [SECTION 12(4)]**

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed.

### **4. TRAINING AND PERFORMANCE APPRAISAL SERVICES [SECTION 12(5)]**

The place of supply of services in relation to training and performance appraisal to,—

- a) a registered person, shall be the location of such person;
- b) a person other than a registered person, shall be the location where the services are actually performed.

**5. SERVICES BY WAY OF ADMISSION TO EVENTS/AMUSEMENT PARK/OTHER PLACES [SECTION 12(6)]**

The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

**6. ORGANISATION OF EVENTS [SECTION 12(7)]**

The place of supply of services provided by way of,—

- a) organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or
- b) services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,—
  - ✓ to a registered person, shall be the location of such person;
  - ✓ to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

***Event held in more than one State/Union territory - Manner of determining proportionate value of service in the absence of a contract or agreement (rule 5 of the IGST Rules)***

In such case, value shall be determined by the application of generally accepted accounting principles.

**7. TRANSPORTATION OF GOODS INCLUDING MAIL OR COURIER [SECTION 12(8)]**

The place of supply of services by way of transportation of goods, including by mail or courier to,—

- a) a registered person, shall be the location of such person;
- b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

**8. PASSENGER TRANSPORTATION SERVICE [SECTION 12(9)]**

The place of supply of passenger transportation service to,—

- a) a registered person, shall be the location of such person;
- b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2) i.e. address of the unregistered Person, if available else location of the supplier of services

Explanation.—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

## 9. SERVICE SUPPLIED ON BOARD A CONVEYANCE [SECTION 12(10)]

The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

## 10. TELECOMMUNICATION SERVICE [SECTION 12(11)]

Section 12(11) classifies the telecommunication services into 3 categories for the purpose of determining the place of supply as under:

- 1) Services provided using a **fixed** telecommunication line, leased circuits, internet leased circuit, cable or dish antenna
- 2) **Post**-paid mobile connection and post-paid internet services
- 3) **Pre**-paid mobile connection and prepaid internet and DTH services

The place of supply of the various types of telecommunication services is determined as under:

Type of Supply	Place of Supply
Services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna	The location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
Post-paid mobile connection and internet services	The location of billing address of the recipient of services on the record of the supplier of services; or  Location of the supplier of services, if the address is not available
Mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means	Services provided through a <ol style="list-style-type: none"> <li>a) selling agent</li> <li>b) re-seller</li> <li>c) distributor of subscriber identity module card or recharge voucher</li> </ol> PoS will be Address of the selling agent/ re-seller/ distributor at the time of supply.  Services provided by any person to final subscriber PoS will be Location where such prepayment is received or such vouchers are sold

Pre-paid services, the payment for which is made through internet banking/ other electronic mode of payment	Location of the recipient of services in the records of the supplier of services.
Other cases	The address of the recipient as per the records of the supplier of services; or Location of the supplier of services, if the address is not available

***Leased circuit is installed in more than one State/Union territory - Manner of determining proportionate value of service in the absence of a contract or agreement (rule 6 of the IGST Rules)***

In such case, value shall be determined in the following manner-

- a) The number of points in a circuit shall be determined in the following manner:
  - a. in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points;
  - b. any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point;
- b) the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of points lying in the State or Union territory.

**11. FINANCIAL AND STOCK BROKING SERVICES [SECTION 12(12)]**

The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

**12. INSURANCE SERVICES [SECTION 12(13)]**

The place of supply of insurance services shall,—

- 1) to a registered person, be the location of such person;
- 2) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

**13. ADVERTISEMENT SERVICE TO THE GOVERNMENT [SECTION 12(14)]**

Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State/Union territory identified in contract or agreement

PoS -> Each of such States/ Union territories where the advertisement is broadcasted/ run / played/ disseminated.

The value of such supplies specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard or In the absence of a contract or agreement as per Rule 3 of IGST Rules as described below:

Type of advertisement	Value of service attributable to dissemination in different States/Union territories where the advertisement is broadcasted/ run / played/ disseminated
Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union territory
Advertisements through material like pamphlets, leaflets, diaries, calendars, Tshirts, etc.	Amount payable for the distribution of a specific number of such material in each State/Union territory
Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State/ Union territory
Advertisements on trains	Amount attributable to each State/Union territory calculated in the ratio of length of the railway track in each of such State/Union territory, for that train.
Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable to each State/Union territory for the advertisements on bills pertaining to consumers having billing addresses in each of such State/Union territory.
Advertisements on railway tickets	Amount attributable to each State/Union territory calculated in the ratio of number of Railway Stations in each of such State/Union territory.
Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State/Union territory
Advertisement on television channels	<p>Amount attributable to each State/Union territory calculated basis the viewership of such channel in each of such State/ Union territory which shall be derived as under:</p> <ol style="list-style-type: none"> <li>1) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council.</li> <li>2) Figures for the last week of a given quarter is used for calculating viewership for the succeeding quarter.</li> <li>3) Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, is calculated in ratio of the</li> <li>4) populations of that State/Union territory, as determined in the latest Census.</li> <li>5) The ratio of the viewership figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.</li> </ol>
Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory.
Advertisements on Internet It is deemed that such service is provided all over India.	Amount attributable to each State/Union territory calculated basis the internet subscribers in each of such State/ Union territory which shall be derived in the following manner:

	<ol style="list-style-type: none"><li>1) Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI).</li><li>2) Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year.</li><li>3) Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the subscriber figures for a State/Union territory of that region shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.</li><li>4) The ratio of the subscriber figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.</li></ol>
Advertisements through SMS	<p>Amount attributable to each State/Union territory calculated on the basis of the telecom subscribers in each of such State/ Union territory.</p> <ol style="list-style-type: none"><li>a) Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter.</li><li>b) Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber figures for that State/Union territory shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.</li></ol>

***Clarification regarding place of supply of online services supplied by the suppliers of services to unregistered recipients [Circular No. 242/36/2024 GST dated 31.12.2024]***

It is clarified that in respect of following cases of supplies to unregistered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A.:-

- 1) supply of any such online/ digital services,
- 2) OIDAR services and
- 3) online money gaming

**5. INTER-STATE SUPPLY [SECTION 7 OF THE IGST ACT]**

	Supply of Goods	Supply of Services
Subject to	Section 10	Section 12
Supply within India	where the location of the supplier and the place of supply are in— <ol style="list-style-type: none"><li>1) two different States;</li><li>2) two different Union territories; or</li><li>3) a State and a Union territory,</li></ol>	

<b>Import</b>	Supply of goods imported into the territory of India, <u>till they cross the customs frontiers</u> of India	Supply of services imported into the territory of India
<b>Export and residual case</b>	1) when the supplier is located in India and the place of supply is outside India; 2) to or by a Special Economic Zone developer or a Special Economic Zone unit; or 3) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,	

## 6. INTRA-STATE SUPPLY [SECTION 8 OF THE IGST ACT]

	<b>Supply of Goods</b>	<b>Supply of Services</b>
<b>Subject to</b>	Section 10	Section 12
<b>Intra-State Supply</b>	Where the location of the supplier and the place of supply of goods are in the same State or same Union territory	
<b>Not Intra-State supply</b>	1) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit; 2) goods imported into the territory of India till they cross the customs frontiers of India; or 3) supplies made to a tourist referred to in section 15.	supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

## 7. SUPPLIES IN TERRITORIAL WATERS [SECTION 9 OF THE IGST ACT]

Notwithstanding anything contained in this Act, —

- 1) where the location of the supplier is in the territorial waters, the location of such supplier; or
  - 2) where the place of supply is in the territorial waters, the place of supply,
- shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

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# CHAPTER 5 – EXEMPTIONS FROM GST

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## 1. RELEVANT DEFINITIONS

**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 2(47) of the CGST Act, 2017].

**Non-taxable** supply means a supply of goods or services or both which is not leviable to tax under CGST Act or under the IGST Act [Section 2(78) of the CGST Act, 2017].

Thus, under GST, a supply not leviable to tax is also included within the purview of 'exempt supply'.

## 2. POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST ACT/SECTION 6 OF IGST ACT]

(1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both 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) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order 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) The Government may, if it considers necessary or expedient so to do 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 sub-section (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.

**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.

## 3. TYPE OF EXEMPTIONS

Exemption may be absolutely i.e. unconditional exemption; exemption is not subject to any conditions or conditionally i.e. exemption is subject to specified conditions.

The absolute/ unconditional exemption is mandatory in nature. Where the supply of the goods or services or both are unconditionally exempted from whole of the tax, the registered person doesn't have option to collect and pay tax on such supply of goods or services or both. Where the supply of the goods or services or both are unconditionally exempted from part of the tax, the registered

person doesn't have option to collect and pay the tax, in excess of the effective rate, on such supply of goods or services or both.

However, where the exemption is conditional, it is at the option of the registered person whether to avail the same or not.

#### **4. VALIDITY OF EXPLANATION ISSUED FOR CLARIFICATION**

Wherever the Government feels that there is a need to clarify the scope or applicability of any notification/order issued under this section, it can issue an explanation within 1 year of issue of said notification/ order. Such explanation shall have effect as if it was there when first such notification/ order was issued, i.e. explanation so inserted would be effective retrospectively.

#### **5. GOODS EXEMPT FROM TAX**

Under GST, 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.

[Details of Goods exempted from GST not in Intermediate syllabus]

#### **6. LIST OF SERVICES EXEMPT FROM TAX**

Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 has exempted the various services wholly from CGST.

##### **SERVICES RELATED TO CHARITABLE AND RELIGIOUS ACTIVITIES**

Entry No	Details of Service
1	Services by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of charitable activities.
13	Services by a person by way of- a) conduct of any religious ceremony; 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 section 10(23C)(v) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the said Income-tax Act. However, nothing contained in entry (b) of this exemption shall apply to- I. renting of rooms where charges are 1,000 or more per day; II. renting of premises, community halls, kalyanmandapam or open area, and the like where charges are 10,000 or more per day; III. renting of shops or other spaces for business or commerce where charges are ` 10,000 or more per month.
60	Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.
80	Services by way of training or coaching in- (a) recreational activities relating to arts or culture, by an individual, or (b) sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.

Some important points

1. **Services provided to charitable or religious trusts are not outside the ambit of GST. Unless specifically exempted, all goods and services supplied to charitable or religious trusts are leviable to GST.**
2. as per Entry 60, the services provided by the Haj Committee and KMVN (Kumaon Mandal Vikas Nigam Limited a Government of Uttarakhand Undertaking) in relation to a religious pilgrimage facilitated by GoI are not liable to GST.
3. 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.
4. 'charitable activities' mean activities relating to-
  - a. PUBLIC HEALTH by way of-
    - i. care or counseling of
    - ii. terminally ill persons or persons with severe physical or mental disability;
    - iii. persons afflicted with HIV or AIDS;
    - iv. persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
    - v. public awareness of preventive health, family planning or prevention of HIV infection;
  - b. ADVANCEMENT OF RELIGION, spirituality or yoga;
  - c. ADVANCEMENT OF EDUCATIONAL PROGRAMMES/SKILL DEVELOPMENT relating to,-
    - i. abandoned, orphaned or homeless children;
    - ii. physically or mentally abused and traumatized persons;
    - iii. prisoners; or
    - iv. persons over the age of 65 years residing in a rural area;
  - d. PRESERVATION OF ENVIRONMENT including watershed, forests & wildlife.
5. The term 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.
6. Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities as defined above

### **AGRICULTURE RELATED SERVICES**

Entry No	Details of Service
24	Services by way of loading, unloading, packing, storage or warehousing of rice.
24A	Services by way of warehousing of minor forest produce.
24B	Services by way of storage/ warehousing of cereals, pulses, fruits and vegetables.
54	Services relating 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 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;

	<p>(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(f) agricultural extension services;</p> <p>(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p>
55	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.
55A	Services by way of artificial insemination of livestock (other than horses).

1. Agricultural Extension Services (AES) means the application of scientific research and knowledge to agricultural practices through farmer education or training.
2. Processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and therefore do not fall within item (e) of entry 54
3. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce and not eligible for exemption under Entry 55.
4. Any service provided by bodies specified in entry no 54(g) which is not directly related 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, will be liable to tax e.g. renting of shops or other property for commercial purposes.

### **EDUCATION SERVICES [ENTRY NO 66 & 66A]**

#### **Entry No 66**

Services provided by an educational institution -

1. to its students, faculty and staff;
2. by way of conduct of entrance examination against consideration in the form of entrance fee;

Services 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 periodical

Provided that nothing contained in sub-items (i), (ii) and (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 item (b) shall apply to an institution providing services by way of, -

- (vi) pre-school education and education up to higher secondary school or equivalent; or
- (vii) education as a part of an approved vocational education course.

Summary of exemptions available in respect of input and output services of an educational institution

Type of educational institution			
	Educational institution providing pre-school education and education up to higher secondary school or equivalent	Educational institution providing education as a part of a curriculum for obtaining a recognized qualification	Educational institution providing Education as a part of approved vocational education course
Exempt Input Service	(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	(i) services relating to admission to, or conduct of examination by, such institution (ii) supply of online educational journals or periodical	Services relating to admission to, or conduct of examination by, such institution.
Exempt output services	Services 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.		

#### **Some important points**

**Educational institution** means an institution providing services by way of, -

1. pre-school education and education up to higher secondary school or equivalent;
2. education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
3. education as a part of an approved vocational education course.
4. 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.

**An approved vocational education course means, -**

- ✓ A course run by an ITI/ ITC affiliated to the National Council for Vocational Education and Training (NCVT) or State Council for Vocational Training (SCVT) offering courses in designated trades notified under the Apprentices Act, 1961 or
- ✓ a Modular Employable Skill Course, approved by the NCVET, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship.

**Educational institutions providing qualification recognized by law**

In case where a course in a college leads to dual qualification only one of which is recognized by law, would service provided by the college by way of such education be covered by the exemption notification?

Provision of dual qualifications is in the nature of two separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.

If an artificial bundle of service is created by clubbing two courses together, when only single fee is charged for both, only one of which leads to a qualification recognized by law, if such extra course/qualification is not bundled in the ordinary course of business, it shall be treated as a mixed supply and attracts highest rate of GST.

**Services by IIM**

1. With effect from 31.01.2018, Indian Institutes of Management Act, 2018 came into force. This Act has empowered IIMs to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes. Resultantly, all the IIMs are now “educational institutions” as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.
2. IIMs provide various long duration programs (1 year or more) for which they award diploma/ degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Therefore, it is clarified that services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST.
3. IIMs also provide various short duration/ short term programs (less than 1 year) for which they award participation certificate to the executives/ professionals as they are considered as “participants” of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST. Such short duration executive programs attract standard rate of GST @ 18% (CGST 9% + SGST 9%) [Circular No. 82/01/2019 GST dated 01.01.2019].

**Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India**

Under Entry 66 of the exemption notification, services provided by educational institutions to its students, faculty and staff are exempt only when such institution falls under the definition of educational institution provided under the exemption notification. Educational institution has been

defined to mean, inter alia, an institution providing services by way of education as a part of a curriculum for obtaining a qualification/degree recognized by law.

In this regard, it has been clarified that Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, Maritime Training Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST subject to fulfilment of other conditions specified under entry 66 of the exemption notification.

[Circular No. 117/36/2019 GST dated 11.10.2019]

**Clarification regarding applicability of GST on supply of food in anganwadis and schools**

Any catering service provided to an educational institution is exempt from GST and it includes mid-day meal service also. The scope of this entry is thus wide enough to cover any serving of any food to a school (including pre-school). Also, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

**Clarification regarding GST on supply of various services by Central and State Boards**

It is clarified that:

1. 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.
2. GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution under Entry 66. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.
3. GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards under Entry 66(b)(iv).
4. GST is applicable to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services.

**Clarification regarding 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**

Consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt. Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption.

**Entry No 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.

It has been clarified by CBIC that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions. [Circular No. 234/28/2024 GST dated 11.10.2024]

It has been clarified by CBIC that such services of affiliation, provided to schools other than government school by Central or State educational boards or councils, or other similar bodies, by whatever name called, are taxable [Circular No. 234/28/2024 GST dated 11.10.2024].

### **HEALTH CARE SERVICES**

46	Services by a veterinary clinic in relation to health care of animals or birds.
74	Services by way of- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; However, 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. (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

#### **Other important points**

1. **"health care services" means** any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but 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.

2. Following systems of medicines are the recognized systems of medicines in India:-

3. Allopathy	4. Yoga	5. Naturopathy
6. Ayurveda	7. Homeopathy	8. Siddha
9. Unani	10. Any other system of medicine that may be recognized by Central Government	

3. **"clinical establishment" means** 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 recognised 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.
4. diagnostic or investigative services of diseases provided by pathological labs are not liable to GST
5. CBIC that services provided by senior doctors/ consultants/ technicians, whether employees or not, are healthcare services which are exempt from GST [Circular No. 32/06/2018 GST dated 12.02.2018]
6. Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable.
7. Supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable [Circular No. 32/06/2018 GST dated 12.02.2018]

8. Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST.
9. Abnormality/disease/ailment of infertility is treated using ART procedure such as IVF, it is clarified that services by way of IVF are also covered under the definition of health care services.

**SERVICES PROVIDED BY GOVERNMENT**

4	Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution are exempt.
5	Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.
6	<p>Services by the Central Government, State Government, Union territory or local authority excluding the following services-</p> <p>(a) services by the Department of Posts and the Ministry of Railways (Indian Railways);</p> <p>(b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(c) transport of goods or passengers; or</p> <p>(d) any service, other than services covered under entries (a) to (c) above, provided to business entities.</p> <p>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 Entry 6 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority. [Circular No. 190/02/2023 GST dated 13.01.2023]</p>
7	<p>Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.</p> <p>Explanation - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services: -</p> <p>(i) item (a), (b) and (c) of Entry 6 above.</p> <p>(ii) services by way of renting of immovable property.</p>
8	<p>Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.</p> <p>However, nothing contained in this entry shall apply to services referred in item (a), (b) and (c) of Entry 6 above.</p>
9	<p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed ` 5,000.</p> <p>However, nothing contained in this entry shall apply to services referred in item (a), (b) and (c) of Entry 6 above</p> <p>Further, in case where continuous supply of service 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 ` 5,000 in a FY.</p>
9C	Supply of service by a Government Entity 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, in the form of grants.

9D	Services by: an old age home run by: 1. Central Government, State Government or 2. 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.
9E	Services provided by Ministry of Railways (Indian Railways) to individuals by way of - 1) sale of platform tickets; 2) facility of retiring rooms/waiting rooms; 3) cloak room services; 4) battery operated car services.
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).
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.
24C	Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).
34A	Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.
47	Services provided by the Central Government, State Government, Union territory or local authority by way of- (a) registration required under any law for the time being in force; (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.
61	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving license, birth certificate or death certificate.
61A	Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States.
62	Services provided by the Central Government, State Government, Union territory or local authority 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.
63	Services provided by the Central Government, State Government, Union territory or local authority 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.
65	Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.

65A	Services by way of providing information under the Right to Information Act, 2005
65B	<p>Services supplied by a State Government 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.</p> <p>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 (67 of 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.</p> <p>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 goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.</p>
74A	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.

**Governmental authority:** means 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 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.

**Government Entity:** 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 90%, 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.

### **CONSTRUCTION SERVICES**

10	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a 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.
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10A	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.
11	Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.

The term 'residential complex' means any complex comprising of a building or buildings, having more than one single residential unit. Further, 'single residential unit' means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.

### **PASSENGER TRANSPORTATION SERVICES**

15	<p>Transport of passengers, with or without accompanied belongings, by—</p> <ol style="list-style-type: none"><li>1) 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;</li><li>2) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</li><li>3) stage carriage other than air- conditioned stage carriage:</li></ol> <p>Provided that nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017</p>
16	<p>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 RCS (Regional Connectivity Scheme) airport, against consideration in the form of viability gap funding.</p> <p>However, nothing contained in this entry shall apply on or after the expiry of a period of 3 years from the date of commencement of operations of the RCS airport as notified by the Ministry of Civil Aviation.</p>
17	<p>Service of transportation of passengers, with or without accompanied belongings, by—</p> <ol style="list-style-type: none"><li>a) railways in a class other than—<ol style="list-style-type: none"><li>a. first class; or</li><li>b. an air-conditioned coach;</li></ol></li><li>b) metro, monorail or tramway;</li><li>c) inland waterways;</li><li>d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and</li><li>e) metered cabs or auto rickshaws (including e-rickshaws).</li></ol> <p>Provided that nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017</p>

**Contract carriage:** means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person

with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-

- a) on a time, basis, whether or not with reference to any route or distance; or
- b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes--
  - a. a maxicab; and
  - b. a motor cab notwithstanding that separate fares are charged for its passengers

**Metered cab** means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder (but does not include radio taxi).

**Radio taxi** means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service.

**E-rickshaw** means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.

**Stage carriage:** means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey

**'Public transport'** used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned.

***Hiring of non-air conditioned contract carriages by firms for transportation of their employees to and from work***

Exemption under this clause would apply to passenger transportation services by non-air conditioned contract carriages where 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.

Circular No. 177/09/2022 GST dated 03.08.2022

**GOODS TRANSPORTATION SERVICES**

18	Services by way of transportation of goods- <ul style="list-style-type: none"><li>(a) by road except the services of—<ul style="list-style-type: none"><li>(i) a goods transportation agency;</li><li>(ii) a courier agency;</li></ul></li><li>(b) by inland waterways.</li></ul> Explanation. - Nothing contained in this entry shall apply to:
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	<p>(i) local delivery services provided by an Electronic Commerce Operator; or</p> <p>(ii) local delivery services provided through an Electronic Commerce Operator.</p> <p>It is clarified that transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time is not covered by this entry and treated as "Renting of Vehicle" [Circular No. 177/09/2022 GST dated 03.08.2022]</p>
20	<p>Services by way of transportation by rail or a vessel from one place in India to another of the following goods –</p> <p>(a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;</p> <p>(b) defence or military equipments;</p> <p>(c) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(e) agricultural produce;</p> <p>(f) milk, salt and food grain including flours, pulses and rice; and</p> <p>(g) organic manure.</p>

***Transport of minerals within a mining area by vehicles deployed with driver for a specific duration of time***

whether transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time would be covered under Entry 18?

it is clarified that such renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator and not service of transportation of goods by road. Consequently, it is not eligible for exemption under Entry 18

[Circular No. 177/09/2022 GST]

**GOODS TRANSPORT AGENCY (GTA) SERVICE**

21	<p>Services provided by a goods transport agency, by way of transport in a goods carriage of –</p> <p>(a) agricultural produce;</p> <p>(b) milk, salt and food grain including flour, pulses and rice;</p> <p>(c) organic manure;</p> <p>(d) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or</p> <p>(f) defence or military equipments.</p>
21A	<p>Services provided by a GTA to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: -</p> <p>(a) any factory registered under/governed by the Factories Act, 1948; or</p> <p>(b) 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; or</p> <p>(c) any Co-operative Society established by or under any law for the time being in force; or</p> <p>(d) any body corporate established, by or under any law for the time being in force; or</p> <p>(e) any partnership firm whether registered or not under any law including association of persons;</p>

	(f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.
21B	Services provided by a GTA, 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.

**‘Goods Transport Agency’** means any person who provides service in relation to transport of goods by road and issues a consignment note by whatever name called, but does not include  
(i) an electronic commerce operator by whom the services of local delivery are provided,  
(ii) an electronic commerce operator through whom the services of local delivery are provided.

***Significance of the term ‘in relation to’ in the definition of GTA***

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  
[Circular No. 234/28/2024 GST]

**BANKING AND FINANCIAL SERVICES**

27	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.
27A	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).
34	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.
39A	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR). Explanation. - For the purposes of this entry, the intermediary of financial services in IFSC is a person, -

	(i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or (ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.
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### ***Invoice Discounting***

Invoice discounting/ cheque discounting or any other similar form of discounting is covered only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.

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

In cases where the Equated Monthly Instalment (EMI) is not paid at the scheduled time, there is a levy of additional/ penal interest on account of delay in payment of EMI.

Since this levy of additional/ penal interest satisfies the definition of “interest” as contained in Entry 27 above, the same cannot be treated as consideration for liquidated damages. Consequently, transaction of levy of additional/ penal interest does not fall within the ambit of Schedule II i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act [Circular No. 102/21/2019-GST]

### ***Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI)***

If such charges charged by bank/loan provider then such charges/interest is not taxable but if such charges charged by seller then include in value as per section 15.

## **LIFE INSURANCE BUSINESS SERVICES**

28	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.
29	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.
29A	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.
29B	Services of life insurance provided/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.
36	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 ` 2,00,000; (d) Varishtha Pension BimaYojana; (e) Pradhan Mantri Jeevan Jyoti BimaYojana; (f) Pradhan Mantri Jan DhanYogana; (g) Pradhan Mantri Vaya Vandan Yojana. **Life micro-insurance product means any term insurance contract with/without return of premium, any endowment insurance contract or health insurance contract, with/without an accident benefit rider, either on individual/group basis, as per terms stated in Schedule-II appended to the regulations
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**SERVICES PROVIDED BY SPECIFIED BODIES**

30	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948.
31	Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.
31A	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.
31B	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.

**GENERAL INSURANCE BUSINESS SERVICES**

35	Services of general insurance business provided under following schemes – (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna; (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), approved by the Government of India and implemented by the Ministry of Agriculture; (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 BimaYojna; (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. (r) Bangla Shasya Bima
36A	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36.

36B	Services of insurance provided by the Motor Vehicle Accident Fund, constituted under section 164B of the Motor Vehicles Act, 1988 (59 of 1988), against contributions made by insurers out of the premiums collected for third party insurance of motor vehicles.
36C	Services of life insurance business provided by an insurer to the insured, where the insured is not a group. Explanation: For the removal of doubts, it is hereby clarified that: a. This exemption shall apply to a contract of insurance where the insured is an individual, or an individual and family of the said individual. b. For the purposes of (a) above, family shall include all individuals insured as family in the contract of insurance.
36D	Services of health insurance business provided by an insurer to the insured, where the insured is not a group. Explanation: For the removal of doubts, it is hereby clarified that: a. This exemption shall apply to a contract of insurance where the insured is an individual, or an individual and family of the said individual. b. For the purposes of (a) above, family shall include all individuals insured as family in the contract of insurance.
36E	Reinsurance of the insurance services specified in serial numbers 36C or 36D.

For the purposes of entries at serial numbers 36C and 36D in the table above, '**group**' means group of persons who join together with a commonality of purpose or for engaging in a common economic activity, other than availing insurance, and includes:

- a. Employer– employee groups, where an employer-employee relationship exists between the master/group policyholder and the members of the group in accordance with the applicable laws;
- b. Non employer– employee groups, where a clearly evident relationship exists between the master/group policyholder and the members of the group, for services/ activities other than insurance.

**'Health insurance business'** means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, whether inpatient or out-patient, travel cover and personal accident cover.

**"insurer"** has the same meaning as assigned to it in sub-section (9) of section 2 of the Insurance Act, 1938.

As per Section 2(9) of the Insurance Act, 1938, "Insurer" means—

- (a) an Indian Insurance Company, or
- (b) a statutory body established by an Act of Parliament to carry on insurance business, or
- (c) an insurance co-operative society, or
- (d) a foreign company engaged in re-insurance business through a branch established in India.

Explanation. — For the purposes of this sub-clause, the expression "foreign company" shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd's established under the Lloyd's Act, 1871 (United Kingdom) or any of its Members.

### ***Clarification regarding Retrocession***

"Retrocession" 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). It has been clarified that the term "reinsurance" includes "retrocession" services.

[Circular No. 228/22/2024]

**PENSION SCHEMES**

37	Services by way of collection of contribution under the Atal Pension Yojana.
38	Services by way of collection of contribution under any pension scheme of the State Governments.

**BUSINESS FACILITATOR/CORRESPONDENT [ENTRY NO 39]**

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.

**SERVICES PROVIDED TO GOVERNMENT**

3	Pure services provided TO Government: <ul style="list-style-type: none"><li>1. Pure services (excluding works contract service or other composite supplies involving supply of any goods)</li><li>2. provided to the Central Government, State Government or Union territory or local authority</li><li>3. by way of any activity:<ul style="list-style-type: none"><li>a) in relation to any function entrusted to a Panchayat under article 243G of the Constitution or</li><li>b) in relation to any function entrusted to a Municipality under article 243W of the Constitution.</li></ul></li></ul>
3A	Composite supply of goods and services TO Government: <ul style="list-style-type: none"><li>1. 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</li><li>2. provided to the Central Government, State Government or Union territory or local authority</li><li>3. by way of any activity:<ul style="list-style-type: none"><li>a) in relation to any function entrusted to a Panchayat under article 243G of the Constitution or</li><li>b) in relation to any function entrusted to a Municipality under article 243W of the Constitution.</li></ul></li></ul>
3B	Services provided to a Governmental Authority by way of — <ul style="list-style-type: none"><li>(a) water supply;</li><li>(b) public health;</li><li>(c) sanitation conservancy;</li><li>(d) solid waste management; and</li><li>(e) slum improvement and upgradation.</li></ul>

11A	Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.
40	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.
72	Services provided to the Central Government, State Government, Union territory administration under any training programme for which <b>75% or more</b> of the total expenditure is borne by the Central Government, State Government, Union territory administration.

***Clarification in respect of applicability of GST on facility management services provided to Municipal Corporation of Delhi (MCD) Headquarters.***

MCD is receiving the services such as housekeeping, civil maintenance, furniture maintenance and horticulture, from facility management agency, for the upkeep of their office. Whether such services exempt under 3A?

The services of facility management are not supplied in relation to performing any functions entrusted to a Municipality under Article 243W of the Constitution of India. Such services are not covered under the scope of entry at Sr. No. 3A

[Circular No. 245/02/2025-GST]

**LEASING SERVICES**

41	<p>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.</p> <p><b><i>Upfront amount paid in instalments</i></b></p> <p>Aforesaid exemption is admissible irrespective of whether such upfront amount is payable/paid in one/more instalments, provided the amount is determined upfront<sup>53</sup>.</p> <p><b>Explanation</b> - For the purpose of this exemption, the Central Government, State Government or Union territory shall have 20% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.</p> <p><b>Conditions:</b></p> <ol style="list-style-type: none"><li>1) The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area.</li><li>2) State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard.</li><li>3) In case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee/ buyer/ owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty.</li></ol>
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	4) The lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease/ sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.
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***Location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease***

Upfront amount is exempt from GST. Allowing choice of location of plot is integral part of supply of long-term lease of plot and therefore, location charge is nothing, but part of consideration charged for long term lease of plot. Being charged upfront along with the upfront amount for the lease, the same is exempt.

Accordingly, 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 under Entry 41

[Circular No. 177/09/2022 GST]

**LEGAL SERVICES [ENTRY NO 45]**

Services provided by-

- a) an arbitral tribunal to –
  - a. any person other than a business entity; or
  - b. a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;
  - c. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.
- b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-
  - a. an advocate or partnership firm of advocates providing legal services;
  - b. any person other than a business entity; or
  - c. a business entity with an aggregate turnover up to up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;
  - d. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.
- c) a senior advocate by way of legal services to-
  - a. any person other than a business entity; or
  - b. a business entity with an aggregate turnover up to up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.
  - c. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

**SPONSORSHIP OF SPORTS EVENTS [ENTRY NO 53]**

Services by way of sponsorship of sporting events organised -

- a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;

- b) 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;
- c) by the Central Civil Services Cultural and Sports Board;
- d) as part of national games, by the Indian Olympic Association; or
- e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.

**SKILL DEVELOPMENT SERVICES**

69	Any services provided by - <ul style="list-style-type: none"><li>a) the National Skill Development Corporation set up by the Government of India;</li><li>b) the National Council for Vocational Education and Training;</li><li>c) an Awarding Body recognized by the National Council for Vocational Education and Training;</li><li>d) an Assessment Agency recognized by the National Council for Vocational Education and Training;</li><li>e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training;</li><li>f) a training partner approved by the National Skill Development Corporation, in relation to-<ul style="list-style-type: none"><li>a. the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or</li><li>b. a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</li><li>c. 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.</li></ul></li></ul>
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.
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 training courses certified by the National Council for Vocational Education and Training.

**PERFORMANCE BY AN ARTIST [ENTRY NO 78]**

Services by an artist by way of a performance in folk or classical art forms of-

- (a) music, or
- (b) dance, or
- (c) theatre,

if the consideration charged for such performance is not more than 1,50,000 are exempt from GST.

However, the exemption shall not apply to service provided by such artist as a brand ambassador. '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.

**RIGHT TO ADMISSION TO VARIOUS EVENTS**

79	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo
79A	Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites & Remains Act 1958 or any of the State Acts, for the time being in force.
81	<p>Services by way of right to admission to-</p> <ul style="list-style-type: none"><li>a) circus, dance, or theatrical performance including drama or ballet;</li><li>b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;</li><li>c) recognised sporting event;</li><li>d) planetarium,</li></ul> <p>where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than 500 per person.</p> <p><b>Recognised sporting event</b> means any sporting event, -</p> <ul style="list-style-type: none"><li>a. organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;</li><li>b. organized<ul style="list-style-type: none"><li>i. by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State or zone;</li><li>ii. 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;</li><li>iii. by Central Civil Services Cultural and Sports Board;</li><li>iv. as part of national games, by Indian Olympic Association; or</li><li>v. under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme.</li></ul></li></ul> <p><b>Recognised sports body</b> means—</p> <ul style="list-style-type: none"><li>1) the Indian Olympic Association;</li><li>2) Sports Authority of India;</li><li>3) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;</li><li>4) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;</li><li>5) the International Olympic Association or a federation recognised by the International Olympic Association; or</li><li>6) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India;</li></ul>
82A	Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020 whenever rescheduled
82B	Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022

**SERVICES BY AN UNINCORPORATED BODY OR A NON- PROFIT ENTITY**

77	<p>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 –</p> <ul style="list-style-type: none"><li>(a) as a trade union</li></ul>
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	<p>(b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or</p> <p>(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.</p>
77A	<p>Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in, -</p> <p>(i) activities relating to the welfare of industrial or agricultural labour or farmers; or</p> <p>(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 1000/- per member per year.</p>

**Clarification on issues related to GST on monthly subscription/ contribution charged by a Residential Welfare Association from its members**

1. 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. 7,500/- 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.

2. A RWA has aggregate turnover of Rs. 20 lakh or less in a FY. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than Rs. 7500/- per month per member?

No. If aggregate turnover of an RWA does not exceed Rs.20 Lakh in a FY, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds Rs. 7,500/- per month per member.

RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than Rs. 7,500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also Rs. 20 lakh or more.

Annual turnover of RWA	Monthly maintenance charge	Whether exempt?
More than Rs. 20 lakhs	More than Rs. 7,500/-	No
	Rs. 7,500/- or Less	Yes
Rs. 20 lakhs or less	More than Rs. 7,500/-	Yes
	Rs. 7,500/- or Less	Yes.

3. Is the RWA entitled to take ITC of GST paid on input and services used by it for making supplies to its members and 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?

RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.

4. Where a person owns 2 or more flats in the housing society/residential complex, whether the ceiling of Rs. 7,500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?

As per general business sense, a person who owns 2 or more residential apartments in a housing society/residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7,500/- per month per member shall be applied separately for each residential apartment owned by him.

For example, if a person owns 2 residential apartments in a residential complex and pays Rs. 15,000/- per month as maintenance charges towards maintenance of each apartment to the RWA (Rs. 7,500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.

**OTHER EXEMPT SERVICES**

2	Services by way of transfer of a going concern, as a whole or an independent part thereof. 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, but shall not cover mere or predominant transfer of an activity comprising a service. Transfer of business for a lump sum consideration commonly referred to as slump sale is covered under this entry. Such sale of business as a whole will comprise comprehensive sale of immovable property, goods and transfer of unexecuted orders, employees, goodwill etc. Since the transfer in title is not merely a transfer in title of either the immovable property or goods or even both it may amount to service and has thus been exempted.
12	Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person. Explanation 1 — 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.
12A	Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days.
19C	Satellite launch services.
22	Services by way of giving on hire – a) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers; or aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers; EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle. 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.
23	Service by way of access to a road or a bridge on payment of toll charges. It is clarified that higher toll charges for overloading or not having fastag will also treated same as normal toll charges.
25	Transmission/distribution of electricity by an electricity transmission/ distribution utility. However, in this regard CBIC has clarified that the other services provided by DISCOMS (distribution companies) to consumer against charges are liable to GST such as, - 1) Application fee for releasing connection of electricity; 2) Rental Charges against metering equipment; 3) Testing fee for meters/transformers, capacitors etc.; 4) Labour charges from customers for shifting of meters or shifting of service lines; 5) charges for duplicate bill [Circular No. 34/8/2018 GST dated 01.03.2018].
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 or distribution of electricity provided by electricity transmission or distribution utilities to their consumers.
44	Services provided by an incubatee up to a total turnover of ` 50 lakh in a financial year subject to the following conditions, namely: - a) the total turnover had not exceeded ` 50 lakh during the preceding financial year; and b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee. Incubatee: means an entrepreneur located within the premises of a Technology Business Incubator (TBI)/ Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India (NSTEDB) and who has entered into an agreement with the TBI/STEP to enable himself to develop and produce hi-tech and innovative products.
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.
48	Taxable services, provided or to be provided, by a TBI/STEP recognised by NSTEDB or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India (BIRAC).
49	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.
50	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.
52	Services by an organiser to any person in respect of a business exhibition held outside India.

57	Services by way of 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.
58	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.
59	Services by a foreign diplomatic mission located in India.
68	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 organised by a recognized sports body; b) another recognised sports body. However, services by individuals such as selectors, commentators, curators, technical experts are taxable. The service of a player to a franchisee which is not a recognized sports body is also taxable. The term 'recognised sports body' has been defined earlier in this chapter.
76	Services by way of <b>public conveniences</b> such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

**Clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc.**

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 is covered by Para 5 of Schedule III and accordingly, does not attract GST.

However, any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

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## CHAPTER 6 – TIME OF SUPPLY

### *Relevant Sections*

Section 12	:	Time of supply of goods.
Section 13	:	Time of supply of services.
Section 15	:	Value of taxable supply. [Rule 27-35 excluded from syllabus]

### **1. RELEVANT DEFINITIONS**

1. **Associated enterprises** shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961 [Section 2(12)].  
Broadly, an associated enterprise in relation to another enterprise, means an enterprise which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.
2. **Document** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].
3. **Voucher** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].

### **2. TIME OF SUPPLY OF GOODS [SECTION 12]**

Liability to pay tax on taxable supply arises at the time of supply. Section 12 determines which date shall be taken as date for payment of tax.

Section 12 provides for the determination of time of supply in the following situations:

- 1) Supply of goods where supplier is liable to pay tax;
- 2) Supply of goods that are taxable under reverse charge;
- ~~3) Supply of vouchers that can be used to pay for goods; [deleted w.e.f. 01-10-2025]~~
- 4) Residual cases
- 5) Addition to value of supply of goods by way of interest or late fee or penalty for delayed payment.

#### **SUPPLY OF GOODS WHERE SUPPLIER IS LIABLE TO PAY TAX (FORWARD CHARGE) [SECTION 12(2) READ WITH SECTION 31]**

As per section 12(2), the time of supply of goods that are taxable under forward charge, is the **earlier** of the following two dates:

- a) Date of issue of invoice by the supplier or the last date on which the invoice ought to have been issued in terms of section 31, to the extent the invoice covers the supply of goods; or
- b) Date of receipt of payment by the supplier, to the extent the payment covers the supply of goods.

**Exemption from payment of tax on advances received for supply of goods –**

Notification No. 66/2017-CT specify that a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) should pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

**Meaning of “Date of receipt of payment”**

“Date of receipt of payment” in the above situation refers to the date on which the payment is recorded in the books of account of the entity (supplier of goods) that receives the payment, or the date on which the payment is credited to the entity’s bank account, whichever is earlier.

**Significance of “to the extent the invoice or payment covers the supply of goods”**

Suppose, a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply is deemed to have been made to the extent it is covered by the invoice or the part advance payment.

**Time limit for issuance of invoice for supply of goods [Section 31]**

- 1) As per section 31(1), the invoice needs to be issued either before or at the time of removal of goods (where supply involves movement of goods) or delivery of goods/ making goods available to recipient (in any other case).
- 2) In case of continuous supply of goods, the invoice should be issued before or at the time of issuance of periodical statement/receipt of periodical payment [Section 31(4)].
- 3) In case of goods sent or taken on approval for sale or return, invoice should be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier [Sec. 31(7)].

**Excess payment upto 1000: Option of taking invoice date as time of supply**

A payment of up to 1,000 received in excess of the value of the goods invoiced, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of goods for such excess value. Since, w.e.f. 15.11.2017, GST on supply of goods is payable only on the basis of issuance of invoice, this provision is practically irrelevant for supply of goods.

**SUPPLY OF GOODS THAT ARE TAXABLE UNDER REVERSE CHARGE [SEC. 12(3)]**

The time of supply of goods on which GST is payable on reverse charge basis under sub-sections (3) and (4) of section 9 of CGST Act is determined in terms of section 12(3)(a), (b) and (c), as follows:

The time of supply for such goods will be the **earliest** of the following dates:

- 1) Date on which the goods are received, or
- 2) Date on which payment is recorded in the books of account of the recipient, or the date on which the same is debited in his bank account, whichever is earlier, or
- 3) Date immediately following 30 days from the date of issue of invoice (or document by some other name in lieu of invoice) by the supplier.

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of goods in the books of account of the recipient of supply.

**RESIDUAL CASE [SECTION 12(5)]**

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 12, in the following manner:

- a) Due date for filing of the periodical return, or
- b) In any other case, date on which GST is paid.

### **3. TIME OF SUPPLY OF SERVICES [SECTION 13]**

Section 13 provides for the determination of the time of supply in the following situations:

- 1) Supply of service on which the supplier is liable to pay tax,
- 2) Supply of service that is taxable under reverse charge basis,
- 3) Residual cases,
- 4) Addition to value of supply of services by way of interest or late fee or penalty for delayed payment.

#### **SUPPLY OF SERVICE WHERE SUPPLIER IS LIABLE TO PAY TAX (FORWARD CHARGE) [SECTION 13(2) READ WITH SECTION 31 AND RULE 47 OF CGST RULES]**

For supply of service on which the supplier is liable to pay tax, the time of supply will be the earlier of the dates arrived at by methods (A) and (B), as follows:

- A. Date of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services), whichever is earlier, if the invoice is issued within the time prescribed under section 31;
- B. Date of provision of service or date of receipt of payment (to the extent the payment covers the supply of services), whichever is earlier, if the invoice is not issued within the time prescribed under section 31,

If the above two methods [(A) and (B)] are not applicable, the time of supply will be the date on which the recipient of service shows receipt of the service in his books of account.

#### **Meaning of “date of receipt of payment”**

[Same as in case of goods]

#### **Significance of “to the extent the invoice or payment covers the supply of services”**

[Same as in case of goods]

#### **Time limit for issuance of invoice for supply of services**

- 1) As per section 31(2) read with rule 47 of CGST Rules, the tax invoice needs to be issued either before the provision of service or within 30 days (45 days in case of insurance companies/ banking companies/ financial institutions including NBFCs) from the date of supply of service.
- 2) In case of insurance companies/ banking companies/ financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies between distinct persons as specified in section 25, invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made [Second proviso to rule 47].
- 3) In case of continuous supply of services, the invoice should be issued either
  - a. on/ before the due date of payment – if due date is ascertainable from the contract or
  - b. before/ at the time when the supplier of service receives the payment, if the due date of payment is not known
  - c. on/ before the date of completion of the milestone event when the payment is linked to completion of an event [Section 31(5)].

- 4) In case of cessation of supply of services before completion of supply, the invoice (to the extent of the supply made before such cessation) should be issued at the time when the supply ceases [Section 31(6)].
- 5) In case where invoice required to be issued by a registered person, who is liable to pay tax under sub-section (3) or subsection (4) of section 9, he shall issue the said invoice within a period of thirty days from the date of receipt of the said supply of goods or services, or both, as the case may be.

**Excess payment upto 1000: Option of taking invoice date as time of supply**

In terms of the proviso to sub-section (2) of section 13, for a payment of up to ` 1,000 received in excess of the invoice value, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of services in relation to this excess value.

This provision facilitates the supplier to defer payment of tax on small amounts typically received by him in excess of the invoice amount.

***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: A HAM contract is a single contract for construction as well as operation and maintenance of the highway. It is clarified that the tax liability on the concessionaire under the HAM contract, including on the construction portion, would arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable. If invoices are not issued on or before the specified date or the date of completion of the event specified in the contract, tax liability would arise on the date of provision of the said service (i.e., the due date of payment as per the contract), or the date of receipt of the payment, whichever is earlier.

It is also clarified that as the installments/annuity payable by NHAI to the concessionaire also includes some interest component, the amount of such interest shall also be includible in the taxable value for the purpose of payment of tax on the said annuity/installment in view of the provisions of section 15(2)(d) of the CGST Act, 2017.

**RECEIPT OF SERVICES THAT ARE TAXABLE UNDER REVERSE CHARGE [SECTION 13(3)]**

The time of supply of service on which GST is payable on reverse charge basis (except on services received from associated enterprises located outside India) under sub-sections (3) and (4) of section 9 is determined in terms of section 13(3)(a) and (b) as follows:

The time of supply for such service will be the earlier of the following:

- a) Date of payment, or
- b) Date immediately following 60 days since issue of invoice (or any other document in lieu of invoice) by the supplier, in cases where invoice is required to be issued by the supplier, or

- c) The date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient.

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of the service in the books of account of the recipient of supply.

**Meaning of “Date of payment”**

“Date of payment” in the above situation refers to the date on which the payment is recorded in the books of account of the entity that receives the service (recipient of service), or the date on which the payment is debited from the entity’s bank account, whichever is earlier.

**Import of services between associated enterprises**

In the case of service received from an associated enterprise located outside India, the time of supply will be the date of payment for the service, or the date of entry of the service in the books of account of the recipient, whichever is earlier.

**RESIDUAL CASE [SECTION 13(5)]**

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 13, in the following manner:

- 1) Date on which periodical return for the period is required to be filed, or
- 2) In any other case, date on which GST is paid.

**4. ENHANCEMENT OF VALUE ON ACCOUNT OF INTEREST/LATE FEE ETC. FOR DELAYED PAYMENT OF CONSIDERATION [SECTION 12(6) & 13(6)]**

The provisions for time of supply in case of addition in value by way of interest, late fee/penalty for delayed payment of consideration are the same for goods and services.

Section 13(6) prescribes that time of supply in case of addition in value by way of interest/ late fee/penalty for delayed payment of consideration for a service is the date on which the supplier receives such addition in value.

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# CHAPTER 7 – VALUE OF SUPPLY

## Relevant Sections

**Section 15 : Value of taxable supply. [Rule 27-35 excluded from syllabus]**

### 1. RELEVANT DEFINITIONS

**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 [Section 2(5)].

**Market value** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related [Section 2(73)].

**Money** means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75)].

**“family”** means,—

- ✓ the spouse and children of the person, and
- ✓ the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

### 2. VALUE OF SUPPLY [SECTION 15]

- ❖ As GST is an ad valorem levy, i.e. it is levied as a percentage of the value of supply of goods and/or services, it becomes important to know how to arrive at the value on which tax is to be paid.
- ❖ Section 15 of the CGST Act supplemented with the Chapter IV: Determination of Value of Supply of CGST Rules prescribes the provisions for determining the value of supply of goods and services.
- ❖ Provisions of value of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

The CGST law has different provisions for determining the value of a supply of goods / services in the following situations:

1. Supplies made solely for a price in money (monetary consideration) to unrelated persons [Sub-section (1) of section 15];
2. Supplies made solely for non-monetary consideration, or for part monetary consideration and part non-monetary consideration, or involving additional consideration, or to related persons, or for specific classes of supply - Sub-sections (4) and (5) of section 15 read with the Chapter IV: Determination of Value of Supply of CGST Rules.

### 3. SUPPLIES TO UNRELATED PERSONS WHERE PRICE IS THE SOLE CONSIDERATION

As per section 15(1) When a transaction of supply of goods / services is made

- ✓ between two persons who are not related to each other, and
- ✓ price is the sole consideration for the supply,

the value of supply is the **Transaction value**.

#### What is Transaction Value???

Under section 15(1), the transaction value which is applicable between unrelated persons where price is the sole consideration for the supply is the price actually paid or payable for the said supply of goods or services or both.

This is the price for the specific supply that is being valued. It includes the amount already paid at the time the supply is being valued for tax, as well as the amount payable and not yet paid at that time. The word 'payable' refers to price that is agreed to be paid for the goods / services.

#### Meaning of Related Person

Persons including Legal Person shall be deemed to be "related persons" if—

1. Such persons are officers or directors of one another's businesses;
2. Such persons are legally recognised partners in business;
3. Such persons are employer and employee;
4. 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;
5. One of them directly or indirectly controls the other;
6. Both of them are directly or indirectly controlled by a third person;
7. Together they directly or indirectly control a third person; or
8. They are members of the same family;
9. 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.

#### INCLUSIONS IN VALUE [SECTION 15(2)]

The value of supply includes certain elements which are enumerated and discussed below.

1. Taxes, duties, cesses, fees and charges other than CGST, SGST, UTGST, IGST, GST Compensation Cess, if charged separately
2. Payments to third parties- Any amount that the **supplier is liable to pay** in relation to supply but which has been incurred by the recipient of the supply and not already included in the price.
3. Incidental expenses, such as, commission and packing, charged by the supplier to the recipient of a supply
4. Any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of goods /supply of services
5. Interest or late fee or penalty for delayed payment of consideration
6. Subsidies, directly linked to the price, other than subsidies given by the State or Central Governments

#### **Few Important points:**

1. TCS under Income-Tax Act, 1961 not includible in the taxable value for the purpose of GST

2. 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, outward freight and transit insurance become part of the value of the composite supply and GST is payable thereon at the same 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.
3. Only subsidies directly linked to the price of goods/services are added to the value. Blanket subsidy/donation received are not includible in the price.

### EXCLUSION OF DISCOUNTS FROM VALUE [SECTION 15(3)]

Various kinds of discounts are given by the suppliers to their customers. Such discounts are reduced from the sale price of the supply. Since, the value of a taxable supply is the transaction value, GST is leviable on the value after deducting the discounts.

But not all discounts offered by the supplier to their customers are allowed as a deduction from the value. Only such discounts which satisfy the conditions prescribed in section 15(3), are allowed as deduction from the value.

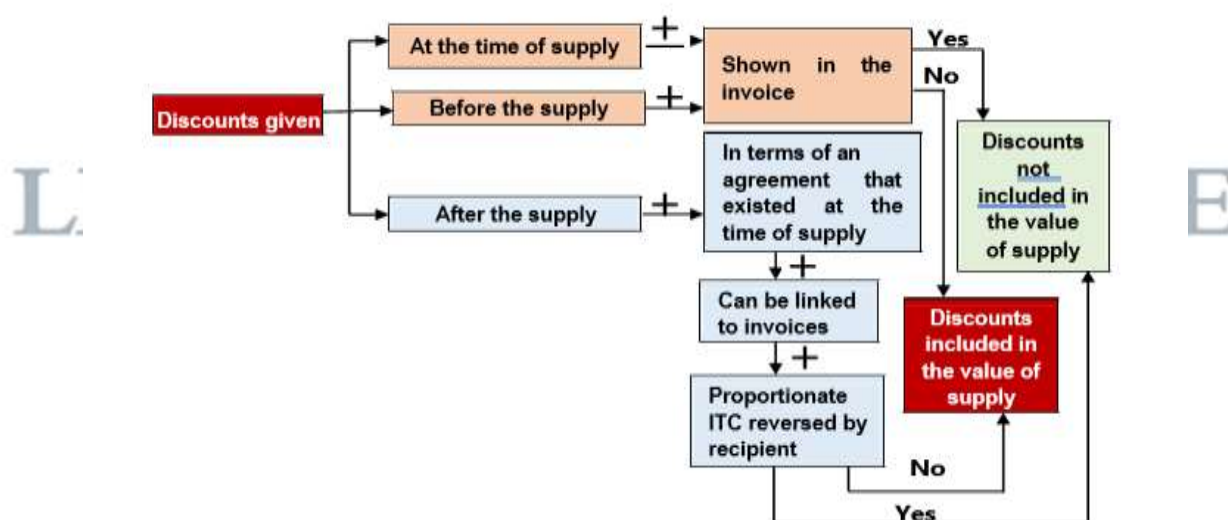
**Discounts that are allowed as deduction from the value are as follows:**

1. Discounts given before or at the time of supply and shown in the invoice
2. **Post supply discounts**

Post supply discounts, i.e. the discounts that are allowed after supply is made are allowed as a deduction from the value of supply if the following two conditions are satisfied:

- A. Discount is in terms of an agreement that existed at the time of supply **and** can be worked out invoice-wise; and
- B. Proportionate input tax credit is reversed by the recipient - The buyer would have paid GST on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.

The supplier, however, can issue a *commercial credit note* for the value of discount. In such a scenario, the buyer will not be required to reverse any input tax credit. [A commercial credit note is not governed under GST law and is issued only for the value of discount/reduction in value of the supply, without any GST.]



**Clarification Regarding NCB discount provided by Insurance Companies**

NCB is a permissible deduction for the purpose of value of supply of the insurance services.  
[Circular No. 186/18/2022 GST]

**Allowability of certain specific types of discounts offered by the suppliers as clarified vide Circular No. 92/11/2019 GST dated 07.03.2019**

**1. Free samples and gifts**

The goods or services or both which are supplied free of cost (without any consideration) shall not be treated as „supply“ under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, it is clarified that 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 said Act.

**2. Buy one get one free offer**

Sometimes, companies announce offers like 'Buy One, Get One free' For example, buy one soap and get one soap free' or 'Get one tooth brush free along with the purchase of tooth paste'. Here, It may appear at first glance that in case of offers like, 'Buy One, Get One Free', one item is being supplied free of cost without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

**3. Staggered discounts ('Buy more, Save more' offers):**

In case of staggered discounts, rate of discount increases with increase in purchase volume. For example - Get 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.

**4. Periodic / year ending discounts/volume discounts:**

These discounts are offered by the suppliers to their stockiest, etc. For example- Get additional discount of 1% if you purchase 10,000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end.

In commercial parlance, such discounts are colloquially 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 sub-section (3) of section 15 of the CGST Act, 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.

**5. Secondary discounts:**

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  
It may be noted that financial / commercial credit note(s) can be issued by the supplier in such case.

**Clarification on various doubts related to treatment of secondary or post-sale discounts under GST [Circular No. 251/08/2025-GST]**

**Issue:** Whether the full input tax credit is available to the recipient of supply when the recipients make discounted payments to the supplier of goods on account of financial/ commercial credit notes issued by the said supplier?

it is clarified that the recipient will not be required to reverse the Input Tax Credit attributed to the discount provided on the basis of financial/ commercial Credit notes issued by the supplier, as there is no reduction in the original transaction value of the supply and accordingly the corresponding tax liability would also not get reduced.

**Issue:** Whether a post-sale discount offered by a manufacturer to its dealer/ distributor, would be treated as a consideration paid by the manufacturer for the dealer's supply of the same goods to the end customer as a monetary value of the inducement to supply of goods manufactured by him to the end customer?

In cases where there is no agreement between the manufacturer and the end customer, there are two independent sale transactions, one from the manufacturer to the dealer and the other from the dealer to the end customer. These discounts are simply given for competitive pricing to push sales and merely reduce the sale price of the goods and are not linked to any independent activity rendered to the manufacturer. Therefore, it is clarified that such a discount cannot be included in consideration as the monetary value of the inducement of further supply of these goods.

However, in cases where the manufacturer has some agreement with an end customer to supply goods at a discounted price, the manufacturer may issue commercial or financial credit notes to the dealer, enabling such dealer to provide the goods at the agreed discounted rate to the end consumer. Therefore, it is clarified that such a post-sale discount, given by the manufacturer to the dealer for supplying goods to the end customer at a discounted rate, should be included in the overall consideration as it is an inducement towards the supply of goods by the dealer to the end customer.

**Issue:** Whether a post-sale discount extended by the manufacturer to the dealer can be treated as a consideration in lieu of the activities performed to promote the sale of the goods?

When dealers receive such post-sale discounts, they may engage in promotional activities to boost sales. However, these activities ultimately enhance the sale of goods that the dealers themselves own. Therefore, it is clarified that post-sale discounts offered by manufacturers to dealers in such cases shall not be treated as consideration for a separate transaction of supply of services.

**4. SUPPLIES WHERE VALUE CANNOT BE DETERMINED U/S 15(1) AND NOTIFIED SUPPLIES [SUB-SECTIONS (4) AND (5) OF SECTION 15]**

- ❖ Section 15(4) lays down that where sub-section (1) is not applicable, that is, if the transaction is with a related party, and/or price is not the sole consideration for the supply of goods / services,

then the value will be determined in the manner as prescribed, which means as stipulated in the rules for valuation.

- ❖ Further, section 15(5) lays down that in respect of certain notified supplies also, the value will be determined in the manner as stipulated in the rules for valuation.

Rules for valuation U/S 15(4) & 15(5) not covered in Intermediate syllabus.



## CHAPTER 8 – INPUT TAX CREDIT

### *Relevant Sections*

Section 16	:	Eligibility and conditions for taking input tax credit.
Section 17	:	Apportionment of credit and blocked credits.
Section 18	:	Availability of credit in special circumstances.
Section 41	:	Availment of input tax credit
Section 49	:	Payment of tax, interest, penalty and other amounts.
Section 49A	:	Utilisation of input tax credit subject to certain conditions
Section 49B	:	Order of utilisation of input tax credit.
Rule 36	:	Documentary requirements and conditions for claiming input tax credit
Rule 37	:	Reversal of input tax credit in the case of non-payment of consideration
Rule 37A	:	Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof

### **1. RELEVANT DEFINITIONS**

**Capital goods** means goods, the value of which is capitalized in the books of account of the person claiming the ITC and which are used or intended to be used in the course or furtherance of business [Section 2(19)].

**Input** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [Section 2(59)].

**Input service** means any service used or intended to be used by a supplier in the course or furtherance of business [Section 2(60)].

**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—

1. the integrated goods and services tax charged on import of goods;
2. the tax payable under the provisions of sub-sections (3) and (4) of section 9;
3. the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
4. the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
5. the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy [Section 2(62)].

### **2. SECTION 16 - ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT**

#### **ELIGIBILITY FOR TAKING ITC [SECTION 16(1)]**

- (a) Registration under GST

- (b) Goods/services to be used for business purposes

**CONDITIONS FOR TAKING ITC [SECTION 16(2)]**

The registered person will be entitled to ITC on a supply only if ALL the following four conditions are fulfilled:

- (a) Possession of tax paying document [Section 16(2)(a) read with rule 36 of the CGST Rules]
- (b) the details of the invoice or debit note communicated by supplier in statement of outward supplies as specified in section 37.
- (c) Receipt of the goods and / or services [Section 16(2)(b)]
- (d) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted [Section 16(2)(ba)]
- (e) Tax leviable on supply actually paid to Government [Section 16(2)(c)]
- (f) Filing of return u/s 39 [Section 16(2)(d)]

**Possession of tax paying document [Section 16(2)(a) read with rule 36 of the CGST Rules]**

ITC can be availed on the basis of any of the following documents:

- i) Invoice issued by the supplier of goods and/or services
- ii) Invoice issued by the recipient receiving goods and/or services from unregistered supplier along with proof of payment of tax, in case of reverse charge
- iii) Debit note issued by the supplier
- iv) Bill of entry or similar document prescribed under the Customs Act
- v) Revised invoice
- vi) Document issued by input service distributor

The documents basis which ITC is being taken should contain at least the following details:

- i) Amount of tax charged
- ii) Description of goods or services
- iii) Total value of supply of goods and/or services
- iv) GSTIN of the supplier and recipient
- v) Place of supply in case of inter-State supply

No ITC of tax paid towards demands involving fraud [Rule 36(3)]: Tax paid in pursuance of any order where any demand has

**Receipt of the goods and/or services [Section 16(2)(b)]**

• The registered person taking the ITC must have received the goods and / or services.  
• In case of a "Bill-to-Ship-to" transaction, ITC will be available to the registered person, on supply of goods/services are delivered to a third person.

***Clarification on availability of input tax credit as per clause (b) of section 16(2) of the CGST Act, 2017 in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract***

In automobile sector, the contract between the automobile dealers and the Original Equipment Manufacturers (OEMs) is generally an Ex-Works (EXW) contract, and as per the terms of the contract, the property in goods (i.e. vehicles) passes to the dealer at the factory gate of the OEM, when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of the OEM is complete at his factory gate.

**Issue** which arose for consideration was whether ITC can be availed by the dealer only after the vehicles are physically received by automobile dealers at his business premises or ITC can be availed on the date the vehicles are billed to him and handed over to the transporter by the OEM at his factory gate.

It is clarified that the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter at his factory gate, even though the goods may be physically received by the dealer and dealer can claim ITC when goods are handed over at factory gate.

The same principle is applicable in respect of supply of other goods also where the contract between the supplier and recipient is an EXW contract.

[Circular No. 241/35/2024]

**Details of ITC in respect of the said supply communicated to the registered person under section 38 not restricted**

GSTR-2B contains the details of inward supplies (i) on which ITC is available to the recipient as well as (ii) on which ITC cannot be availed. Restrictions u/s 38 as follows:

- 1) ITC will not be available in respect of inward supplies details of which have been furnished by a registered supplier: who is a new registrant (within such prescribed period of taking registration)
- 2) who has defaulted in payment of tax and where such default has continued for a prescribed period.
- 3) whose output tax payable as per GSTR-1/IFF exceeds the output tax paid in GSTR-3B for a particular tax period by prescribed limit.
- 4) who has availed ITC of an amount that exceeds the credit that can be availed by him as per GSTR-2B during prescribed period and by prescribed limit.
- 5) who has defaulted in discharging his tax liability in accordance with the provisions of section 49(12) read with rule 86B, i.e. who has discharged more tax liability from electronic credit ledger than prescribed under rule 86B
- 6) other specified classes of persons.

**Tax leviable on supply actually paid to Government [Section 16(2)(c)]**

Subject to section 41, tax should actually have been paid, by cash or through utilization of ITC, on the goods and / or services for which ITC is being taken. Section 41 allows taking ITC in electronic credit ledger on self-assessment basis.

**Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof**

As per Rule 37A, if seller does not furnish GSTR-3B till 30th September following the end of FY in which the ITC in respect of such invoice/ debit note has been availed, the said amount of ITC shall be reversed by the said recipient, while furnishing a return in Form GSTR-3B on or before 30th November following the end of such FY during which such ITC has been availed.

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

Further, 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.

**OTHER CONDITIONS FOR CLAIMING ITC**

**A. ITC on Goods received in Lots**

In case the goods covered under an invoice are not received in a single consignment but are received in lots / instalments, ITC can be taken only upon receipt of the last lot / instalment.

**B. Payment for the invoice to be made within 180 days**

❖ The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. In the event of failure to do so, shall pay or reverse an amount equal to the ITC availed in respect of such supply proportionate to the amount not paid to the supplier along with interest payable thereon under section 50, while furnishing the return in Form GSTR-3B for the tax period immediately following the period of 180 days from the date of the issue of the invoice.

❖ **This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:**

- a. Supplies on which tax is payable under reverse charge
  - b. Deemed supplies without consideration
  - c. Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply
- Under situations given in points (b) & (c), the value of supply is deemed to have been paid

**C. If depreciation claimed on tax component, ITC not allowed [Section 16(3)]**

As ITC is also available on capital goods, such tax amount shall be reduced from cost of capital goods and no depreciation shall be claimed on such tax. So, benefit under Income Tax in form of depreciation and input tax credit both will not be available; only one can be claimed.

**D. Time limit for availing ITC:** 30<sup>th</sup> day 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. However, the time limit u/s 16(4) does not apply to re-availing of credit that had been reversed earlier.

*It has also been clarified that in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4).*

***Clarification on time limit under Section 16(4) of the CGST Act, 2017 in respect of RCM supplies received from unregistered person***

It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of the CGST Act, 2017 will be the financial year in which the invoice has been issued by the recipient. In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of the CGST Act, 2017.

**TIME LIMIT FOR TAKING ITC IN CASE OF REVOKED REGISTRATION CANCELLATION [SECTION 16(6)]**

Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

- 1) filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or
- 2) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,

whichever is later.

**3. APPORTIONMENT OF CREDIT [SECTION 17 (1) & (2)]**

The situations requiring apportionment are as follows:

1. 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
2. When the goods and / or services are used by the registered person partly for making taxable supplies including zero-rated supplies i.e. Export or SEZ supply and partly for making exempt supplies [Section 17(2)].
3. *As a fundamental principle ITC cannot be availed when tax is not payable on output supply. Only once exception to this is Zero Rate Supply.*
4. If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all for inputs, input services and capital goods exclusively used for exempt supply.
5. If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available.
6. The common ITC is apportioned in the ratio of value of taxable supply and exempt supply.

**4. OPTIONAL METHOD FOR BANKS ETC.**

1. As an alternative to the above method, a banking company or a financial institution including a NBFC, which accepts deposits, or extends loans or advances, has the option to limit its

availment of ITC to 50% of the eligible ITC on inputs, capital goods and input services each month and the remaining ITC shall lapse.

2. Credit of tax paid on inputs and input services that are used for non-business purposes and items mentioned u/s section 17(5) [blocked credits] cannot be availed.
3. The restriction of availing 50% ITC shall not apply to the tax paid on supplies procured from another registration within the same entity i.e., 100% credit of such tax can be availed.
4. The option once exercised cannot be changed during the remaining part of the financial year.

## **5. BLOCKED CREDITS [SECTION 17(5)]**

ITC of tax paid on almost every inputs and input services used for supply of taxable goods and/or services is allowed under GST except a small list of items provided u/s 17(5). The various goods and/or services on which credit is blocked are discussed hereunder:

### **MOTOR VEHICLES AND OTHER CONVEYANCES AND RELATED SERVICES (INSURANCE, SERVICING AND REPAIR AND MAINTENANCE)**

Motor vehicles exclude –

1. vehicle running upon fixed rails
2. special purpose vehicles for being used in a factory or any enclosed premises
3. vehicle with less than 4 wheels fitted with engine capacity of upto 25cc –

(Thus, railways, two/three wheelers with engine capacity of upto 25cc, bicycle etc. do not fall in the definition of motor vehicle.)

The blocked credits relating to motor vehicles, vessels, aircrafts and related services are discussed hereunder:

S.No.	Goods and/or services on which credit is blocked	Exceptions to goods and/or services mentioned in column (2) on which credit is allowed	Remarks
1	Motor vehicles for transportation of persons with seating capacity $\leq$ 13 persons (including the driver) – Referred as ineligible motor vehicle in this table	Ineligible motor vehicles when used for any of the following eligible purposes - <ol style="list-style-type: none"><li>1. making further taxable supply of such motor vehicles;</li><li>2. making taxable supply of transportation of passengers;</li><li>3. making taxable supply of imparting training on driving such motor vehicles.</li></ol>	<ul style="list-style-type: none"><li>• ITC on ineligible motor vehicles used for any purpose other than the eligible purposes is not allowed.</li><li>• ITC on motor vehicles for transportation of persons with seating capacity <math>&gt;</math> 13 persons (including the driver) used for any purpose is allowed.</li><li>• ITC on motor vehicles other than</li></ul>

			ineligible motor vehicles (e.g. motor vehicle used for transportation of goods, dumpers, tippers etc.) used for any purpose is allowed.
2	Vessels and aircrafts	<p>Vessels and aircraft when used for any of the following eligible purposes-</p> <ol style="list-style-type: none"> <li>1. making further taxable supply of such vessels or aircraft;</li> <li>2. making taxable supply of transportation of passengers;</li> <li>3. making taxable supply of imparting training on navigating such vessels;</li> <li>4. making taxable supply of imparting training on flying such aircrafts;</li> <li>5. transportation of goods.</li> </ol>	
3	<p>General insurance, servicing, repair and maintenance relating to:</p> <ol style="list-style-type: none"> <li>1. Ineligible motor vehicles</li> <li>2. Vessels</li> <li>3. Aircraft</li> </ol>	<ol style="list-style-type: none"> <li>1. Such services relating to ineligible motor vehicles, vessels or aircraft when used for eligible purposes</li> <li>2. Such services when received by-               <ol style="list-style-type: none"> <li>a. Manufacturer of ineligible motor vehicles, vessel or aircraft; or</li> <li>b. Supplier of general insurance services in respect of</li> </ol> </li> </ol>	<ul style="list-style-type: none"> <li>• ITC is not allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed.</li> <li>• ITC is allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed</li> </ul>

		ineligible motor vehicles, vessels or aircraft insured by him	
4	Leasing, renting or hiring of motor vehicles, vessels or aircraft on which ITC is not allowed	<ol style="list-style-type: none"> <li>Such services when used for making an outward taxable supply of the same category of services or as an element of a taxable composite or mixed supply</li> <li>Such services when provided by an employer to its employees under a statutory obligation</li> </ol>	<ul style="list-style-type: none"> <li>ITC on leasing, renting or hiring of motor vehicles, vessels or aircraft on which ITC is allowed, is also allowed.</li> <li>ITC on such services is allowed in the case of sub-contracting, i.e. when such services are used by the taxpayer who is in the same line of business.</li> </ul>

***Clarification on availability of input tax credit in respect of demo vehicles***

As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as 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'. Accordingly, input tax credit in respect of demo vehicles is not blocked.

[Circular No. 231/25/2024 GST]

**FOOD & BEVERAGES, OUTDOOR CATERING, HEALTH SERVICES AND OTHER SERVICES**

S.No.	Goods and/or services on which credit is blocked	Exceptions to goods and/or services mentioned in column (2) on which credit is allowed	Remarks
1	<ol style="list-style-type: none"> <li>Food and beverages</li> <li>Outdoor catering</li> <li>Beauty treatment</li> <li>Health services</li> <li>Cosmetic and plastic surgery</li> <li>Life insurance and health insurance</li> </ol>	<ol style="list-style-type: none"> <li>Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services or as an element of a taxable</li> </ol>	<ol style="list-style-type: none"> <li>ITC on such goods and/or services is allowed in the case of sub-contracting, i.e. when such goods and/or services are used by the taxpayer who is in the same line of business,</li> </ol>

		composite or mixed supply. ✓ Such goods and/or services when provided by an employer to its employees under a statutory obligation	e.g. outdoor catering service availed by another outdoor caterer. ✓ When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.
2	Membership of a club, health and fitness centre	Such services when provided by an employer to its employees under a statutory obligation	When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.
3	Travel benefits extended to employees on vacation such as leave or home travel concession	Such services when provided by an employer to its employees under a statutory obligation	When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.

### **WORKS CONTRACT SERVICES FOR CONSTRUCTION OF IMMOVABLE PROPERTY**

Under GST law, a composite supply of works contract is treated as supply of services in terms of para 6(a) of Schedule II to the CGST Act.

ITC on works contract services for construction of an immovable property is blocked **EXCEPT WHEN**

1. It is an input service for further supply of works contract service (sub-contracting);  
[ITC on works contract services can be availed only by that taxpayer who is in the same line of business, i.e. only a works contractor can avail ITC on works contract services received by him.]
2. Immovable property is plant and machinery  
[Plant and machinery affixed permanently to the earth constitutes an immovable property. However, ITC on works contract services used for construction of such plant and machinery is allowed as an exception.]

#### **Meaning of construction**

“Construction” includes re-construction, renovation, additions or alterations or repairs, **to the extent of capitalization**, to the said immovable property. So, when the value of works contract service is not capitalized, ITC is allowed to all recipients irrespective of their line of business.

#### **Meaning of plant and machinery**

“Plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural supports that are used for making outward supply of goods and/or services and includes such foundation or structural support but **excludes** land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

### **SELF-CONSTRUCTION OF IMMOVABLE PROPERTY**

ITC is not allowed on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even though such goods and/or services are used in the course or furtherance of business. Thus, ITC on goods and/or services used in the construction of an immovable property is blocked only in those cases where the taxable person constructs the immovable property for his own use even if the immovable property being constructed is used in the course or furtherance of his business

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

Issue: Whether the input tax credit on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication services is barred u/s 17(5)

The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view of the Explanation in section 17 of the CGST Act, 2017 it appears that ducts and manholes are covered under the definition of “plant and machinery” as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another. Also, specifically excluded from the definition of “plant and machinery”.

Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), either under section 17(5) of the CGST Act, 2017.

### **INWARD SUPPLIES CHARGED TO TAX UNDER COMPOSITION LEVY**

Tax paid on goods and/or services under composition scheme is not available as ITC. Since a composition supplier cannot collect any tax on its supplies, from the recipient of its supplies, it is obvious that no ITC can be availed in respect of such supplies by the recipients.

### **INWARD SUPPLIES RECEIVED BY A NON-RESIDENT TAXABLE PERSON**

Tax paid on goods and/or services received by such non-resident taxable person, is not available as ITC. However, tax paid by him on imported goods is allowed as ITC.

### **INWARD SUPPLIES USED/INTENDED TO BE USED FOR PURPOSE OF CSR**

ITC shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

### **INWARD SUPPLIES USED FOR PERSONAL CONSUMPTION**

section 17(5)(g) also specifically blocks the ITC on goods and/or service used for personal consumption.

**FREE SAMPLES, GIFTS, GOODS LOST/STOLEN, DESTROYED GOODS, GOODS THAT ARE WRITTEN OFF ETC.**

**Samples and free gifts**

ITC shall not be available to the supplier on the inputs, input services and capital goods 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 Schedule I of the said Act, the supplier would be eligible to avail the ITC.

**Buy one get one free offer**

This 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. 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.

**Discounts including ‘Buy more, save more’ offers or Secondary discounts**

Discounts offered by the suppliers to customers shall be excluded to determine the value of supply provided they satisfy the parameters laid down in section 15. However, the 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.

***ITC reversal when return of time expired medicines/drugs are treated as fresh supply***

1. Circular No. 72/46/2018 GST dated 26.10.2018 has clarified that the retailer/ wholesaler can return the time expired goods, either by treating the same as fresh supply or by issuing credit notes.
2. In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same.
3. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail ITC of the tax levied on the said return supply subject to the fulfilment of the conditions specified in section 16.
4. In case the person returning the time expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.
5. Where the goods returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h). It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

**TAX PAID IN FRAUD CASES, DETENTION, CONFISCATION ETC.**

Tax paid under sections 74, 129 and 130 is not available as ITC. These sections prescribe the provisions relating to tax paid as a result of evasion of taxes, or upon detention of goods or conveyances in transit, or towards redemption of confiscated goods/conveyances.

## **6. CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]**

Section 18 provides for

1. entitlement of ITC on inputs in stock and contained in finished goods or work- in-progress and capital goods (i) at the time of registration/voluntary registration, (ii) on coming into regular tax-paying status by exiting composition levy, (iii) on coming into tax-paying status on account of exempt supply becoming taxable supply
2. reversal of ITC on inputs in stock and contained in finished goods or work- in-progress and capital goods (i) at the time of exit from regular tax-paying status by opting for composition levy, (ii) at the time of exit from tax-paying status on account of taxable supply becoming exempt supply
3. amount payable on supply of capital goods or plant and machinery on which ITC has been taken.
4. transfer of ITC on account of change in constitution of the registered person

### **ENTITLEMENT OF ITC AT THE TIME OF REGISTRATION/VOLUNTARY REGISTRATION OR SWITCHING TO REGULAR TAX PAYING STATUS OR COMING INTO TAX-PAYING STATUS [SUB-SECTIONS (1) AND (2) OF SECTION 18 READ WITH RULE 40 OF CGST RULES]**

The credit on inputs held in stock and contained in semi-finished goods or finished goods held in stock and capital goods at the time of registration/voluntary registration or coming into regular tax/tax-paying status is available in the following manner:

S. N o	Persons eligible to take credit	Goods entitled to ITC		Restriction/ conditions
		Inputs held in stock/capital goods	As on	
1	Person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock	The day immediately preceding the date from which he becomes liable to pay tax	ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.
2	Person who is not required to register, but obtains voluntary registration	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock	The day immediately preceding the date of Registration	
3	Registered person who ceases to pay composition tax and switches to regular scheme	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods	The day immediately preceding the date from which he becomes liable to pay tax under regular scheme	ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice. ITC claimed shall be verified with the corresponding details furnished by
4	Registered person whose exempt supplies become taxable supplies	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock	The day immediately preceding the date from which such supply becomes taxable	

		relatable to such exempt supply and capital goods exclusively used for such exempt supply		the corresponding supplier. ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.
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In all the above cases, the registered person has to make an electronic declaration in the prescribed form on the common portal, clearly specifying the details relating to the inputs held in stock, inputs contained in semi-finished or finished goods held in stock and capital goods on the days mentioned in column (4) of table above. The declaration is to be filed within 30 days (extendable by Commissioner/Commissioner of State GST/Commissioner of UTGST) from the date when the registered person becomes eligible to avail ITC. If the claim of ITC pertaining to CGST, SGST/UTGST, IGST put together exceeds 2,00,000, the declaration needs to be certified by a practicing Chartered Accountant/Cost Accountant.

**REVERSAL OF ITC ON SWITCHING TO COMPOSITION LEVY OR EXIT FROM TAX-PAYING STATUS [SECTION 18(4) READ WITH RULE 44 OF CGST RULES]**

- ❖ Section 18(4) requires reversal of ITC when a registered person who has availed ITC switches to composition levy or when his supplies get wholly exempted from tax.
- ❖ ITC on inputs should be reversed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs. If invoices are not available, ITC can be reversed on the basis of the prevailing market price of such goods on the date of switch over/exemption. The details furnished on the basis of prevailing market value need to be duly certified by a practicing Chartered Accountant/ Cost Accountant.
- ❖ ITC involved in the remaining useful life (in months) of the capital goods should be reversed on pro-rata basis, taking the useful life as 5 years.
- ❖ The registered person has to debit the electronic credit or cash ledger by the reversal amount in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods on the day immediately preceding the date of switch over/ date of exemption.
- ❖ Balance of ITC, if any, lying in the electronic credit ledger lapses.
- ❖ Cancellation of registration also requires reversal of ITC on inputs held in stock/ contained in semi-finished goods or finished goods held in stock, capital goods or plant and machinery on the day immediately preceding the cancellation date. The amount to be reversed on inputs and capital goods is computed in the manner as applicable for sub-sections (4) and (6) of section 18 (discussed above). Such amount is then compared with the output tax payable on such goods, and the higher of the two amounts is finally paid by the registered person.
- ❖ ITC to be reversed on inputs and capital goods is calculated separately for ITC of CGST, SGST/UTGST and IGST.
- ❖ The reversal amount is added to the output tax liability of the registered person.

**AMOUNT PAYABLE ON SUPPLY OF CAPITAL GOODS OR PLANT AND MACHINERY ON WHICH ITC HAS BEEN TAKEN [SECTION 18(6) READ WITH RULE 40(2) & RULE 44(6) OF CGST RULES]**

1. If capital goods or plant and machinery on which ITC has been taken are supplied outward by the registered person, he must pay an amount that is the higher of the following:
  - a. ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods), or
  - b. tax on transaction valueITC pertaining to remaining useful life of the capital goods should be computed separately for ITC of CGST, SGST/UTGST and IGST.
2. Where the amount so determined exceeds the tax payable on the transaction value of the capital goods, such amount need to be paid and thus, should be added to the output tax liability.
3. If refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value.
4. Under rule 44(6), ITC involved in the remaining useful life (in months) of the capital goods is reversed on pro rata basis, taking the useful life as 5 years.

**TRANSFER OF ITC ON ACCOUNT OF CHANGE IN CONSTITUTION OF REGISTERED PERSON [SECTION 18(3) READ WITH RULE 41 OF CGST RULES]**

In case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution. Circular No. 96/15/2019 GST dated 28.03.2019 has clarified that transfer or change in the ownership of business includes transfer or change in the ownership due to death of the sole proprietor.

In the case of demerger, ITC will be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. Here, “value of assets” means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should record the inputs and capital goods so transferred in his books of account.

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

Section 25 enables a taxpayer to obtain separate registrations for multiple places of business in a State/ Union territory [Provisions of section 25 are discussed under Chapter 7: Registration]. The

registered person (transferor), having separate registrations for multiple places of business within a State/Union Territory, can transfer the unutilised ITC (wholly or partly) lying in his electronic credit ledger to any or all of the newly registered place(s) of business in the ratio of the value of assets held by them at the time of registration. Here, the 'value of assets' means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations. Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC gets credited to his electronic credit ledger.

## **7. HOW ITC IS UTILISED**

ITC of	Output IGST liability	Output liability CGST	Output liability SGST/UTGST
IGST	(I)	(II) – <u>In any order and in any proportion</u>	
(III) ITC of IGST to be completely exhausted mandatorily			
CGST	(V)	(IV)	Not permitted
SGST/UTGST	(VII) Only after the ITC of CGST has been utilized fully	Not permitted	(VI)

The numerals given in above table can be further explained in the following manner:

**(I)** IGST credit should first be utilized towards payment of IGST.

**(II)** Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion, i.e. remaining ITC of IGST can be utilized –

1. first towards payment of CGST and then towards payment of SGST; or
2. first towards payment of SGST and then towards payment of CGST; or
3. towards payment of CGST and SGST simultaneously in any proportion e.g. 50: 50, 30: 70, 40: 60 and so on.

**(III)** Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.

**(IV) & (V)** ITC of CGST should be utilized for payment of CGST and IGST in that order. ITC of CGST cannot be utilized for payment of SGST/UTGST

**(VI) & (VII)** ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully. ITC of SGST/UTGST cannot be utilized for payment of CGST.

Hence cross-utilization of credit is available only between CGST - IGST and SGST/UTGST - IGST. The main restriction is that the CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST. Further, ITC of IGST need to be exhausted fully before proceeding to utilize the ITC of CGST and SGST.

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

The Commissioner/ an officer (not below the rank of an Assistant Commissioner) authorised by him is empowered to impose restrictions on utilization of ITC available in the electronic credit ledger if he has reasons to believe that such ITC has been fraudulently availed or is ineligible.

The restrictions can be imposed in the following circumstances:

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

If the ITC is so availed, the restrictions can be imposed by not allowing such ITC to be used for discharging any liability under section 49 or not allowing refund of any unutilised amount of such ITC. Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions. However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.

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

Rule 86B limits the use of input tax credit available in the electronic credit ledger for discharging output tax liability. The aforesaid rule starts with non-obstante clause and has an over-riding impact on any other provision of the rules.

### **Applicability of Rule 86B**

Rule 86B is applicable to the registered person having value of taxable supply (other than exempt supply and zero-rated supply) in a month exceeding 50 lakh.

Therefore, in cases wherein value of taxable supply in a month is less than 50 lakh, then this restriction would not be applicable.

### **Nature of restriction imposed**

The registered person to whom the said rule is applicable cannot utilize input tax credit in excess of 99% of the output tax liability.

### **Exceptions to the Rule 86B**

1. Payment of Income Tax more than 1 lakh

Rule 86B may not apply in cases whereby person mentioned below have deposited sum of more than 1 lakh as income tax under the Income - tax Act, 1961) in each of the last 2 financial years for which the time limit to file return of income under section 139(1) of the said Act has expired

- a. The registered person or
- b. The karta/proprietor/the managing director of the registered person;
- c. Any of the two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees of the registered person, as the case may be.

2. Receipt of refund of input tax credit of more than 1 lakh

Rule 86B may not apply whereby registered person has received a refund amount of more than 1 lakh on account of unutilized input tax credit under the following:

- a. zero-rated supplies made without payment of tax
- b. Inverted duty structure

It is pertinent to note that refund should have been received in the preceding financial year.

3. Payment of total output tax liability through electronic cash ledger in excess of 1% of total output tax liability

If the registered person has paid more than 1% of total output tax liability using electronic cash ledger upto the said month in the current financial year, the restrictions as specified in Rule 86B shall not apply.

Interestingly, the aforesaid exception needs to be evaluated in 'current financial year', and hence, for the month of April of any financial year, the said exception will not be applicable. Accordingly, registered person would be required to pay minimum 1% of output liability through electronic cash ledger unless the registered person is covered under any of the other exceptions or if the taxable turnover in a month is less than 50 lakh.

GST liability paid under reverse charge mechanism should not be taken into account while calculating the total output liability paid through electronic cash ledger.

4. Specified registered person:

Rule 86B would not be applicable in case of below-mentioned registered person:

1. Government Department; or
2. a public sector undertaking; or
3. a local authority; or
4. a statutory body.

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## CHAPTER 9 – REGISTRATION

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### *Relevant Sections [Chapter: VI of CGST Act 2017]*

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1. **Section 22** Persons liable for registration
  2. **Section 23** Persons not liable for registration
  3. **Section 24** Compulsory registration in certain cases
  4. **Section 25** Procedure for registration
  5. **Section 26** Deemed registration
  6. **Section 27** Special provisions relating to casual taxable person and non-resident taxable person.
  7. **Section 28** Amendment of registration
  8. **Section 29** Cancellation of registration
  9. **Section 30** Revocation of cancellation of registration
  10. **Rule 8** Application for registration
  11. **Rule 9** Verification of the application and approval
  12. **Rule 10** Issue of registration certificate
  13. **Rule 10A** Furnishing of Bank Account Details
  14. **Rule 10B** Aadhaar authentication for registered person
  15. **Rule 11** Separate registration for multiple places of business within a State or a Union territory
  16. ~~Rule 12 Grant of registration to persons required to deduct tax at source or to collect tax at source~~
  17. **Rule 13** Grant of registration to non-resident taxable person
  18. ~~Rule 14 Grant of registration to a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient~~
  19. **Rule 15** Extension in period of operation by casual taxable person and non-resident taxable person
  20. **Rule 16** Suo moto registration
  21. **Rule 17** Assignment of Unique Identity Number to certain special entities
  22. **Rule 18** Display of registration certificate and Goods and Services Tax Identification Number on the name board.
  23. **Rule 19** Amendment of registration.
  24. **Rule 20** Application for cancellation of registration
  25. **Rule 21** Registration to be cancelled in certain cases
  26. **Rule 21A** Suspension of registration
  27. **Rule 22** Cancellation of registration
  28. **Rule 23** Revocation of cancellation of registration
  29. **Rule 25** Physical verification of business premises in certain cases
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## 1. SECTION 22 PERSONS LIABLE FOR REGISTRATION

### SECTION 22(1)

- ✓ Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, **from where he makes** a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds 20 lakh rupees which government can increase to 40 lakh in case of supplier **who is engaged exclusively in the supply of goods**
- ✓ But if, such person makes taxable supplies of goods or services or both from any of the special category States [**Manipur, Mizoram, Nagaland & Tripura**], he shall be liable to be registered if his aggregate turnover in a financial year exceeds 10 lakh rupees which government can increase to 20 lakh.
- ✓ For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in 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.
- ✓ Threshold limit of a person having places of business in more than one State/UT in India gets reduced to 10 lakh only when such person makes taxable supplies of goods or services or both from any of the Special Category States as per section 22. However, in case he makes exempt/non-taxable supply from a Special Category State and taxable supplies from a State other than Special Category State, the threshold limit shall not be reduced.

### In which state registration required?

A person shall be treated as supplying goods or services from that place where he exercises his effective management. Effective management can be exercise where he keeps his employees, permanent establishment or any other resources which are used for making taxable supply.

*Also, registration is required in only for supply of taxable supply. If exempt supplies made in a state, then no GST registration required.*

As per definition given in GST, Place of business includes

- ✓ 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
- ✓ a place where a taxable person maintains his books of account; or
- ✓ a place where a taxable person is engaged in business through an agent, by whatever name called.

Also, we have to check provision of section 10 & 12 of IGST Act to determine place of supply.

### SECTION 22(2)

Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

### SECTION 22(3)

Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as **a going concern**, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

### **SECTION 22(4)**

Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

**EXPLANATION.** --For the purposes of this section, —

- (i) “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
- (ii) the supply of goods, after completion of job-work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;
- (iii) the expression “special category States” means state of Manipur, Mizoram, Nagaland & Tripura

## **2. SECTION 23 - PERSONS NOT LIABLE FOR REGISTRATION**

### **SECTION 23(1)(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.

### **SECTION 23(1)(B)**

An agriculturist [S 2(7)], to the extent of supply of produce out of cultivation of land.

#### **Section 2(7). Agriculturist**

Agriculturist means an **individual or a Hindu Undivided Family** who undertakes cultivation of land—

- 1) by own labour, or
- 2) by the labour of family, or
- 3) 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.

### **SECTION 23(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.

Till now Govt has exempted following 6 cases.

- 1. Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be **paid on reverse charge basis** by the recipient of such goods or services or both under section 9(3) of the said Act as the category of persons exempted from obtaining registration under the aforesaid Act.

However, nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975. [NN 5/2017-CT]

2. CTP/ Persons making inter-state **supplies of handicraft goods or notified products**.
  - 1) CTP/Persons making inter-State taxable supplies of handicraft goods
  - 2) CTP/Persons making inter-State taxable supplies of notified products, when made by craftsman predominantly by hand,  
as the category of persons exempted from obtaining registration under the aforesaid Act. Provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 Lakh / ₹ 10 Lakh in a financial year.  
The persons making inter-State taxable supplies mentioned in the preceding paragraph shall be required to obtain a Permanent Account Number and generate an e-way bill.  
For normal taxpayer - 3/2018 IT  
For CTP – 56/2018 CT
3. Job workers making inter-State supplies of **services** to a registered person  
The job workers engaged in making inter-State supply of services to a registered person as the category of persons exempted from obtaining registration under the said Act:  
Provided that nothing contained in this notification shall apply to a job-worker –
  - 1) who is liable to be registered under section 22(1) or who opts to take registration voluntarily under section 25(3) of the said Act; or
  - 2) who is involved in making supply of services in relation to the goods mentioned against serial number 5 in the Annexure to rule 138 of the Central Goods and Services Tax Rules, 2017. (Chapter 71 items like jewellery etc) [7/2017 IT]
4. A person making inter-State supply of services whose aggregate turnover does not exceeds ₹ 20 Lakh / ₹ 10 Lakh are not required to get itself registered. [NN 10/2017 IT]
5. A person making supply of services through electronic commerce operator  
Persons making supplies of services, other than supplies specified under section 9(5) of the said Act through an electronic commerce operator who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ₹ 20 Lakh / ₹ 10 Lakh in a financial year, as the category of persons exempted from obtaining registration under the said Act. [65/2017 CT]
6. Persons making intra-State supplies of goods through an ECO with aggregate turnover up to the threshold limit  
The persons making supplies of goods through an ECO who is required to collect TCS under section 52 and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, subject to the following conditions, namely:
  - 1) such persons shall not make any inter-State supply of goods;
  - 2) such persons shall not make supply of goods through ECO in more than one State/Union territory;
  - 3) such persons shall be required to have a PAN issued under the Income-tax Act, 1961;
  - 4) such persons shall, before making any supply of goods through ECO, declare on the common portal:
    - a. their PAN
    - b. address of their place of business and
    - c. State/UT in which such persons seek to make such supply,which shall be subjected to validation on the common portal;

- 5) such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared above;
- 6) such persons shall not be granted more than one enrolment number in a State/UT;
- 7) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
- 8) where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

[NN 34/2023 CT]

7. A person making intra-State exclusive supply of goods [NN 10/2019-CT]

Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed ₹ 40 lakhs, except, -

(i) persons required to take compulsory registration under section 24 of the said Act;

(ii) persons engaged in making supplies of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table;

S. No	HSN	Description
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes
4	6815	Fly ash bricks; fly ash aggregate; Fly ash Blocks
5	6901 00 10	Bricks of fossil meals or similar siliceous earths
6	6904 10 00	Building bricks
7	6905 10 00	Earthen or roofing tiles

(iii) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, **Manipur**, Meghalaya, **Mizoram**, **Nagaland**, Puducherry, Sikkim, Telangana, **Tripura**, Uttarakhand; and

(iv) persons exercising option under the provisions of section 25(3) i.e. voluntarily registration, or such registered persons who intend to continue with their registration under the said Act.

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### **QUESTIONS**

1. Railways supplies goods or services or both from every State and Union Territories of India. What are the places Railways need to get itself registered?

Ans: Railways need to get itself registered in every State and Union Territories since it supplies goods or services or both from every State and Union Territories.

2 Tata Motors LTD has head office in Mumbai and 3 factories located in UP, Andhra and Orissa. Which are the states where it needs to get itself registered?

Ans: TATA motors Limited shall get registered itself at Maharashtra, UP, Andhra Orissa.

3 Asian Hotels Limited has 3 hotel properties. 1. Delhi. 2. Gurugram. 3. Goa. Which are the places where he shall get itself registered?

Ans: It shall get itself registered at Delhi, Haryana and Goa

4. Amazon India running an E Commerce website having a permanent establishment at Bangalore.

Ans: It shall get itself registered only at Karnataka.

5. Prithiviraj of Assam is exclusively engaged in intra-State supply of shoes. His aggregate turnover in the current financial year is 22 lakh. What if Prithiviraj is exclusively engaged in supply of pan masala instead of shoes.

6. Shivaji of Telangana is exclusively engaged in intra-State supply of toys. Its aggregate turnover in the current financial year is 22 lakh. What if Shivaji is exclusively engaged in supply of taxable services.

7. Raghav of Assam is exclusively engaged in intra-State supply of readymade garments. Its turnover in the current FY from Assam showroom is 28 lakh. It has another showroom in Tripura with a turnover of 11 lakh in the current FY.

### **3. SECTION 24 - COMPULSORY REGISTRATION IN CERTAIN CASES**

- 1) persons making any inter-State taxable supply;
- 2) casual taxable persons making taxable supply;
- 3) persons who are required to pay tax under reverse charge;
- 4) person who are required to pay tax under sub-section (5) of section 9;
- 5) non-resident taxable persons making taxable supply;
- 6) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- 7) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- 8) Input Service Distributor, whether or not separately registered under this Act;
- 9) 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;
- 10) every electronic commerce operator who is required to collect tax at source under section 52;
- 11) every person supplying online information and database access or retrieval (OIDAR) services from a place outside India to a person in India, other than a registered person;
- 12) Every person supplying online money gaming from a place outside India to a person in India.
- 13) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

#### ***Liability to register in respect of services provided by commission agent under APMC Act of agricultural produce.***

A commission agent will be liable to get mandatorily registered under this provision only when both the following conditions (as given in section 24) are satisfied:

- a. The principal should be taxable person
- b. The supplies should be taxable supplies.

However, generally, a commission agent under APMC Act makes supplies on behalf of "agriculturist" who is not a taxable person if the agriculturist supplies produce out of cultivation of land.

Thus, a commission agent, who is making supply on behalf of non-taxable person (like agriculturist) is not liable for compulsory registration. [Circular no 57/31/2018]

#### **4. SECTION 25. PROCEDURE FOR REGISTRATION**

##### **WHERE AND BY WHEN TO APPLY FOR REGISTRATION? [SECTION 25(1)]**

Particulars	Where	When
Person who is liable to be registered under section 22 or section 24	in every such State/UT in which he is so liable	within 30 days from the date on which he becomes liable to registration
A casual taxable person or a non-resident taxable person		at least 5 days prior to commencement of business
Every person who makes a supply from the territorial waters of India	in the coastal State/UT where the nearest point of the appropriate base line is located.	within 30 days from the date on which he becomes liable to registration

##### **Application for registration by Special Economic Zone (SEZ) [Second proviso to section 25(1):**

A person having unit in SEZ/an SEZ developer will have to make a separate application for registration as distinct from his place of business located outside SEZ in the same State/UT. Thus, there may be a case where two units of a tax payer are located in same State/UT - one in SEZ and another outside SEZ. In that case, separate registrations have to be obtained for each of the two units as separate places of business.

##### **SINGLE OR MULTIPLE REGISTRATION? [SECTION 25(2) READ WITH RULE 11]**

A person seeking registration under this Act shall be granted a single registration in a State or Union Territory. Also, a person is required to take one registration only in a state even if he has multiple place of business.

A person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed. Such different registration shall be treated as different person under GST and accordingly tax will be levied.

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

- ✓ 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 one of the places 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.
- ✓ Meaning thereby composition levy will be on INDIA basis. Either to opt for composition for all registered persons or not. It is not possible to opt composition in some state and regular in some state. [Section 10]

##### **VOLUNTARY REGISTRATION [SECTION 25(3)]**

A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

**DISTINCT PERSONS/ ESTABLISHMENTS OF DISTINCT PERSONS [SECTION 25(4) & (5)]**

A person who has obtained/ is required to obtain more than one registration, whether in one State/ Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons.

Further, where a person who has 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 establishments shall be treated as establishments of distinct persons.

**PAN MUST FOR OBTAINING REGISTRATION [SECTION 25(6) & (7)]**

1. PAN based registration compulsory: Every person shall have a Permanent Account Number issued under the Income tax Act, 1961 in order to be eligible for grant of registration:  
PAN or TDCAN based registration: Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the Income Tax Act in order to be eligible for grant of registration.
2. Non-PAN based registration for NRTP: Notwithstanding anything contained in section 25(6), a non-resident taxable person may be granted registration under section 25(1) on the basis of such other documents as may be prescribed. [Refer Rule 13]

**SUO-MOTU REGISTRATION BY THE PROPER OFFICER [SECTION 25(8) READ WITH RULE 16]**

1. Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act, has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in prescribed form.
2. Such person 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.
3. In case (b), if the Appellate Authority upholds the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Authority.
4. Provisions relating to verification and issue of registration certificate U/R 9 and 10 also apply in this case.
5. GSTIN thereafter granted shall be effective from the date of order of proper officer granting temporary registration.

**UNIQUE IDENTITY NUMBER (UIN) [SECTION 25(9) & (10) READ WITH RULE 17]**

1. Notwithstanding anything contained in section 25(1)
  - a. Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization as notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries or
  - b. any other person notified by the Commissioner,
  - c. is required to obtain a UIN from the GSTN portal.
2. This UIN is needed for claiming refund of taxes paid on notified supplies of goods and/or services received by them, and for such other purpose as may be notified.

3. 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.
4. The proper officer may, upon submission of an application in prescribed form or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN to the said person and issue registration certificate within 3 working days from the date of submission of application.

## **5. PROCEDURE FOR REGISTRATION [SECTION 25 READ WITH RULES 8, 9 & 10]**

### **Rules related to registration U/S 25 are**

1. Rule 8 : Application for registration
2. Rule 9 : Verification of the application and approval
3. Rule 10 : Issue of registration certificate

### **However, procedure so laid down will not apply to:**

1. Non-resident taxable person [Rule 13]
2. A person required to deduct tax at source under section 51 [Rule 12]
3. A person required to collect tax at source under section 52 [Rule 12]
4. A person supplying OIDAR services from a place outside India to a non-taxable online recipient referred to in section 14 of IGST Act. [Rule 14]
5. A person supplying online money gaming from a place outside India to a person in India referred to in section 14A of the IGST Act.

Thus, procedure for registration prescribed under rules 8, 9 and 10 are also applicable to a person paying tax under composition levy, every person seeking voluntary registration as well as a casual taxable person. Such persons shall apply for registration in Form GST REG 01.

### **PROCEDURE FOR REGISTRATION**

1. Every person liable to get registered and person seeking voluntary registration shall, before applying for registration, declare his Permanent Account Number (PAN) and State/UT in Part A of FORM GST REG-01 on GST Common Portal.
2. PAN is validated online by Common Portal from CBDT database and is also be verified through separate OTPs sent to the PAN linked mobile number and e-mail address.
3. Temporary Reference Number (TRN) is generated and communicated to the applicant on the validated mobile number and e-mail address.
4. Using TRN, applicant shall electronically submit application in Part B of application form, along with specified documents at the Common Portal. Part B of application contains the details, such as, constitution of business, jurisdiction, option for composition, date of commencement of business, reason to obtain registration, address of PPOB and nature of activity carried out therein, details of APoB, details of authorized signatory etc.
5. On receipt of such application, an acknowledgement in the prescribed form shall be issued to the applicant electronically. A Casual Taxable Person (CTP) applying for registration gets a TRN for making an advance deposit of tax in his electronic cash ledger and an acknowledgement is issued only after said deposit.
6. Taxpayer may choose to opt for Aadhar authentication in application. A person may also apply for registration without aadhar authentication. If aadhar authentication is not opted, then application shall be followed by
  - a. taking photograph:
    - i. of the applicant where the applicant is an individual or

- ii. of such individuals where the applicant is not an individual,
- b. along with the verification of the original copy of the documents uploaded with the application in Form GST REG-01 at one of the notified Facilitation Centres.
- 7. After submission, application is validated link is provided for aadhar authentication or taxpayer is intimated for biometric verification, if selected.
- 8. After aadhar authentication or biometric verification or verification of documents if aadhar authentication not opted, ARN (Application Reference Number) is issued and application shall be forwarded to the Proper Officer by GSTN.
- 9. Proper officer will verify the application and either approve or issue notice for clarification within
  - a. 7 working days, if
    - i. if applicant successfully validates his aadhaar authentication
  - b. 30 working days, if
    - i. where applicant fails to undergo/ does not opt for Aadhaar authentication
    - ii. where PO deems it fit to carry out site verification
    - iii. where a person, who has undergone Aadhaar authentication, is identified on common portal, based on data analysis & risk parameters, to carry out site verification.
- 10. If notice is issued by PO and applicant furnishes the clarification, information or documents within 7 working days time from receipt of notice, the PO shall within 7 days from the date of receipt of information
  - a. Approve the application, or
  - b. Reject the application for reasons to be recorded in writing.
- 11. If PO fails to take any action within specified time, the registration application will be deemed approved.

### **AADHAAR AUTHENTICATION**

#### **[SECTION 25(6A), (6B), (6C) & (6D) READ WITH RULES 8, 9, 10B AND 25]**

#### **New applicant**

- a) 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.
- b) Date of submission of the application in such cases shall be earlier of:
  - the date of authentication of the Aadhaar number,
  - Or
  - 15 days from the submission of the application in Part B of Form GST REG-01.
- c) Risk-based biometric-based aadhaar authentication of registration applicants – An applicant who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph:
  - (i) of the applicant where the applicant is an individual or
  - (ii) of such individuals where the applicant is not an individual,along with the verification of the original copy of the documents uploaded with the application in Form GST REG-01 at one of the notified Facilitation Centres.

The application shall be deemed to be complete only after completion of the process laid down hereunder.

An acknowledgement shall be issued to the applicant only after completion of Aadhar/biometric-based authentication.

**Persons already registered**

- a) A registered person, who has been issued a certificate of registration under GST, shall undergo authentication of the Aadhaar number of:-
- Proprietor, in the case of proprietorship firm,
  - Any partner, in the case of a partnership firm,
  - Karta, in the case of a Hindu undivided family,
  - Managing director or any whole-time director, in the case of a company,
  - Any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
  - Trustee in the Board of Trustees, in the case of a Trust;
- and of the Authorized Signatory,**
- b) in order to be eligible for the following purposes:
- for filing of application for revocation of cancellation of registration [Rule 23]
  - for filing of refund application in Form RFD-01 [Rule 89]
  - for refund of the IGST paid on goods exported out of India [Rule 96]
- c) if Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely:
- her/his Aadhaar Enrolment ID slip; **and**
  - any one from below
    - Bank passbook with photograph; or
    - Voter identity card issued by the Election Commission of India; or
    - Passport; or
    - Driving license issued by the Licensing Authority
- d) Provided further that such person shall undergo the authentication of Aadhaar number within a period of thirty days of the allotment of the Aadhaar number.

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

**Persons/class of persons exempt from aadhaar authentication**

- A person who is not a citizen of India
- Department or establishment of State Government or Central Government
- Local authority
- Statutory body
- Public Sector Undertaking
- A person applying for Unique Identity Number.

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**PHYSICAL VERIFICATION OF BUSINESS PREMISES IN CERTAIN CASES AFTER GRANT OF REGISTRATION [RULE 25]**

- (1) Where the proper officer is satisfied that the physical verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of 15 working days following the date of such verification.

- (2) Where the physical verification of the place of business of a person is required before the grant of registration in the circumstances specified in the proviso to sub-rule (1) of rule 9 (*where 30 days limit applicable*), the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal at least 5 working days prior to the completion of the time period specified in the said proviso.

### **ISSUANCE OF REGISTRATION CERTIFICATE [RULE 10]**

1. Where the application for grant of registration has been approved, a certificate of registration in FORM GST REG-06 showing the principal place of business (PPoB) and additional place(s) of business (APoB) and a Goods and Services Tax Identification shall be assigned subject to the following characters, namely:—
  - a. two characters for the State code;
  - b. ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number;
  - c. two characters for the entity code; and
  - d. one checksum character.
2. In case of deemed approval, Registration certificate shall be made available on the common portal, within a period of three days after the expiry of the period specified in sub-rule (5) of rule 9.

### **EFFECTIVE DATE OF REGISTRATION [RULE 10]**

Where an 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	date of grant of registration

### **DISPLAY OF REGISTRATION CERTIFICATE AND GSTIN ON THE NAME BOARD [RULE 18]**

Every registered person shall display his registration certificate in a prominent location at his PPoB and at every APoB. Further, his GSTIN also has to be displayed on the name board exhibited at the entry of his PPoB and at every APoB.

### **FURNISHING OF BANK ACCOUNT DETAILS [RULE 10A]**

After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall within a period of thirty days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using invoice furnishing facility, whichever is earlier, furnish information with respect to details of bank account on the common portal.

**RULE 11: SEPARATE REGISTRATION FOR MULTIPLE PLACES OF BUSINESS  
WITHIN A STATE OR A UNION TERRITORY. -**

(1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely: -

- a) such person has more than one place of business as defined in clause (85) of section 2;
- b) such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business;
- c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Explanation. - For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

(2) A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM GST REG-01 in respect of such place of business.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.

**6. GRANT OF REGISTRATION IN CASE OF NON-RESIDENT TAXABLE PERSON (NRTP) AND CASUAL TAXABLE PERSON (CTP) [SECTIONS 25 & 27 READ WITH RULES 13 & 15]**

1. **Casual Taxable Person** as 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.
2. **Non-Resident Taxable Person** as 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**

- ✓ GST law prescribes special procedure for registration, as also for extension of the operation period of such casual or non-resident taxable persons.
- ✓ CTP and NRTP cannot exercise the option to pay tax under composition levy.
- ✓ They have to apply for registration at least 5 days in advance before making any supply.
- ✓ Also, registration is granted to them or period of operation is extended, only after they make advance deposit of the estimated tax liability.
- ✓ The special registration procedure pertaining to CTP and NRTP are as follows:
  - Both CTP and NRTP have to compulsorily get registered under GST irrespective of the threshold limit, at least 5 days prior to commencement of business.
  - As per section 25(6), every person must have a PAN to be eligible for registration. Since NRTP will generally not have a PAN of India, he may be granted registration on the basis of other prescribed documents.
- ✓ 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. However, in case of a

business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.

- ✓ Application will be submitted by NRTP in a different prescribed form whereas CTP will submit the application for registration in the normal form for application for registration i.e. Form GST REG 01 and his registration of CTP will be a PAN based registration.

### **PERIOD OF VALIDITY OF REGISTRATION CERTIFICATE GRANTED TO CTP/NRTP**

Registration Certificate granted to CTP/NRTP will be valid for:

1. Period specified in the registration application, or
  2. 90 days from the effective date of registration [can be extended further by a period not exceeding 90 days by making an application before the end of the validity of registration granted to him]
- whichever is earlier*

Where extension of time is sought, such registered taxable person will deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

### **ADVANCE DEPOSIT OF TAX**

- ✓ At the time of submitting the registration application, CTP/NRTP are required to make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.
- ✓ Such person will get a TRN for making an advance deposit of tax which shall be credited to his electronic cash ledger. An acknowledgement of receipt of application for registration is issued only after said deposit.

### **7. SPECIAL PROVISIONS FOR GRANT OF REGISTRATION IN CASE OF PERSONS REQUIRED TO DEDUCT TAX AT SOURCE UNDER SECTION 51 OR TO COLLECT TAX AT SOURCE UNDER SECTION 52 [RULE 12]**

- 1) Application for registration has to be submitted by such persons in a different prescribed form at GST Common Portal.
- 2) They would be granted registration within 3 working days from the date of submission of application after due verification.
- 3) Where, on a request made in writing by a person to whom a registration has been granted under rule 12(2) or upon an enquiry or pursuant to any other proceeding under the CGST Act, the proper officer is satisfied that a person to whom a certificate of registration has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued and such cancellation shall be communicated to the said person electronically.

### **8. DEEMED REGISTRATION [SECTION 26]**

1. 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 cesses.
2. Grant of registration/UIN under any SGST Act/ UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act.
3. Further, rejection of application for registration/UIN under SGST Act/UTGST Act is deemed to be rejection of application for registration under CGST Act.

## **9. AMENDMENT OF REGISTRATION [SECTION 28]**

- ❖ The provisions relating to amendment of registration are contained in section 28 read with rule 19 of CGST Rules, 2017.
- ❖ There are two categories of details in registration application – core and non-core fields.
  - Core fields are name of the business, (legal name) if there is no change in pan, addition / deletion of stakeholders, principal place of business (other than change in State) or additional place of business (other than change in State).
  - All other fields are non-core fields like name of day to day functionaries, e-mail Ids, mobile numbers etc.
- ❖ For Code field changes - Taxable person will apply for amendment within 15 days of the event necessitating the change. The proper officer, then, will approve the amendment within next 15 days.
- ❖ For non-core information - No approval of the proper officer is required, and the amendment can be affected by the taxable person on his own on the common portal.

### **The significant aspects of the same are discussed hereunder:**

1. Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, within 15 days of such change, along with documents relating to such change at the Common Portal.
2. In case of amendment of core fields of information, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
3. However, where change relates to non-core fields of information, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.
4. The proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.
5. Any rejection or approval of amendments under the SGST/UTGST Act shall be deemed to be a rejection or approval under this Act.
6. Any particular of the application for registration shall not stand amended with effect from a date earlier than date of submission of application for amendment on common portal except with order of Commissioner for reasons to be recorded in writing and subject to conditions specified by Commissioner in the said order.
7. Application for amendment of registration cannot be filed for change in PAN because GST registration is PAN-based. One needs to make fresh application for registration in case there is change in PAN. Thus, where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration.
8. Similarly, application for amendment of registration form cannot be filled if there is change in place of business from one State to the other because GST registrations are State-specific. If one wishes to relocate his business to another State, he must voluntarily cancel his current registration and apply for a fresh registration in the State he is relocating his business.
9. If the proper officer fails to take any action, -
  - a. within a period of 15 working days from the date of submission of the application, or
  - b. within a period of 7 working days from the date of the receipt of the reply to the show cause notice,

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

## **10. CANCELLATION OF REGISTRATION [SECTIONS 29]**

### **CIRCUMSTANCES WHERE REGISTRATION IS LIABLE TO BE CANCELLED [SECTION 29(1)]**

Circumstances when the registration can be cancelled either Suo motu by proper officer or on an application of the registered person or his legal heirs (in case death of such person)

<ul style="list-style-type: none"><li>--Business discontinued</li><li>--Transferred fully for any reason including death of the proprietor</li><li>--Amalgamated with other legal entity</li><li>--Demerged or</li><li>--Otherwise disposed of</li></ul>	Change in the constitution of the business	Taxable person who is no longer liable to be registered under section 22 or section 24 or optout voluntarily registration
--	--	---

### **CIRCUMSTANCES WHEN THE PROPER OFFICER CAN CANCEL REGISTRATION ON HIS OWN [SECTION 29(2)]**

- a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed [RULE 21]; or
- a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or
- any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed; or
- any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

### **RULE 21. Registration to be cancelled in certain CASES. -**

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

1. does not conduct any business from the declared place of business; or
2. issues invoice or bill without supply of goods or services or both in violation of the provisions of the Act, or the rules made thereunder; or
3. violates the provisions of section 171 of the Act or the rules made thereunder.
4. violates the provision of rule 10A.
5. Avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or
6. furnishes the details of outward supplies in FORM GSTR-1/1A under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or
7. violates the provision of rule 86B;
8. violates the provisions of third or fourth proviso to sub-rule (1) of rule 23 (i.e. pending returns during cancellation to be submitted within 30 days from the date of order of revocation of cancellation of registration).

9. being a registered person required to file return under sub-section (1) of section 39 for each month or part thereof, has not furnished returns for a continuous period of six months;
10. being a registered person required to file return under proviso to sub-section (1) of section 39 for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods.

## **11. SUSPENSION OF REGISTRATION [FIRST PROVISO TO SECTION 29(1) AND SECOND PROVISO TO SECTION 29(2) READ WITH RULE 21A]**

Once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, the proper officer may suspend his registration during pendency of the proceedings relating to cancellation of registration filed.

In this way, a taxpayer is freed from the routine compliances, including filing returns, under GST law during the pendency of the proceedings related to cancellation of registration. Also such person cannot issue TAX INVOICE during suspension period.

### **The period and manner of suspension of registration is as follows [Rule 21A]:**

1. Where registered person has applied for cancellation of registration: Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:
  - a. the date of submission of the application or
  - b. the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.
2. Where cancellation of the registration has been initiated by the Department on its own motion: Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he may, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration.
3. Where,
  - a. a comparison of the returns furnished by a registered person under section 39 with:
    - a) the details of outward supplies furnished in Form GSTR-1/1A; or
    - b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their Form GSTR-1/1A of the previous tax period, or 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, leading to cancellation of registration of the said person.
  - b. there is a contravention of the provisions of rule 10A by the registered person

the registration of such person shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.

4. A registered person, whose registration has been suspended as above:
  - a. shall not make any taxable supply during the period of suspension and
  - b. shall not be required to furnish any return under section 39.

"shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

5. A registered person, whose registration has been suspended under point 2 and 3 above, shall not be granted any refund under section 54, during the period of suspension of his registration.
6. The suspension of registration shall be deemed to be revoked upon completion of the cancellation proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect. The suspension of registration may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.
7. Further, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending GST returns, where GST registration was suspended due to non-filing of GST return for a financial year beyond 3 months from the due date of furnishing the said return by a composition taxpayer or returns for such continuous tax period as may be prescribed by registered persons (other than composition taxpayer) subject to the condition that the registration has not been cancelled by the proper officer under rule 22.
8. Further also, where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A [furnishing of bank account details] 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.
9. If any order of revocation of suspension of registration is passed, the provision of REVISED TAX INVOICE and FIRST RETURN in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

## **12. PROCEDURE FOR CANCELLATION OF REGISTRATION [RULES 20 AND 22]**

### **VOLUNTARY CANCELLATION BY REGISTERED PERSON APPLICATION**

- ✓ A registered person seeking cancellation of registration shall electronically submit the application for cancellation of registration in prescribed form 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/finished goods held in stock and of capital goods held in stock on the date from which cancellation of registration is sought, liability thereon, details of the payment, if any, made against such liability and may furnish relevant documents thereof.

#### **Order**

Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered, proper officer shall issue the order of cancellation of registration within 30 days from the date of submission of application for cancellation.

### **SUO-MOTU CANCELLATION BY THE DEPARTMENT**

- ✓ Where the proper officer cancels the registration Suo-motu, he shall not cancel the same without giving a show cause notice and without giving a reasonable opportunity of being heard, to the registered person. The reply to such show cause notice (SCN) has to be submitted within 7 days of service of notice.

- ✓ If reply to SCN is satisfactory, proper officer shall drop the proceedings and pass an order in prescribed form. However, where the person instead of replying to the SCN served for failure to furnish returns, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order.
- ✓ Where registration of a person is liable to be cancelled, proper officer 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 the proper officer and 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 under section 29(5).

### **AMOUNT PAYABLE ON CANCELLATION OF REGISTRATION [SECTION 29(5) & (6)]**

A registered person whose registration is cancelled will have to debit the electronic credit or cash ledger by an amount equivalent to:

- (i) input tax credit (ITC) in respect of:
    - a. stock of inputs and inputs contained in semi-finished/finished goods' stock or
    - b. capital goods or plant and machineryon the day immediately preceding the date of cancellation, or
  - (ii) the output tax payable on such goods
- whichever is higher, calculated in such manner as may be prescribed.

#### **Amount of credit to be reversed in respect of INPUTS:**

1. ITC on inputs computed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs.
  2. Output tax payable on such goods
- whichever is higher

#### **Amount of credit to be reversed in respect of CAPITAL GOODS OR PLANT & MACHINERY**

1. ITC involved in the remaining useful life in months of the capital goods computed on pro-rata basis, taking the useful life as 5 year
  2. Tax on the transaction value of such capital goods or plant and machinery under section 15
- whichever is higher

### **OTHER POINTS ABOUT CANCELLATION**

1. A person to whom a UIN has been granted under rule 17 cannot apply for cancellation of registration [Rule 20]
2. The cancellation of registration will not affect liability of registered person to pay tax and other dues under the Act for any period prior to the date of cancellation [Section 29(3)]
3. The cancellation of registration under either SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act [Section 29(4)].
4. Once registration is cancelled by the tax authority, the taxpayer will be intimated about the same via SMS and email. Order for cancellation of registration will be issued and intimated to the primary authorized signatory by email and SMS.
5. Taxpayer would not be allowed by the Common portal to file return for the period after date of cancellation mentioned in the cancellation order. However, he can submit returns of the earlier period.

### **13. REVOCATION OF CANCELLATION OF REGISTRATION [SECTION 30 READ WITH RULE 23]**

#### **PROCEDURE FOR REVOCATION OF CANCELLATION WHERE THE REGISTRATION IS CANCELLED SUO-MOTU**

1. Where the registration of a person is cancelled Suo-motu by the proper officer, such registered person, subject to the provisions of rule 10B, may apply for revocation of the cancellation to such proper officer, within a period of 90 days from the date of the service of the order of cancellation of registration.  
Said period of 90 days may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner/Joint Commissioner, as the case may be, for a further period not exceeding 180 days.
2. If the proper officer 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 and communicate the same to applicant.
3. Otherwise, he may reject the revocation application. However, before rejecting the application, he has to first issue SCN to the applicant who shall furnish the clarification within 7 working days of service of SCN. The proper officer shall dispose the application (accept/reject the same) within 30 days of receipt of clarification.

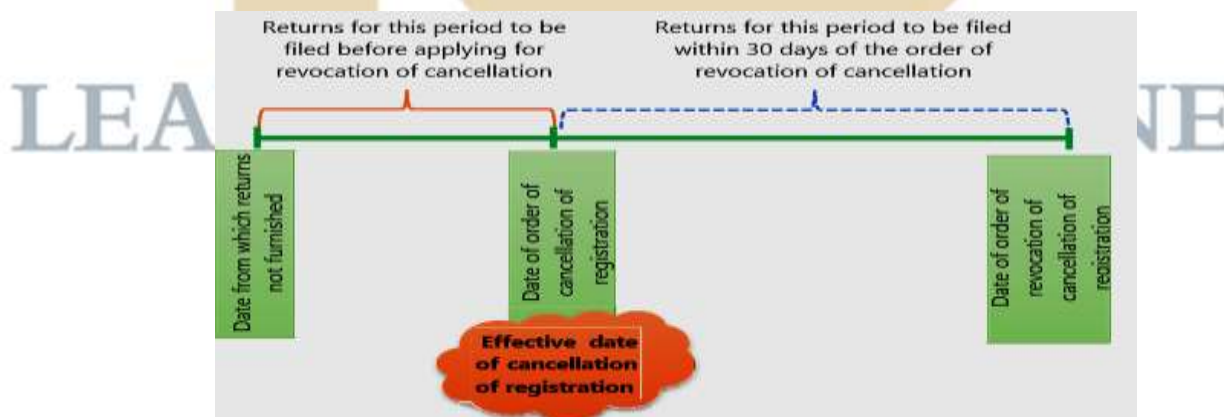
#### **WHERE REGISTRATION WAS CANCELLED FOR FAILURE OF REGISTERED PERSON TO FURNISH RETURNS**

Where registration was cancelled for failure of registered person to furnish returns, before applying for revocation, the person has to make good the defaults, i.e. the person needs to file such returns. However, the registration may have been cancelled by the proper officer either from the date of order of cancellation of registration or from a retrospective date.

#### **Where the registration has been cancelled with effect from the date of order of cancellation of registration**

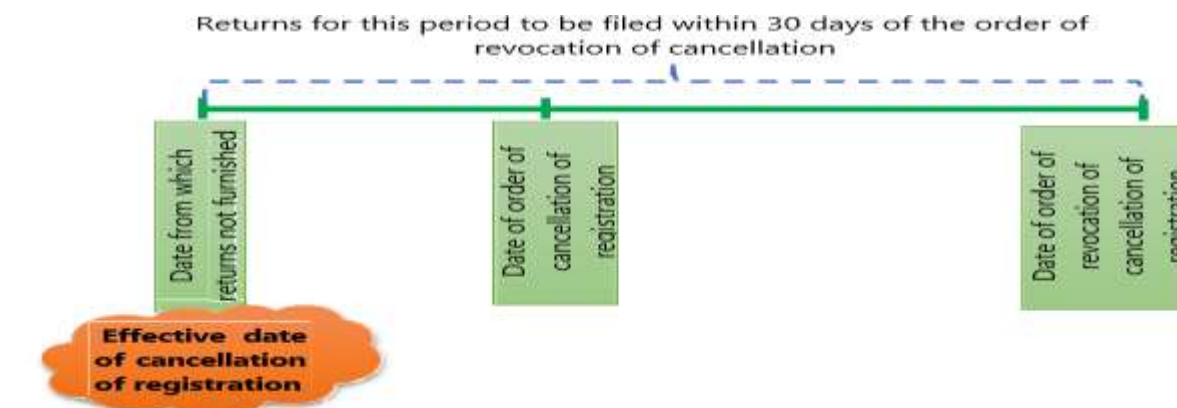
GST common portal does not allow furnishing of returns after the effective date of cancellation, but returns for the earlier period (i.e. for the period before date of cancellation mentioned in the cancellation order) can be furnished after cancellation.

Since the portal does not allow to furnish returns 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 a period of 30 days from the date of the order of revocation.



**Where the registration has been cancelled with retrospective effect**

All returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.



**SOME OTHER IMPORTANT POINTS RELATED TO REVOCATION**

1. UIN Holders (i.e. UN Bodies, Embassies and Other Notified Persons), GST Practitioner cannot apply for revocation of cancelled registration.
2. In case the registration is cancelled on the request of the taxpayer or his legal heir, one cannot apply for revocation of cancelled registration.
3. The revocation of cancellation of registration under the SGST Act/ UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under CGST Act

**SUMMARY OF AATO LIMIT FOR GST REGISTRATION.**

Category	State Name	Person engaged in exclusive supply of Goods	Person engaged in exclusive supply of services or both goods and services.
<b>Special state u/s 22</b>	Manipur, Mizoram, Nagaland, Tripura	10 Lacs	10 Lacs
<b>Excluded in NN 10/2019</b>	Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana, Uttarakhand	20 Lacs	20 Lacs
<b>Others</b>		40 Lacs	40 Lacs

Threshold limit will reduce only if a person makes taxable supply from specified state. If he makes exempt supply from a specified state then threshold limit will not reduce in case of supply from multiple state.

# CHAPTER 10 – TAX INVOICE; CREDIT AND DEBIT NOTES

## *Relevant Sections [Chapter: VI of CGST Act 2017]*

Section 31	:	Tax invoice
Section 31A	:	Facility of digital payment to recipient.
Section 32	:	Prohibition of unauthorised collection of tax.
Section 33	:	Amount of tax to be indicated in tax invoice and other documents.
Section 34	:	Credit and debit notes.
Rule 46	:	Tax invoice
Rule 46A	:	Invoice-cum-bill of supply
Rule 47	:	Time limit for issuing tax invoice
Rule 48	:	Manner of issuing invoice
Rule 49	:	Bill of supply
Rule 50	:	Receipt voucher
Rule 51	:	Refund voucher
Rule 52	:	Payment voucher
Rule 53	:	Revised tax invoice and credit or debit notes
Rule 54	:	Tax invoice in special cases
Rule 55	:	Transportation of goods without issue of invoice
Rule 55A	:	Tax Invoice or bill of supply to accompany transport of goods.

## **1. RELEVANT DEFINITIONS**

**"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 such goods as the Government may, subject to such conditions, as it may, by notification, specify;

**"continuous supply of services"** means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

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## **2. TAX INVOICE ISSUED BY A SUPPLIER OF TAXABLE GOODS/ TAXABLE SERVICES**

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.

### **TIME LIMIT FOR ISSUANCE OF INVOICE FOR SUPPLY OF GOODS** **[SECTIONS 31 READ WITH RULE 47]**

- 1) As per section 31(1), the invoice needs to be issued either before or at the time of removal of goods (where supply involves movement of goods) or delivery of goods/ making goods available to recipient (in any other case).
- 2) In case of continuous supply of goods, the invoice should be issued before or at the time of issuance of periodical statement/receipt of periodical payment [Section 31(4)].
- 3) In case of goods sent or taken on approval for sale or return, invoice should be issued
  - a. before or at the time of supply or
  - b. 6 months from the date of removal, whichever is earlier [Sec. 31(7)].

### **TIME LIMIT FOR ISSUANCE OF INVOICE FOR SUPPLY OF SERVICES** **[SECTIONS 31 READ WITH RULE 47]**

- 1) As per section 31(2) read with rule 47 of CGST Rules, the tax invoice needs to be issued either before the provision of service or within 30 days (45 days in case of insurance companies/ banking companies/ financial institutions including NBFCs) from the date of supply of service.
- 2) An insurer / banking companies/ financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies between distinct persons as specified in section 25, invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made [Second proviso to rule 47].
- 3) In case of continuous supply of services, the invoice should be issued either
  - (i) due date of payment is ascertainable from the contract - on/ before the due date of payment or
  - (ii) due date of payment is not ascertainable from the contract - before/ at the time when the supplier of service receives the payment
  - (iii) payment is linked to the completion of an event - on/ before the date of completion of the milestone event.[Section 31(5)].
- 4) In case of cessation of supply of services before completion of supply, the invoice (to the extent of the supply made before such cessation) should be issued at the time when the supply ceases [Section 31(6)].

### **TIME LIMIT FOR ISSUING TAX INVOICE SPECIFIED IN CASES WHERE RECIPIENT IS REQUIRED TO ISSUE INVOICE [RULE 47A]**

Rule 47A provides that where an invoice is required to be issued by a registered person, who is liable to pay tax under subsection (3) or sub-section (4) of section 9, he shall issue the said invoice within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.

[Notification No. 20/2024]

### **3. PARTICULARS OF A TAX INVOICE**

[Sections 31(1) & (2) read with rule 46]

There is no format prescribed for an invoice, but rules make it mandatory for an invoice to have the following fields.

1. name, address and Goods and Services Tax Identification Number of the supplier;
2. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
3. date of its issue;
4. name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
5. name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value of the taxable supply is fifty thousand rupees or more;
6. name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice:

Provided that in cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain name of the state of the recipient and the same shall be deemed to be the address on record of the recipient;

7. Harmonised System of Nomenclature code for goods or services;
8. description of goods or services;
9. quantity in case of goods and unit or Unique Quantity Code thereof;
10. total value of supply of goods or services or both;
11. taxable value of the supply of goods or services or both taking into account discount or abatement, if any;
12. rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
13. amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
14. place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;
15. address of delivery where the same is different from the place of supply;
16. whether the tax is payable on reverse charge basis;
17. signature or digital signature of the supplier or his authorised representative; and
18. Quick Response code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under sub-rule (4) of rule 48;]
19. a declaration as below, that invoice is not required to be issued in the manner specified under sub-rule (4) of rule 48, in all cases where an invoice is issued, other than in the manner so specified under the said sub-rule (4) of rule 48, 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 sub-rule (4) of rule 48-

'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 sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule'.

20. In the case of the export of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX", as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details, namely,—
- name and address of the recipient;
  - address of delivery; and
  - name of the country of destination:
21. A registered person other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens, may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely,—
- the recipient is not a registered person; and
  - the recipient does not require such invoice, and
- shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

#### **4. NUMBER OF HSN DIGITS REQUIRED ON TAX INVOICE AND CLASS OF REGISTERED PERSON NOT REQUIRED TO MENTION HSN**

AATO	Number of Digits of HSN Code
AATO ≤ 5 crores	For B2B supply - 4 For B2C supply – 4 (optional)
AATO > 5 crores	For B2B supply and B2C supply – 6

- ✓ However, for goods specified in NN 12/2017-CENTRAL TAX, 8-digit HSN code is mandatory for all registered persons.
- ✓ This provision is also applicable to Bill of Supply.

#### **5. MANNER OF ISSUING THE INVOICE**

In case of taxable supply of goods	In case of taxable supply of services
<b>Invoice shall be prepared in TRIPLICATE</b>	<b>Invoice shall be prepared in DUPLICATE</b>
1) the original copy being marked as ORIGINAL FOR RECIPIENT; 2) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and 3) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.	1) the original copy being marked as ORIGINAL FOR RECIPIENT; and 2) the duplicate copy being marked as DUPLICATE FOR SUPPLIER.

#### **6. E-INVOICING [RULE 48(4)]**

Under e-invoicing system Taxpayers will continue to create their GST invoices on their own Accounting/Billing/ERP Systems as per e-invoice schema. These invoices will then be reported to 'Invoice Registration Portal (IRP)'. On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it and return the e-invoice to the supplier. A GST e-invoice will be valid only with a valid IRN.

Presently, invoices, credit notes and debit notes, when issued by notified persons to registered persons (B2B) or for the purpose of exports are covered under e-invoice.

## **7. ADVANTAGES OF E-INVOICING**

1. Auto-reporting of invoices into GST return and auto-generation of e-way bill (wherever required)
2. GSTR-1 can also be auto-populated with the e-invoice data. It will become part of the business process of the taxpayer.
3. it will facilitate standardisation and inter-operability leading to reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs and thereby greatly improving overall business efficiency.
4. e-invoicing will eliminate the fake invoices.
5. The e-invoice system will help to curb the actions of unscrupulous taxpayers and reduce the number of fraud cases as the tax authorities will have access to data in real-time.

## **8. E-INVOICING STATUTORY PROVISIONS**

1. Rule 48(4) stipulates that the e-invoice shall be prepared by notified class of registered persons, by uploading such particulars as contained in Form GST INV-01 on the Common GST Electronic Portal and obtain an IRN.
2. Every invoice, issued by notified persons, in any manner other than the manner specified in rule 48(4) shall not be treated as an invoice and ITC not available to buyer.
3. Where e-invoicing is applicable, there is no need of issuing invoice copies in triplicate/duplicate.
4. E-invoicing is also not applicable to invoices issued by Input Service Distributor (ISD).
5. If the invoice issued by a notified person is in respect of supplies made by him, tax on which is payable under reverse charge under section 9(3), e-invoicing is applicable.
6. However, e-invoicing not applicable in case of reverse charge under section 9(4) or import of services or import of goods.
7. Where needed, the seller can cancel IRN for an e-invoice already reported by reporting it on IRP within specified time (24 hours from the time of generation). However, if the connected e-way bill is active or verified by officer during transit, cancellation of IRN will not be permitted.
8. Amendment of e-invoice already uploaded on IRP will be done only on GST portal while filing GSTR-1. Amendment of invoices is not possible through the IRP.

### **Class of persons notified to mandatorily issue e-invoice**

a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds 5 crores, has been notified as class of persons who shall prepare e-invoice in respect of B2B supplies or for exports.

### **EXEMPTION FROM E-INVOICING**

Following entities are exempt from the mandatory requirement of e-invoicing:

- 1) Special Economic Zone units. (SEZ Developer not covered here)
- 2) Insurer or banking company or financial institution including NBFC
- 3) GTA supplying services in relation to transportation of goods by road in a goods carriage
- 4) Supplier of passenger transportation service
- 5) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- 6) a Government Department and a local authority

Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds 5 crore in the preceding financial year from 2017-18 onwards.

Such registered person shall give a declaration in invoice which is as under

“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 sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule.”

**Exemption from generation of e-invoices available for the entity as a whole and not restricted by the nature of supply being made by the said entity**

It is hereby 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.

For example a banking company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.

## **9. E-INVOICE TECHNOLOGY**

### **How e-invoice is generated?**

1. The taxpayer first prepares and generates his invoice using his own ERP/ accounting/ billing system or manual system. The invoice must conform to the e-invoice schema.
2. The details of this invoice are uploaded/reported by the taxpayer to the Invoice Registration Portal (IRP). This way taxpayer registers his supply transaction on IRP.
3. On uploading, IRP returns the e-invoice with a unique 'Invoice Reference Number (IRN)' after digitally signing the e-invoice and adding a QR Code.
4. The supplier shares the e-invoice with the receiver along with QR Code and IRN.

### **How e-invoice data is consumed by GST System for generation of e-way bill or populating relevant parts GST Returns?**

1. IRP sends the e-invoice data along with IRN to the GST System as well as to E-Way Bill System.
2. The GST system will auto-populate them into GSTR-1 of the supplier and GSTR-2A/2B of respective receivers.
3. The e-invoice schema includes parameters e.g. 'Transporter ID' and 'Vehicle Number', etc. that are required for creating and generating e-way bills.

## **IMPORTANT TERMS**

### **E-invoice Schema**

- ✓ Businesses use various accounting/billing software, each generating and storing invoices in their own electronic formats. These different formats are neither understood by GST System nor by the systems of suppliers and receivers. So there was a need for some uniform format.
- ✓ This uniform standard format (containing specified fields) applicable for all the businesses across the country is known as 'e-invoice schema'. It is notified as Form GST INV-1. E-invoice schema mandates what particulars shall be reported in electronic format to IRP. Invoice details in prescribed schema to be reported to IRP in JSON format (JavaScript Object Notation). 'JSON' can be understood as a common language for systems/machines to communicate between each other and exchange data.

### **Invoice Registration Portal (IRP)**

IRP is the website for uploading/reporting of invoices by the notified persons. Following IRPs have been notified for the purpose of preparation of the e-invoice:

www.einvoice1.gst.gov.in  
www.einvoice2.gst.gov.in  
www.einvoice3.gst.gov.in  
www.einvoice4.gst.gov.in  
www.einvoice5.gst.gov.in  
www.einvoice6.gst.gov.in  
www.einvoice7.gst.gov.in  
www.einvoice8.gst.gov.in  
www.einvoice9.gst.gov.in  
www.einvoice10.gst.gov.in

### **Invoice Reference Number**

IRN, is a unique reference number (hash) generated and returned by IRP, on successful registration of e-invoice. for instance

35054cc24d97033afc24f49ec4444dbab81f542c555f9d30359dc75794e06bbe

### **Quick Response (QR) code**

Upon successful registration of invoice on IRP, it will return a signed e-invoice to the supplier with IRN and QR Code.

The QR code consists of the following e-invoice parameters:

- 1) GSTIN of supplier
- 2) GSTIN of recipient
- 3) Invoice number as given by supplier
- 4) Date of generation of invoice
- 5) Invoice value (taxable value and gross tax)
- 6) Number of line items
- 7) HSN code of main item (the line item having highest taxable value)
- 8) Unique Invoice Reference Number (hash)
- 9) Date of generation of IRN

### ***E-invoicing applicable to Government Departments/PSUs etc. registered solely for the purpose of deduction of tax at source as per provisions of section 51***

It is clarified that Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct TDS under section 51 are to be treated as registered persons under the GST law. Accordingly, e-invoices is mandatory for supply made for the supplies made to such persons.

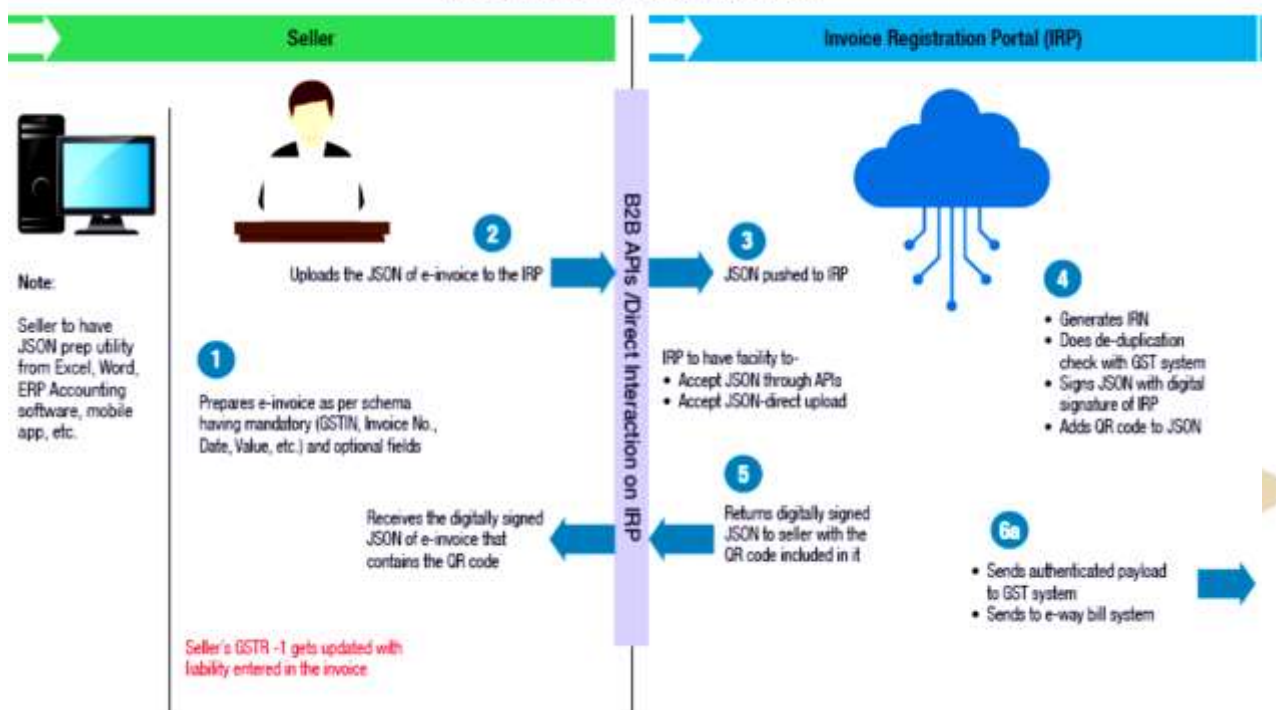
[Circular No. 198/10/2023]

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## OVERALL WORK FLOW OF E-INVOICE GENERATION

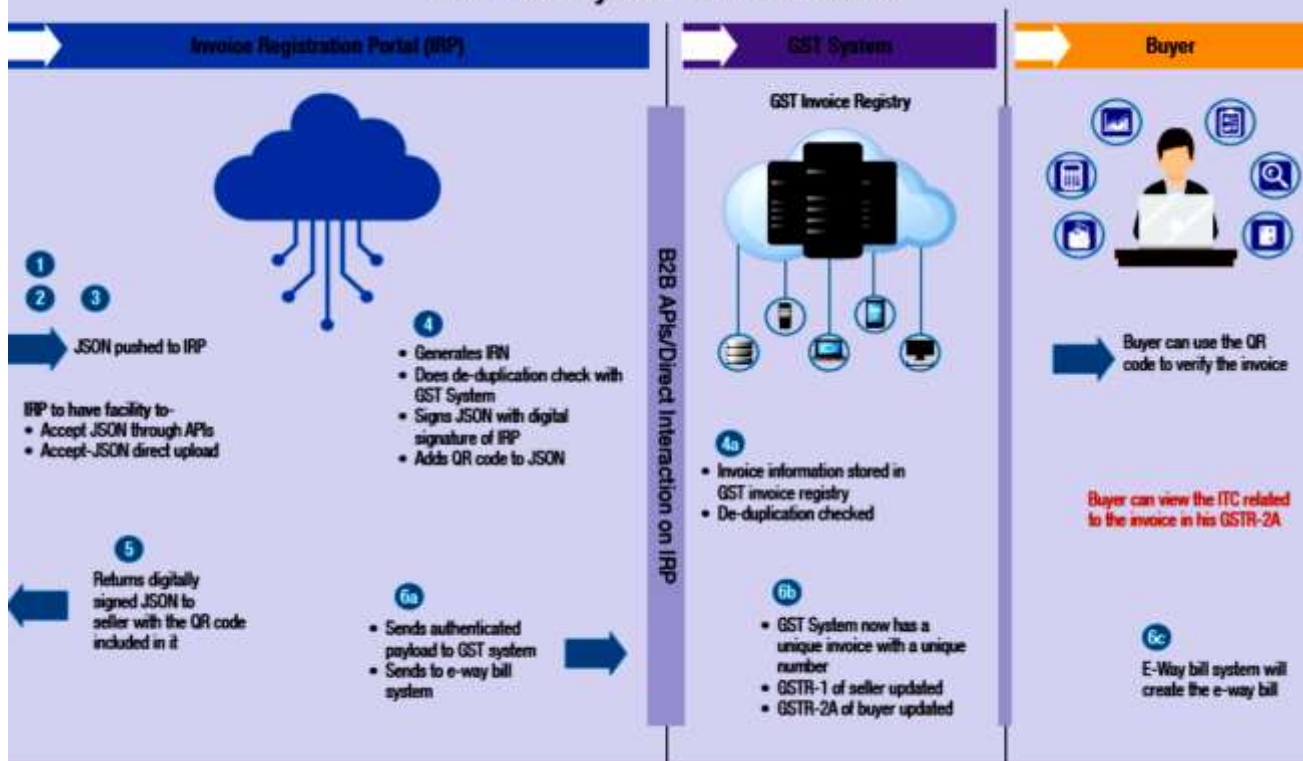
Interaction between the business (supplier) and the Invoice Registration Portal (IRP).

### A. Seller-IRP Flow of Activities



Interaction between the IRP and the GST/E-Way Bill Systems and the Buyer

### B. IRP-GST System Flow of Activities



## **10. DYNAMIC QR CODE ON B2C INVOICES**

- 1) All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds 500 crores will have a Dynamic QR code.
- 2) A Dynamic Quick Response (QR) code made available to buyer by such registered person through digital display (with payment cross-reference) shall be deemed to be having QR code.
- 3) The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly.
- 4) No Dynamic QR code in case of exports as e-invoice is mandatory for the same.
- 5) Any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.
- 6) Dynamic QR code is not applicable to an invoice issued to an unregistered person by following suppliers:
  - a. Insurer or banking company or financial institution including NBFC
  - b. Goods transport agency supplying services in relation to transportation of goods by road in a goods carriage
  - c. Supplier of passenger transportation service
  - d. Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
  - e. Supplier of online information and database access or retrieval (OIDAR) services.

### **Parameters/ details to be captured in the Dynamic QR Code**

Dynamic QR Code, inter-alia, shall contain the following information: -

- 1) Supplier GSTIN number
- 2) Supplier UPI ID
- 3) Payee's Bank A/c number and IFSC
- 4) Invoice number & invoice date,
- 5) Total invoice value and
- 6) GST amount along with breakup i.e. CGST, SGST, IGST, Cess, etc.

Further, Dynamic QR Code should be such that it can be scanned to make a digital payment.

## **11. REVISED TAX INVOICE**

1. Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices
2. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration.

### **Consolidated Revised Tax Invoices in certain cases**

1. A registered person may issue a Consolidated Revised Tax Invoice in respect of all taxable supplies made to an unregistered recipient during such period.
2. However, in case of inter-State supplies, a consolidated Revised Tax Invoice cannot be issued in respect of all unregistered recipients if the value of a supply exceeds 2,50,000.

### **Particulars of Revised Tax Invoice**

1. Name, address and GSTIN of the supplier;
2. A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -
3. hyphen or dash and slash and any combination thereof, unique for a FY;
4. Date of issue of the document;
5. Name, address and GSTIN or UIN, if registered, of the recipient;

6. Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
7. Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
8. Signature/digital signature of the supplier/his authorized representative.

## **12. NO TAX INVOICE IN CERTAIN CASES**

1. A registered person may not issue a Tax Invoice if:
  - (i) Value of the goods/services/both supplied < 200,
  - (ii) the recipient is unregistered; and
  - (iii) the recipient does not require such invoice.
2. Instead such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies.
3. this option is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens.
4. This provision is also applicable to Bill of Supply.

## **13. BILL OF SUPPLY**

1. A registered person supplying exempted goods or services or both or a registered person paying tax under composition levy, shall issue a bill of supply instead of a tax invoice.
2. Person opting for composition levy 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
3. Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as bill of supply for the purposes of the Act.

### **Particulars of Bill of Supply**

1. Name, address and GSTIN of the supplier;
2. A consecutive serial number not exceeding 16 characters, in one or more multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash and any combination thereof, unique for a FY;
3. Date of its issue;
4. Name, address and GSTIN or UIN, if registered, of the recipient;
5. HSN Code for goods or services;
6. Description of goods or services or both;
7. Value of supply of goods or services or both taking into account discount/ abatement, if any;
8. Signature/ digital signature of supplier/his authorized representative.

### **Invoice-cum-bill of supply**

Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies. 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.

## **14. RECEIPT VOUCHER**

1. A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a Receipt Voucher evidencing receipt of such payment.
2. At the time of receipt of advance, rate of tax and/or nature of supply may be determined as
  - a. rate of tax is not determinable - tax shall be paid at the rate of 18%
  - b. nature of supply is not determinable - same shall be treated as inter-State supply

### **Particulars of Receipt Voucher**

1. Name, address and GSTIN of the supplier;
2. A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash and any combination thereof, unique for a FY
3. Date of its issue; Name, address and GSTIN or UIN, if registered, of the recipient;
4. Description of goods or services; Amount of advance taken;
5. Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess); Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
6. Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; Whether the tax is payable on reverse charge basis; and
7. Signature/digital signature of supplier/his authorized representative

## **15. REFUND VOUCHER**

After issuance of Receipt Voucher, if no supply is made and no tax invoice is issued, the registered person may issue to the person who had made the payment, a Refund Voucher against such payment.

### **Particulars of Refund Voucher**

1. Name, address and GSTIN of the supplier;
2. A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special
3. characters -hyphen or dash and slash and any combination thereof, unique for a FY;
4. Date of its issue;
5. Name, address and GSTIN or UIN, if registered, of the recipient;
6. Number and date of Receipt Voucher issued
7. Description of goods/services in respect of which refund is made
8. Amount of refund made
9. Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess)
10. Amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess)
11. Whether the tax is payable on reverse charge basis; and
12. Signature/digital signature of supplier/his authorized representative

## **16. INVOICE AND PAYMENT VOUCHER [RCM U/S 9(3)/9(4) READ WITH RULE 47A]**

1. A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall within the period 30 days from the date of receipt of the goods or services or both, issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.
2. "supplier who is not registered" shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.
3. A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue a Payment Voucher at the time of making payment to the supplier.

**Particulars of Payment Voucher**

1. Name, address and GSTIN of the supplier if registered; A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and any combination thereof, unique for a FY
2. Date of its issue; Name, address and GSTIN of the recipient;
3. Description of goods or services; Amount paid;
4. Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess); Amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
5. Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and Signature/digital signature of supplier/his authorized representative

**17. 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	Document in lieu of the tax invoice	
	Optional information	Mandatory information
Insurer/Banking company/Financial institution, including NBFC	Serial number and Address of the recipient of taxable service	Other information as prescribed for a Tax Invoice. Such entities may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called for supply of services made during a month at the end of the month. However, the signature or digital signature of the supplier/his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof.
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage		<ol style="list-style-type: none"><li>1. Gross weight of the consignment</li><li>2. Name of the consignor and the consignee</li><li>3. Registration number of goods carriage in which the goods are transported Details of goods transported</li><li>4. Details of place of origin and destination GSTIN of the person liable for paying tax whether as consignor, consignee or GTA</li><li>5. Other information as prescribed for a tax invoice.</li></ol>
Supplier of passenger transportation service	Serial number Address of the recipient of taxable service	<ol style="list-style-type: none"><li>1. Tax invoice shall include ticket in any form, by whatever name called.</li><li>2. Other information as prescribed for a tax invoice</li><li>3. However, signature or digital signature shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000.</li></ol>

Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens	Details of recipient of service	<ol style="list-style-type: none"><li>1. Supplier is required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice</li><li>2. Other information as prescribed for a tax invoice</li></ol>
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## **18. DELIVERY CHALLAN**

Rule 55 specifies 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 the place of business of the supplier is not known,
2. Transportation of goods for job work,
3. Transportation of goods for reasons other than by way of supply, or
4. Such other supplies as may be notified by the Board

### **Deliver challan to be issued**

1. serially numbered not exceeding 16 characters
2. in one or multiple series
3. at the time of removal of goods for transportation

### **Particulars of Delivery Challan**

1. Date and number of the delivery challan
2. Name, address and GSTIN of the consigner, if registered
3. Name, address and GSTIN or UIN of the consignee, if registered
4. HSN code and description of goods,
5. Quantity (provisional, where the exact quantity being supplied is not known)
6. Taxable value
7. Tax rate and tax amount – central tax, state tax, integrated tax, union territory tax or cess, where the transportation is for supply to the consignee
8. Place of supply, in case of inter-state movement
9. Signature

### **Other Points**

1. The delivery challan shall be prepared in TRIPLICATE, in case of supply of goods, same as in case of invoice.
2. Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-Way Bill.
3. Tax invoice to be issued after delivery of goods.
4. Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots,
  - a. the supplier shall issue the complete invoice before dispatch of the first consignment;
  - b. the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
  - c. Copies of the corresponding delivery challan shall accompany each consignment along with a duly certified copy of the invoice; and
  - d. the original copy of the invoice shall be sent along with the last consignment.

5. Goods which are taken for supply on approval basis can be moved within the same State or outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the 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.

## **19. CREDIT AND DEBIT NOTES**

### **Issuance of Credit Note**

After the invoice has been issued, there can be situations like:

1. The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
2. The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
3. The quantity received by the recipient is less than what has been declared in the tax invoice.
4. The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value
5. Any other similar reasons.

In such situations, the supplier is allowed to issue a document called as credit note to the recipient. Once the credit note has been issued, the tax liability of the supplier will reduce. The supplier of goods/service may issue to the recipient one or more credit notes for supplies made in a financial year containing the prescribed particulars.

It is important to note that credit note(s) are not permitted to be issued in case secondary discounts are allowed by the supplier since the tax liability of the supplier does not get reduced in such case. However, supplier can issue financial/ commercial credit note(s) to reduce the value of supply payable by the recipient to the supplier

[Circular 92/11/2019 GST]

### **Issuance of Debit Note/supplementary invoice**

There can be situations when after the invoice has been issued:

1. The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
2. The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
3. The quantity received by the recipient is more than what has been declared in the tax invoice.
4. Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as debit note to the recipient. The registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing the prescribed particulars. The issuance of a *debit note/supplementary invoice* creates additional tax liability. The treatment of a debit note/supplementary invoice is identical to the treatment of a tax invoice as far as returns and payment are concerned.

**DETAILS OF DEBIT NOTE/CREDIT NOTE TO BE DECLARED IN RETURN**

**Credit Note:**

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than:

30th day of November following the end of the financial year in which such supply was made,

or

the date of furnishing of the relevant annual return, whichever is earlier.

The tax liability shall be adjusted in such manner as may be prescribed. Provided that no reduction in output tax liability of the supplier shall be permitted, if the—

- (i) input tax credit as is attributable to such a credit note, if availed, has not been reversed by the recipient, where such recipient is a registered person
- (ii) incidence of tax on such supply has been passed on to any other person, in other cases.

**Debit Note**

Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued

**PARTICULARS OF THE DEBIT AND CREDIT NOTES**

1. Name, address and GSTIN of the supplier.
2. Nature of the document.
3. A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY.
4. Date of issue of the document.
5. Name, address and GSTIN or UIN, if registered, of the recipient. Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered.
6. Serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply.
7. Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient
8. Signature/digital signature

**20. PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]**

1. A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.
2. No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

**21. AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER DOCUMENTS [SECTION 33]**

where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made



# CHAPTER 11 – ACCOUNTS AND RECORDS

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## 1. RELEVANT DEFINITIONS

**Manufacture** means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly. [Section 2(72)]

**Document** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].

**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 [Section 2(119)].

## 2. WHO IS REQUIRED TO MAINTAIN BOOKS OF ACCOUNTS AND WHERE? [SECTION 35(1) & (2)]

- 1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—
  - a. production or manufacture of goods;
  - b. inward and outward supply of goods or services or both;
  - c. stock of goods;
  - d. input tax credit availed;
  - e. output tax payable and paid; and
  - f. such other particulars as may be prescribed;
- 2) where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.
- 3) the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.
- 4) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.
- 5) Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

## 3. ADDITIONAL RECORDS TO BE MAINTAINED BY VARIOUS PERSONS [RULE 56]

- 1) Every registered person in addition to section 35(1) shall keep
  - a. a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.
  - b. separate account of advances received, paid and adjustments made thereto

c. particulars of:

- i. names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;
- ii. names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter
- iii. particulars of the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

However, if any taxable goods are found to be stored at any place(s) other than those so declared without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

- 2) Every registered person other than who has opted for composition scheme is required to maintain following records relating to stock of goods and tax details.
  - a. Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
  - b. Details of tax: Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.
- 3) Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.
- 4) Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.
- 5) Every registered person executing works contract shall keep separate accounts for works contract showing—
  - a. the names and addresses of the persons on whose behalf the works contract is executed;
  - b. description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
  - c. description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
  - d. the details of payment received in respect of each works contract; and
  - e. the names and addresses of suppliers from whom he received goods or services.
- 6) Every agent referred to in clause (5) of section 2 shall maintain accounts depicting the,—
  - a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
  - b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
  - c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;

- d) details of accounts furnished to every principal; and
  - e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.
- 7) Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.

#### **4. RECORDS TO BE MAINTAINED BY OWNER OR OPERATOR OF GODOWN OR WAREHOUSE AND TRANSPORTERS [RULE 58]**

- 1) If such persons are not already registered, they shall obtain a unique enrollment number by applying ENR-01 electronically on GST common portal.
- 2) The person enrolled as above in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.
- 3) For the purposes E-way bill, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his GSTINs, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter. Also, once unique enrollment number is obtained, the transporter shall not be eligible to use any of the GSTINs for the purposes of E-way bills.

##### **Records to be maintained by Transporter**

any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him alongwith the Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.

##### **Records to be maintained by Owner/operator of a warehouse/ godown**

- ✓ Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.
- ✓ The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

#### **5. HOW THE ACCOUNTS AND RECORDS WILL BE MAINTAINED**

- 1) Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.
- 2) Each volume of books of account maintained manually by the registered person shall be serially numbered.
- 3) Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter, the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained

- 4) The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.
- 5) Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

## **6. GENERATION AND MAINTENANCE OF ELECTRONIC RECORDS [RULE 57]**

- 1) Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.
- 2) The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.
- 3) Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

## **7. WHAT ARE THE CONSEQUENCES OF FAILURE TO MAINTAIN THE ACCOUNTS**

Where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1) of Section 35, the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74 or section 74A, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

## **8. PERIOD OF RETENTION OF ACCOUNTS [SECTION 36]**

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

## CHAPTER 12 – E-WAY BILL

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### 1. E-WAY BILL

A **waybill** is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route.

Electronic Way Bill (E-Way Bill) is a **compliance mechanism** wherein by way of a digital interface the person causing the movement of goods uploads the relevant information **prior to the commencement of movement of goods** and generates e-way bill on the GST portal.

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

#### What are the benefits of e-way bill?

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 the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.

#### Few other point about e-way bill

1. E-way Bill is generated electronically in Form GST EWB 01 on the common portal ([www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in)).
2. E-way bill can be generated by supplier, recipient or transporter but the person generating e-way bill must be registered.
3. If transporter is generating the e-way bill, but he is not registered person under GST law, 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.
4. TRANSIN or Transporter id can be shared by transporter with his clients, who may enter this number while generating e-waybills for assigning goods to him for transportation.
5. The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory. There is no need to generate separate e-way bill for each state.

### 2. WHEN IS E-WAY BILL REQUIRED TO BE GENERATED?

Whenever there is a movement of goods of **consignment value** exceeding 50,000:

1. in relation to a supply; or
2. for reasons other than supply; or
3. due to inward supply from an unregistered person,

the registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB-01 before commencement of such movement.

#### Special situations where e-way bill needs to be issued even if the value of the consignment is less than 50,000

1. Inter-State transfer of goods by principal to job-worker

Where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment

2. Inter-State transfer of handicraft goods by a person exempted from obtaining registration  
Where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration [under clauses (i) and (ii) of section 24], the e-way bill shall be generated by the said person irrespective of the value of the consignment.

### **Who causes movement of goods?**

If supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier. If recipient arranges transport, movement is caused by him. If goods are supplied by an unregistered supplier to a registered known recipient, movement shall said to be caused by such recipient.

### **Meaning of consignment value of goods**

Consignment value of goods shall be the value:

1. determined in accordance with the provisions of section 15,
2. declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
3. also **includes** the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
4. shall **exclude** the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

### **3. E-WAY BILL IN CASE OF 'BILL TO SHIP TO' MODEL**

In a "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely:

1. 'A' is the person who has ordered 'B' to send goods directly to 'C'.
2. 'B' is the person who is sending goods directly to 'C' on behalf of 'A'.
3. 'C' is the recipient of goods.

In this complete scenario. two supplies are involved and accordingly two tax invoices are required to be issued:

Invoice -1: which would be issued by 'B' to 'A'.

Invoice -2: which would be issued by 'A' to 'C'.

**It is clarified that as per the CGST Rules, 2017, for the movement of goods which is taking place from "B" to "C" on behalf of "A", either A or B can generate the e-Way Bill, but it may be noted that only one e-Way Bill is required to be generated**

### **4. INFORMATION TO BE FURNISHED IN E-WAY BILL**

An e-way bill Form GST EWB-01 contains two parts:

- A. Part A [comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation, etc.]: to be furnished by the registered person who is causing movement of goods of consignment value exceeding 50,000 and

- B. Part B (transport details) [Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number, in case of transport by road]: to be furnished by the person who is transporting the goods.

However, information in Part-A may be furnished:

1. by the transporter, on an authorization received from such registered person [First proviso to rule 138(1)] or
2. by the e-commerce operator or courier agency, where the goods to be transported are supplied through such an e-commerce operator or a courier agency, on an authorization received from the consignor.

**E-way Bill can be generated only after entering the details of Part-B. If only Part-A is submitted, it is treated as invalid e-way bill.**

### **WHEN IS IT NOT MANDATORY TO FURNISH THE DETAILS OF CONVEYANCE IN PART-B?**

E-way bill is valid for movement of goods by road only when the information in Part-B is furnished. However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported for a distance of upto 50 km within the State/Union territory:

- ✓ from the place of business of the consignor to the place of business of the transporter for further transportation, or
- ✓ from the place of business of the transporter finally to the place of business of the consignee

### **5. WHO IS MANDATORILY REQUIRED TO GENERATE E-WAY BILL**

1. **Where the goods are transported by a registered person** - whether as consignor or recipient as the consignee (whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) [Rule 138(2)].
2. **Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter**, for transportation of goods by road, the registered person shall furnish the information relating to the transporter in Part B on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].
3. **Where the goods are transported by railways or by air or by vessel**, the 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, information in part B [viz transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number)] on the common portal.
4. Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than 50,000, it shall be the responsibility of the transporter to generate it.

### **Other Important Points**

1. Where the goods are transported by railways: there is no requirement to carry e-way bill along with the goods, but railways has to carry invoice or delivery challan or bill of supply, as the case may be along with goods. Further, e-way bill generated for the movement is required to be produced at the time of delivery of the goods. Railways shall not deliver goods unless the e-way bill required under rules is produced at the time of delivery.

2. Where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.
3. Where the 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.

## **6. E-WAY BILL GENERATION BY UNREGISTERED PERSON**

- ✓ An unregistered person making inter-State transport of handicraft goods exempted from obtaining compulsory registration and required to generate e-way bill irrespective of the value of the consignment.
- ✓ an unregistered person opting to generate e-way bill in Form GST EWB-01, on the common portal, shall submit the details electronically on the common portal in FORM GST ENR-03 either directly or through a Facilitation Centre notified by the Commissioner and, upon validation of the details so furnished, a unique enrolment number shall be generated and communicated to the said person.

## **7. TRANSFER OF GOODS FROM ONE CONVEYANCE TO ANOTHER**

1. Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in Part B of the e-way bill on the common portal.
2. The user can update Part-B (Vehicle details) as many times as he wants for movement of goods to the destination. However, the updating should be done within the validity period.

## **8. ASSIGNING THE E-WAY BILL NUMBER TO ANOTHER TRANSPORTER**

1. The consignor/recipient, who has furnished the information in Part A, or the transporter, may assign the e-way bill number to another registered/enrolled transporter for updating the information in Part B for further movement of the consignment.
2. However, once the details of the conveyance have been updated by the transporter in Part B, the consignor or recipient, as the case may be, who has furnished the information in Part A shall not be allowed to assign the e-way bill number to another transporter.

## **9. CONSOLIDATED E-WAY BILL**

1. Consolidated e-way bill (GST EWB-02) is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle).
2. By using this transporter is not required to carry each e-way bill.
3. Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB.
4. Further, where the consignor/consignee has not generated the e-way bill in Form GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than 50,000, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in Form GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a

consolidated e-way bill in Form GST EWB-02 on the common portal prior to the movement of goods.

## **10. INFORMATION SUBMITTED FOR E-WAY BILL CAN BE USED FOR FILING GST RETURNS**

The information furnished in Part A of the e-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in Form GSTR-1

However, when the information has been furnished by an unregistered supplier/unregistered recipient, he shall be informed electronically, if the mobile number or the e-mail is available.

## **11. CANCELLATION OF E-WAY**

1. e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.
2. However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.
3. Further, unique EWB number generated is valid for a period of 15 days for updation of Part B.

## **12. VALIDITY PERIOD OF E-WAY BILL/CONSOLIDATED E-WAY BILL**

Validity of e-way bill depends on distance to be travelled by the goods.

Distance within country	Validity period from relevant date
<b>Upto 200 km</b>	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
<b>For every 200 km or part thereof thereafter</b>	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
<b>Upto 20 km</b>	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
<b>For every 20 km or part thereof thereafter</b>	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

**Relevant date** means the date on which the e-way bill has been generated 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.

**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.

### **EXTENSION OF VALIDITY PERIOD**

If validity of the e-way bill expires, the goods are not supposed to be moved. In general, the validity of the e-way bill cannot be extended. However, the validity of the e-way bill can be extended in following cases:

**Extension by Commissioner for certain categories of goods:** Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein.

**Extension by transporter in exceptional circumstances:** Under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B, if required. The validity of the e-way bill may be extended within 8 hours from the time of its expiry.

### **13. ACCEPTANCE OF E-WAY BILL**

The details of the e-way bill generated shall be made available to the -

- ✓ supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or
- ✓ recipient, if registered, where the information in Part A has been furnished by the supplier/transporter,

on the common portal, and the supplier/recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details. The time-limit specified for this purpose is:

- (i) 72 hours of the details being made available to him on the common portal
  - or
  - (ii) the time of delivery of goods,
- whichever is earlier.

### **14. SITUATIONS WHERE E-WAY BILL IS NOT REQUIRED TO BE GENERATED**

1. where the goods being transported are the ones given below:
  - 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 (Chapter 71)
  - 5) Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) **excepting Imitation Jewellery**
  - 6) Currency
  - 7) Used personal and household effects
  - 8) Coral, unworked (0508) and worked coral (9601)]
2. where the goods are being transported by a non-motorised conveyance.
3. where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
4. in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory
5. where the goods [other than de-oiled cake], being transported, are exempt from tax
6. where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel

7. where the supply of goods being transported is treated as no supply under Schedule III of the CGST Act.
8. where the goods are being transported
  - a. 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
  - b. under customs supervision or under customs seal
9. where the goods being transported are transit cargo from or to Nepal or Bhutan
10. where the goods being transported are exempt from tax under Notification No. 7/2017 CT (R) 28.06.2017 [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] and Notification No. 26/2017 CT (R) 21.09.2017 [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)]
11. any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
12. where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
13. where empty cargo containers are being transported
14. where the goods are being transported upto a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan.
15. where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

## **15. DOCUMENTS AND DEVICES TO BE CARRIED BY A PERSON-IN-CHARGE OF A CONVEYANCE [RULE 138A]**

The person-in-charge of a conveyance shall carry -

1. the invoice or bill of supply or delivery challan, as the case may be; and
2. a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a RFID embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner.

There is no requirement to carry the physical copy of tax invoice in cases where e-invoice has been generated by the supplier. Whenever e-invoice has been generated, production of the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.

### **Invoice Reference Number in lieu of tax invoice**

In case, e-invoice is issued, the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.

### **Documents in lieu of e-way bill**

Where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill:

1. tax invoice or bill of supply or bill of entry; or
2. a delivery challan, where the goods are transported for reasons other than by way of supply.

## **16. VERIFICATION OF DOCUMENTS AND CONVEYANCES**

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.

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.

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.

However, on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

## **17. INSPECTION AND VERIFICATION OF GOODS**

A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of a prescribed form within 24 hours of inspection and the final report in Part B of said form shall be recorded within 3 days of such inspection.

However, 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 said form, for a further period not exceeding 3 days.

The period of 24 hours or, as the case may be, 3 days shall be counted from the midnight of the date on which the vehicle was intercepted.

Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently.

## **18. FACILITY FOR UPLOADING INFORMATION REGARDING DETENTION OF VEHICLE**

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in specified form on the common portal.

## **19. BLOCKING OF E-WAYBILL GENERATION FACILITY**

As per rule 138E, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall not be allowed to furnish the information in Part A of Form GST EWB-01 in respect of following registered persons, whether as a supplier or a recipient:

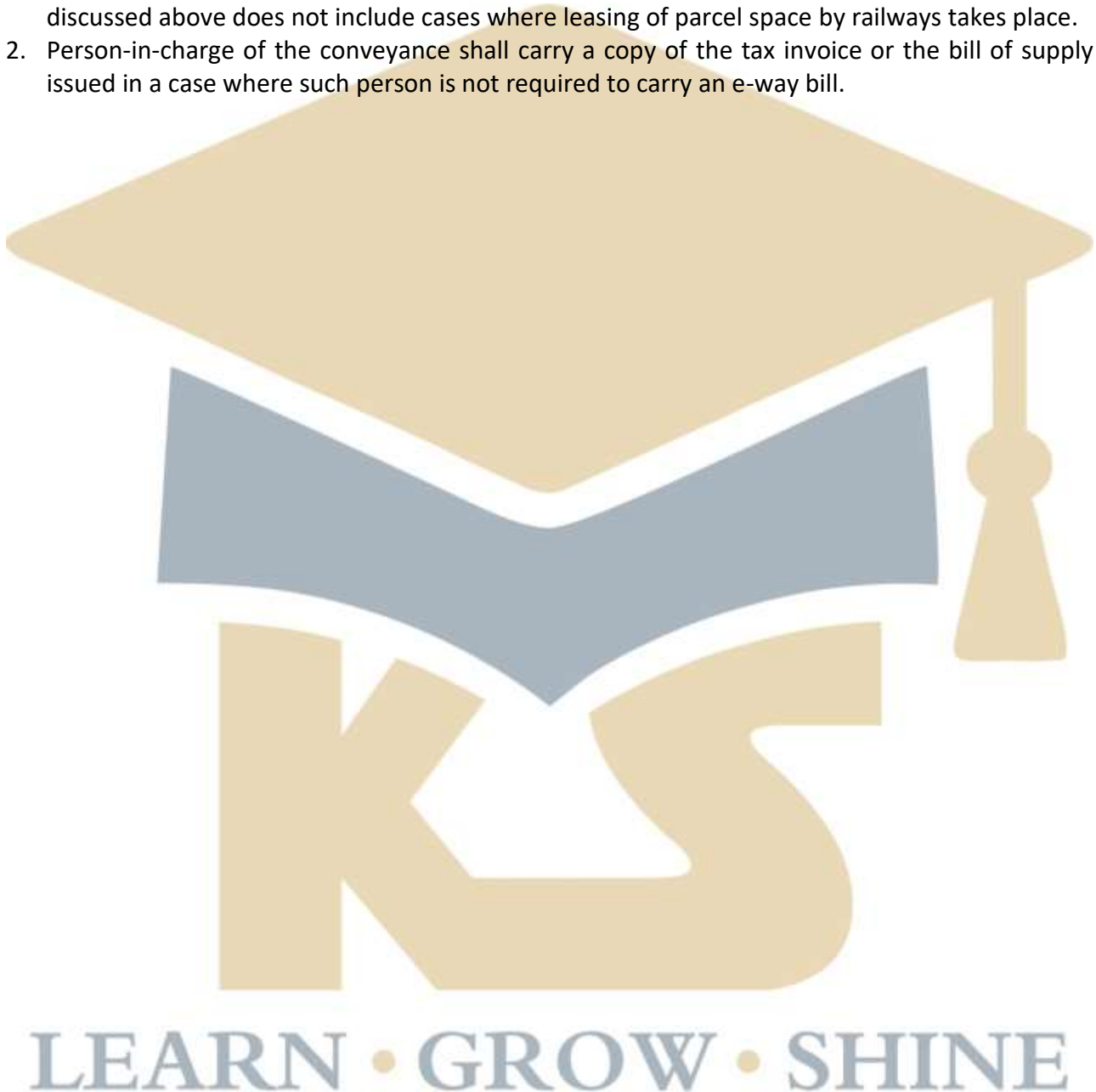
1. A person paying tax under composition scheme has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or
2. A person paying tax under regular scheme has not furnished the returns for a consecutive period of 2 tax periods, or
3. A person paying tax under regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be.
4. A person whose registration has been suspended under the provisions of rule 21A of the CGST Rules.

However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A

of Form GST EWB-01, subject to prescribed conditions and restrictions. An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

## **20. OTHER POINTS RELATED TO E-WAY BILL**

1. It may be noted that the expressions 'transported by railways', 'transportation of goods by railways', 'transport of goods by rail' and 'movement of goods by rail' used in the provisions discussed above does not include cases where leasing of parcel space by railways takes place.
2. Person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in a case where such person is not required to carry an e-way bill.



# CHAPTER 13 – PAYMENT OF TAX

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## 1. RELEVANT DEFINITIONS

Electronic Cash ledger means the electronic cash ledger referred to in subsection (1) of Section 49 [Section 2(43)].

Electronic Credit ledger means the electronic credit ledger referred to in subsection (2) of section 49 [Section 2(46)].

## 2. ELECTRONIC CASH LEDGER

1. The Electronic Cash Ledger contains a summary of all the deposits/payments made by a tax payer.
2. There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.
3. Electronic Cash Ledger is maintained on the GST Portal.
4. An unregistered person has to make payment through electronic cash ledger on the basis of temporary identification number generated through common portal.
5. Any deposit made towards payment of tax, interest, penalty, late fee or any other amount will be credited to the electronic cash ledger.
6. Any debit to the electronic cash ledger represents payment therefrom towards tax, interest, penalty, late fee or any other amount.
7. 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.
8. 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.
9. The deposit in the electronic cash ledger shall be made through any of the following modes, namely: -
  - (i) Internet Banking through authorised banks;
  - (ii) Credit card or Debit card through the authorised bank;
  - (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
  - (iv) Unified payment interface (UPI) or Immediate Payment Services (IMPS) from any bank
  - (v) Over the Counter payment through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft.
10. It may be noted that the restriction for deposit up to ten thousand rupees 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.

**Payment by Challan - What is CPIN, CIN, BRN and E-FPB?**

**CPIN** stands for Common portal Identification Number. It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. CPIN remains valid for a period of 15 days.

**CIN or Challan Identification Number** is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code.

**BRN** or Bank Reference Number is the transaction number given by the bank for a payment against a Challan.

**E-FPB** stands for Electronic Focal Point Branch. These are branches of authorized banks 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. For NEFT/RTGS Transactions, RBI will act as E-FPB.

**Payment by Challan – Validity and other points**

1. E- challan in Form PMT 06 validity is for 15 days.
2. The commission for making payment through e-challan has to be borne by the person making the payment.
3. 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.
4. 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.
5. In case any discrepancy is noticed in electronic cash ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form.
6. Where the bank fails to communicate details of Challan Identification Number 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.

**Manner of utilization of amount reflected in Electronic Cash Ledger**

1. 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.
2. the registered person can also transfer an amount from one (major/minor) head to another (major/minor) head in the electronic cash ledger using PMT-09.
3. the registered person can also transfer an amount from CGST to IGST/CGST of distinct person and such transfer shall be treated as refund. Provided that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

### **Transfer of amount reflected in Electronic Cash Ledger**

A registered person to transfer an amount from

- one (major/minor) head to another (major/minor) head in the electronic cash ledger or
- any amount available in the electronic cash ledger, to the electronic cash ledger for IGST/CGST of a distinct person, provided there is no unpaid liability in his electronic liability register.

It is important to note that transfer between CGST & SGST is allowed in same GSTIN but not in case of distinct person.

### **3. ELECTRONIC CREDIT LEDGER**

1. Self-assessed input tax credit (ITC) by a registered person shall be credited to its Electronic Credit Ledger.
2. The amount available in the electronic credit ledger may be used for making any payment towards output tax and not for other amounts such as interest, penalty, fees etc.
3. Also, amount available in the electronic credit ledger cannot be utilised for tax payable under reverse charge.
4. 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.
5. 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.
6. 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.
7. Also, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.
8. In case any discrepancy is noticed in the electronic credit ledger, 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 ITC, condition (Rule 86A) and restriction (Rule 86B) already covered in chapter of ITC.

### **CLARIFICATIONS REGARDING UTILIZATION OF THE AMOUNTS AVAILABLE IN THE ELECTRONIC CREDIT LEDGER AND THE ELECTRONIC CASH LEDGER FOR PAYMENT OF TAX AND OTHER LIABILITIES**

#### **Issue 1:**

Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

Clarification:

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. However, the same cannot be utilized for making payment of any tax which is payable under reverse charge mechanism.

**Issue 2:**

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 3:**

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), 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.

#### **4. ELECTRONIC LIABILITY REGISTER**

1. It is not defined under GST law.
2. It is auto updated from eCash Ledger and eCredit Ledger.
3. Electronic Liability Register will reflect the total tax liability of a taxpayer for a particular tax period.

#### **Order of discharge of tax and other dues**

the liability of a taxable person has to be discharged in following chronological order:

1. self -assessed tax and other dues for the previous tax periods have to be discharged first.
2. the self -assessed tax and other dues for the current period have to be discharged next.
3. Once these two steps are exhausted, thereafter any other amount payable including demand determined under section 73 or section 74 to be discharged.

The expression "other dues" referred above mean interest, penalty, fee or any other amount payable under the Act or the rules made there under.

#### **Presumption that incidence of tax is passed on**

if tax has been paid under the CGST Act, 2017 then the taxable person is deemed to have passed on the incidence of such payment of CGST to the recipient. This is subject to the contrary being proved. Onus to establish that incidence of tax has not been passed on to the recipient, becomes relevant in case of Section 54 dealing with "Refund of Tax"

#### **PROCESS OF MAINTAINING E-LIABILITY REGISTER**

##### **Debit to electronic liability register:**

- ✓ all amounts payable towards tax, interest, late fee and any other amount as per return filed;
- ✓ all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;
- ✓ any interest amount that may accrue from time to time.

**Credit to electronic liability register [Debit to Electronic Credit/Cash ledger]**

- ✓ Payment of all the liabilities of a registered person as per his return using cash and ITC.
- ✓ Payment of TDS deducted under section 51, TCS deducted by e-commerce operator under section 52, amount payable under reverse charge basis, amount payable under section 10, amount payable towards payment of interest, penalty, fee or any other amount under the Act.

**5. HOW DO THE NEW PAYMENT SYSTEMS BENEFIT THE TAXPAYER AND THE COMMERCIAL TAX DEPARTMENT**

1. No more queues and waiting for making payments as payments can be made online 24 X 7.\
2. Instant online receipts for payments made online.
3. Tax Consultants can make payments on behalf of the clients.
4. Single Challan form to be created online, replacing the three or four copy Challan.
5. Revenue will come earlier into the Government Treasury as compared to the old system.
6. Greater transparency.
7. Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

**6. INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]**

1. Interest is payable in case of delay in payment of tax, in full or in part within the prescribed period.
2. rate of interest is 18% per annum.
3. The period of interest will be from the date following the due date of payment to the actual date of payment of tax.
4. The interest payable under this section shall be debited to the Electronic Liability Register.
5. The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger but not with balance in electronic credit ledger.

**7. MANNER OF CALCULATING INTEREST ON DELAYED PAYMENT OF TAX [RULE 88B]**

**Amount on which interest is to be calculated:**

1. If supplies declared in correct return period before 73/74/74A – Net tax paid through Cash. Also, where any amount has been credited in the Electronic Cash Ledger on or before the due date of filing the said return but return is filed belatedly, 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.
2. Other cases – Gross tax liability i.e. paid through cash and ITC.
3. Input tax credit wrongly availed and utilized - amount of input tax credit wrongly availed and utilized

**Period of Interest**

1. If supplies declared in correct return period before 73/74/74A – the period of delay in filing the said return beyond the due date.
2. Other cases - period starting from the date on which such tax was due to be paid till the date such tax is paid
3. Input tax credit wrongly availed and utilized - 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.

***Explanation to rule 88B –***

- 1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.
- 2) the date of utilisation of such input tax credit shall be taken to be, —
  - a. the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or
  - b. the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

**Clarification on charging of interest under section 50(3) in cases of wrong availment of IGST credit and reversal thereof**

**Issue:**

In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

**Clarification:**

Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B of CGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit.

**Issue:**

Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under sub-rule (3) of rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.

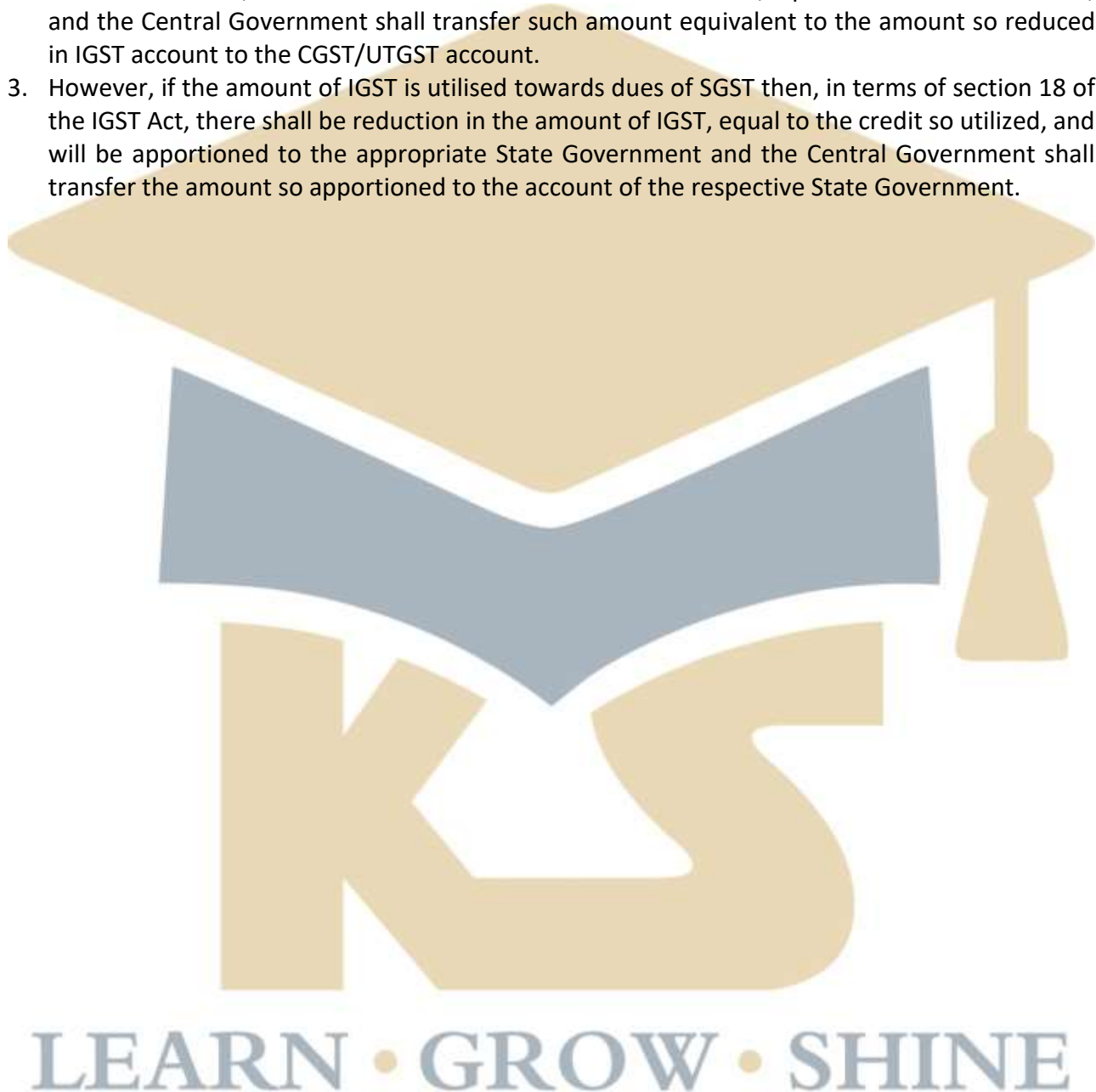
**Clarification:**

Credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.

Accordingly, credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest.

**8. TRANSFER OF INPUT TAX CREDIT [SECTION 53 OF CGST ACT & SECTION 18 OF IGST ACT]**

1. If the amount of CGST is utilised towards dues of IGST then, in terms of section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.
2. Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in IGST account to the CGST/UTGST account.
3. However, if the amount of IGST is utilised towards dues of SGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and will be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government.



# CHAPTER 13 – TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE

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## **1. RELEVANT DEFINITIONS**

**Electronic Commerce** means the supply of goods or services or both, including digital products over digital or electronic network [Section 2(44)]

**Electronic Commerce Operator** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce [Section 2(45)]

## **2. TAX DEDUCTION AT SOURCE – APPLICABILITY**

The TDS provisions make it mandatory for the following persons (the deductor) to deduct tax at source from payments made to the suppliers of taxable goods and/or services

- a) a department or establishment of the Central Government or State Government; or
- b) local authority; or
- c) Governmental agencies; or
- d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

Above person shall deduct tax at the rate of one per cent from the payment made or credited to the supplier (referred as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees.

Effective rate of TDS will be 2% (1% CGST and 1% SGST or 2% IGST)

### **Persons notified under clause (d) of sub-section (1) of section 51**

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

It has been clarified vide Circular No. 76/50/2018 GST dated 31.12.2018 that the rider of 51% or more participation by way of equity or control is applicable to both the items (i) and (ii).

2. society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
3. public sector undertakings
4. 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

[NN 50/2018 CT]

## **3. CATEGORIES OF PERSONS NOT LIABLE TO DEDUCT TDS**

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

1. Authorities under the Ministry of Defence, other than the authorities specified in the Annexure A and their offices.
2. When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person
3. When supply of goods and/or services takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d).

***ANNEXURE 'A' as referred in point 1 above***

1. Controller of Defence Accounts, Patna
2. Pr. Controller of Defence Accounts (Pensions), Allahabad
3. Pr. Controller of Defence Accounts (Officers), Pune
4. Controller of Defence Accounts, (Army), Meerut
5. Pr. Controller of Defence Accounts, Southern Command, Pune
6. Pr. Controller of Defence Accounts, Bangalore
7. Pr. Controller of Defence Accounts, Western Command, Chandigarh
8. Pr. Controller of Accounts (Factories), Kolkata
9. Pr. Controller of Defence Accounts (Air Force), Dehradun
10. Pr. Controller of Defence Accounts (Navy), Mumbai
11. Controller of Defence Accounts (Funds), Meerut
12. Pr. Controller of Defence Accounts, Northern Command, Jammu
13. Zonal Office (Pension Disbursement), Chennai
14. AO DAD Min. of Defence (Civil), New Delhi
15. Controller of Defence Accounts, Canteen Stores Dept., Mumbai
16. Pr. Controller of Defence Accounts, New Delhi
17. Controller of Defence Accounts, Chennai
18. Pr. Controller of Defence Accounts (R&D) New Delhi
19. Controller of Defence Accounts (Pension Disbursement), Meerut
20. Controller of Defence Accounts, Gauhati
21. Pr. Controller of Defence Accounts, (CC) Lucknow
22. Pr. Controller of Defence Accounts (Border Roads), New Delhi
23. Controller of Defence Accounts (R&D), Bangalore
24. Controller of Defence Accounts, Secunderabad
25. Controller of Defence Accounts, Jabalpur
26. Pr. Controller of Defence Accounts (Air Force), New Delhi
27. Pr. Controller of Defence Accounts (R&D), Hyderabad
28. Controller of Defence Accounts, New Delhi
29. Controller of Defence Accounts (IDS), New Delhi
30. Pr. Controller of Defence Accounts (SWC), Jaipur

**4. NO TDS DEDUCTION**

As per proviso to Section 51(1), when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

Location of Supplier	Place of Supply	Registration Recipient	of TDS Applicability
State A	State A	State A	Yes
State A	State B	State B	Yes
State A	State A	State B	No

## **5. REGISTRATION OF DEDUCTOR FOR TDS**

- 1) Any person required to deduct tax in accordance with the provisions of section 51 shall electronically submit a registration application in prescribed form through the common portal.
- 2) The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.
- 3) Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

## **6. VALUE OF SUPPLY**

The amount indicated in the invoice excluding the Central tax, State tax, Union territory tax, Integrated tax and cess element, is the value of supply for the purpose of TDS under Section 51 of CGST Act, 2017

## **7. DEPOSIT OF TDS WITH THE GOVERNMENT**

The amount of tax deducted at source should be deposited to the Government account by deductor by 10th of the succeeding month.

If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay penal interest under Section 50 in addition to the amount of tax deducted.

## **8. RETURN AND CLAIM OF TDS**

Deductor has to file return in GSTR-7 by 10<sup>th</sup> of next month and the same shall be reflected in TDS/TCS credit statement of deductee for the month.

The deductee can claim credit of the tax deducted by accepting entries in TDS/TCS credit statement, and the same shall be reflected in his electronic cash ledger. After filing of TDS/TCS credit statement by the deductee, TDS certificate will be issued on GST common portal.

### **TDS Certificate**

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in prescribed form to the deductee (the supplier from whose payment TDS is deducted).

The content of Form GSTR 7A (TDS Certificate) are given below:

1. TDS Certificate No.
2. GSTIN of deductor
3. Name of deductor
4. GSTIN of deductee
5. (a) Legal name of the deductee  
(b) Trade name, if any

6. Tax period in which tax deducted and accounted for in GSTR-7
7. Details of supplies
8. Amount of tax deducted

## **9. REFUND ON EXCESS/ERRONEOUS DEDUCTION**

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases.

## **10. DETERMINATION OF AMOUNT IN DEFAULT**

Any default in determination of the amount under Section 51 shall be made in the manner specified in Section 73/74/74A, as the case may be.

## **11. TAX COLLECTION AT SOURCE – APPLICABILITY**

TCS is applicable on

- ✓ Every Electronic Commerce Operator (ECO), not being an agent,
- ✓ on the net value of taxable supplies [supplies net of returns if any] made through it by suppliers,
- ✓ where the ECO collects the consideration on behalf of the supplier for such supplies.

### ***Net Value Of Taxable Supplies***

Net value of taxable supplies = aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, 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.

### ***Services Notified Under Section 9(5)***

- a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle except omnibus;
- b) Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.
- c) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.
- d) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.
- e) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

## **12. TCS – RATE**

Applicable rate for TCS is 0.25% CGST & 0.25% SGST of the net value of intra-State taxable supplies. In case of Inter-state supplies, rate is 0.5%

### **13. DEPOSIT OF TCS BY ECO TO GOVERNMENT**

The TCS amount collected by the ECO has to be remitted to the Government within 10 days after the end of the month in which the collection was made.

### **14. TCS – REGISTRATION**

Any person required to collect tax in accordance with the provisions of section 52 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.

Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 52 then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

### **15. FILING OF MONTHLY & ANNUAL STATEMENTS BY ECO**

- 1) An electronic statement [Form GSTR 8] has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.
- 2) The details of tax collected at source furnished by the ECO shall be made available electronically to each of the registered suppliers on the common portal after filing of FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.
- 3) Supplier has to accept TCS entries and file TDS/TCS statement for the month on GST portal to get credit of TCS.
- 4) Additionally, the ECO is also mandated to file an Annual Statement [Form GSTR 9B] on or before 31st day of December following the end of the financial year.
- 5) The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

### **16. NOTICE TO THE OPERATOR SEEKING DETAILS**

- 1) An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc.
- 2) The operator is required to furnish such details within 15 working days.
- 3) In case an operator fails to furnish the information, besides being liable for penal action under section 122, it shall also be liable for penalty up to 25,000 (CGST & SGST each).

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## CHAPTER 15 – RETURNS

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### **1. THE RETURNS SERVE THE FOLLOWING PURPOSES:**

1. Mode for transfer of information to tax administration.
2. Compliance verification program of tax administration.
3. Finalization of the tax liabilities of the taxpayer within stipulated period of limitation.
4. Providing necessary inputs for taking policy decision.
5. Management of audit and anti-evasion programs of tax administration.

### **2. MODES OF RETURN FILING UNDER GST**

1. All the returns under GST laws are to be filed electronically either on common portal or using offline utilities.
2. Returns can also be filed through GST Suvidha Providers (GSP) that will integrate with the common portal.
3. GSP will develop applications for return filing, reconciliation of purchase data with auto-populated data and other work for ease of compliance.

### **3. RELEVANT DEFINITIONS**

1. **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. **Return** means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder
3. **Tax period** means the period for which the return is required to be furnished
4. **Valid return** means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.
5. **Goods and services tax practitioner** means any person who has been approved under section 48 to act as such practitioner [Section 2(55)].

### **4. QRMP SCHEME OF RETURN FILING**

1. Quarterly Return Monthly Payment (QRMP) scheme has been introduced as a trade facilitation measure and in order to further ease the process of doing business
2. Eligibility for QRMP scheme
  - a. Registered persons, having an aggregate turnover up to 5 crore in the preceding financial year, and who have opted to furnish quarterly return under QRMP scheme as the class of persons who shall furnish a return for every quarter and pay the tax due every month.
  - b. Eligible registered person can also opt QRMP GSTIN wise. Meaning thereby the registered person can opt QRMP for some GSTIN and normal for some GSTIN.
3. Conditions and restrictions
  - a. Registered persons under QRMP scheme must have furnished the return for the preceding month, as due on the date of exercising such option. A registered person shall not be eligible to opt for QRMP scheme if he has not furnished the last return due on the date of exercising such option.
  - b. Registered persons under QRMP scheme are not required to exercise the option every quarter.

4. Manner of exercising option of QRMP scheme

A registered person intending to opt for QRMP scheme for any quarter shall indicate his preference for furnishing of return on a quarterly basis from 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised.

5. Option of QRMP scheme to lapse

- a. In case where a registered person's aggregate turnover crosses ` 5 crore during a quarter in a financial year, he shall not be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter.
- b. He shall opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which his aggregate turnover exceeds 5 crore.
- c. The facility for opting out of the scheme for a quarter will be available from 1st day of 2nd month of preceding quarter to the last day of the 1<sup>st</sup> month of the quarter.

**5. FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37]**

1. The details of outward supplies of both goods and services are required to be furnished by every registered person including casual registered person except the following:
  - a. input service distributor (ISD)
  - b. non-resident taxable person
  - c. person paying tax under composition scheme ☐ person deducting tax at source
  - d. person collecting tax at source i.e., e-commerce operator (ECO), not being an agent
  - e. supplier of online information and database access or retrieval services
  - f. (OIDAR) located in non-taxable territory and providing such services to non-taxable online recipient
2. The details of outward supplies are required to be furnished, electronically, in Form GSTR-1 for the month or quarter.
3. Invoices related details can be uploaded any time and not just at the time of filing and can be modified/deleted any number of times till the submission of GSTR-1 of a tax period.

**What is the due date of submission of GSTR-1?**

Monthly (Non-QRMP GSTIN)	Quarterly (QRMP GSTIN)
11th day of the month succeeding such tax period	13th day of the month succeeding such tax period.

A taxpayer cannot file GSTR-1 before the end of the current tax period. However, following are the exceptions to this rule:

- a. Casual taxpayers, after the closure of their business
- b. Cancellation of GSTIN of a normal taxpayer

A taxpayer who has applied for cancellation of registration will be allowed to file GSTR-1 after confirming receipt of the application.

**Invoice Furnishing Facility [IFF] for taxpayers opting for QRMP Scheme?**

1. Invoice Furnishing Facility (IFF) is a facility provided to quarterly taxpayers who are in QRMP scheme, to file their details of outward supplies in first two months of the quarter, to pass on the credit to their recipients.
2. It is a facility and optional.
3. The facility of furnishing details of invoices in IFF has been provided so as to allow details of such supplies to be duly reflected in the Form GSTR-2A/2B of the concerned recipient.

4. Taxpayers opting for QRMP Scheme may furnish the details of such outward supplies to a registered person, as he may consider necessary, for the 1st and 2nd months of a quarter, upto a cumulative value of 50 lakh in each of the first 2 months of the quarter using IFF.
5. IFF has to be furnished upto 13<sup>th</sup> of succeeding month. After that no option to file IFF for the month. But data of the month can be filed in next month or in GSTR-1 at the end of quarter.
6. The details of invoices furnished using IFF in the first 2 months of the quarter are not required to be furnished again in GSTR-1 for the said quarter.
7. In the IFF, the taxpayer has to submit the **B2B** (business to business) invoice/credit note/debit note details of both inter-State and intra-State supply transactions during the month.

**WHAT ARE THE CASES WHERE A REGISTERED PERSON IS DEBARRED FROM FURNISHING DETAILS OF OUTWARD SUPPLIES IN GSTR-1/IFF**

1. A registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1, if he has not furnished the GSTR-1 or return in Form GSTR-3B for the **preceding month**.
2. A registered person, opting for QRMP scheme shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF, if he has not furnished the return in Form GSTR-3B for preceding tax period.
3. A registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88C in respect of a tax period, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 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 the provisions of rule 88C(2).
4. a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish GSTR-1/IFF for a subsequent tax period, unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under the provisions of rule 88D(2)
5. A registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the details of the bank account as per the provisions of rule 10A.

**What are the contents of GSTR-1**

1. **Basic Details** – GSTIN, Legal name, Trade name, if any, Aggregate turnover in previous year, Year and Month, HSN-wise summary of outward supplies, Details of documents issued
2. **Details of Outward Supplies** - B2B including UIN holders, B2C inter-State supplies where 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.
3. Scanned copies of invoices are not required to be uploaded
4. Description of each item in the invoice need not be furnished. Only HSN is required.
5. Invoice-wise details to be furnished for all B2B transaction and Inter-State B2C transaction if invoice value exceed 1,00,000.
6. For other inter-state B2C transaction, consolidated state-wise details to be furnished.
7. For intra-state B2C transaction, consolidated details to be furnished.

**Nil GSTR-1**

Filing of GSTR-1 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-1 is required to be filed. A Nil GSTR-1 can be filed through an SMS using the registered mobile number of the taxpayer.

**HOW ARE THE DETAILS OF OUTWARD SUPPLY FURNISHED IN PRIOR PERIODS AMENDED?**

### **Scope of amendment/correction entries**

1. Tables 9, 10 and 11(II) of GSTR-1 provide for amendments in details of taxable outward supplies furnished in earlier periods.
2. The details of original debit notes/ credit notes / refund vouchers issued by the tax-payer in the current tax period as also the revision in the debit notes/ credit notes / refund vouchers issued in the earlier tax periods are required to be shown in Table 9 of the GSTR-1.
3. in Amendment Table, the supplier is required to give details of original invoice (No and Date), the particulars of which have been wrongly entered in GSTR-1 of the earlier months and are now sought to be amended.
4. But if supplier forgets to upload invoice earlier, that can be uploaded now but as a normal invoice and not amendment.
5. Supplier can make correction or add invoice of previous tax period upto
  - a. 30th day of November following the end of the financial year to which such details pertain, or
  - b. Date of filing of the relevant annual returnWhichever is earlier  
(same time limit is applicable for GSTR-3B)

## HSN DETAILS IN GSTR-1

- 1) Description of each item in the invoice need not be furnished. Only HSN (Harmonized System of Nomenclature) code in respect of supply of goods and accounting code in respect of supply of services need to be fed.
- 2) Also invoice-wise HSN details is not required to be submitted. HSN-wise summary of supplies during tax period is to be submitted.
- 3) The minimum number of digits of HSN code that a filer has to upload depend on his turnover in the last year:
  - a. Upto 5 crore - For B2B supply - 4  
For B2C supply – 4 (optional)
  - b. More than 5 crore - 6

## 6. MAXIMUM TIME-LIMIT FOR FURNISHING FORM GSTR-1

Maximum time-limit upto which a registered person can furnish the details of outward supplies in Form GSTR-1 for a tax period is 3 years from the due date of furnishing such details.

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

## **7. GSTR-1A – AMENDMENT AFTER FILING GSTR-1**

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.

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 in the following manner:

Invoice-wise details of All	Consolidated details of All	Debit and credit notes
Inter-State and Intra-State supplies made to registered persons, i.e. B2B supplies.	Intra-State supplies made to unregistered persons for each rate of tax	Issued during the month for invoices issued previously
Inter-State supplies made to unregistered persons with invoice value exceeding 1,00,000, i.e. B2C supplies	Inter-State supplies made to unregistered persons with invoice value upto 1,00,000 for each rate of tax separately for each State	

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

- 1) Form GSTR-1A is an optional facility.
- 2) It can be filed only once for a return period.
- 3) It allows to amend the records filed in the Form GSTR-1 of current tax period only. QRMP GSTIN can also amend supplies furnished in M1 and M2 of the quarter.
- 4) There will be no separate amendment facility available for records furnished through IFF for the months M1 and M2, during the month M1 and M2.
- 5) 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.
- 6) 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.
- 7) It can be filed only electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.
- 8) There is no due date for filing of GSTR-1A. GSTR-1A will be available 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.
- 9) The net impact of particulars declared or amended through Form GSTR-1A, along with the particulars declared in Form GSTR-1/IFF, shall be auto-populated in Form GSTR-3B for the same tax period as that of Form GSTR-1.
- 10) 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.

## **8. COMMUNICATION OF DETAILS OF INWARD SUPPLIES AND INPUT TAX CREDIT [SECTION 38]**

Form and manner of ascertaining details of inward supplies – GSTR-2A and GSTR-2B

**Form GSTR-2A** is a system generated read only statement of inward supplies for a recipient. This statement is updated on a **real time basis**.

**Form GSTR-4A** is the system generated statement of inward supplies for composition taxpayer.

**Form GSTR-2B** – an **auto-generated** read only statement containing the details of eligible ITC - is made available to the registered person (recipient) for every month. It is a **static statement** and is available only once a month i.e. 14<sup>th</sup> of next month.

However now ITC can be claimed on the basis of GSTR-2B only. Hence, GSTR-2A is not relevant for practical purpose.

**The Auto-generated statement shall consist of (data format)**

1. details of inward supplies in respect of which credit of input tax may be available to the recipient; and
2. details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,--
  - a. by any registered person within such period of taking registration as may be prescribed; or
  - b. by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or
  - c. by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or
  - d. by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or
  - e. by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or
  - f. by such other class of persons as may be prescribed.

**GSTR-2B shall consist of (Period)—**

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

- b. for the second month of the quarter, between the day immediately after the due date of furnishing details using the IFF for the first month of the quarter to the due date of furnishing details using the IFF for the second month of the quarter;
  - c. for the third month of the quarter, between the day immediately after the due date of furnishing of details using the IFF for the second month of the quarter to the due date of furnishing of FORM GSTR-1 for the quarter;
- 3) the 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;
- 4) the details of the integrated tax paid on the import of goods or goods brought in the domestic Tariff Area from Special Economic Zone unit or a Special Economic Zone developer on a bill of entry in the month.

### **Cut-off time for GSTR-2B**

- 1) Form GSTR-2B consists of all documents filed by suppliers/ISD in their Form GSTR - 1, 5 & 6, between the cut-off dates.
- 2) It also consists of import data for the period which are received within 13th of the succeeding month.
- 3) 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.
- 4) 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.
- 5) The details filed in Form GSTR-1 & 5 (by supplier) & Form GSTR-6 (by ISD) would reflect in the next open Form GSTR-2B of the recipient irrespective of supplier's/ISD's date of filing.
- 6) The statement in Form GSTR-2B for every month shall be made available to the registered person,-
  - a. 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,
    - i. in the IFF by a registered person opting for QRMP, or
    - ii. in Form GSTR-1 by a registered person other than opting for QRMP, whichever is later.
  - b. 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.

### **9. FURNISHING OF RETURNS - GSTR-3B**

- ✓ GSTR-3B is a simple return containing summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR- 3B does not require invoice-wise data of outward supplies.
- ✓ GSTR-3B to be filed by every registered person, other than
  - an input service distributor
  - a non-resident taxable person
  - a composition taxpayer,
  - a person deducting tax at source, a person collecting tax at source, i.e. an electronic commerce operator

- supplier of OIDAR services located in non-taxable territory providing such services to non-taxable online recipient
- ✓ Filing of returns for current month is possible only when returns of the previous month have been filed.
- ✓ Also, GSTR-1 has to be filed first for the current month/quarter before filing GSTR-3B

### **Due date for filing return**

1. Monthly GSTR-3B -on or before 20th of the month succeeding the month for which return is furnished.
2. Quarterly GSTR-3B- on or before 22nd or 24th of the month succeeding the quarter for which return is furnished in case of a taxpayer opting for QRMP scheme.

Class of registered persons	Due date
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, Union territories of Daman & Diu & Dadra & 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, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24th day of the month succeeding such quarter.

### **Nil GSTR-3B**

1. Filing of GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period.
2. A Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B submitted through SMS is verified by registered mobile number-based OTP facility.
3. 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.

## **10. BROAD CONTENT OF GSTR-3B**

**Basic Details** – GSTIN, Legal name of the registered person, Year and Month/Quarter

**Other details relating to supplies** - Summarised details of outward supplies and inward supplies liable to reverse charge, Summarised details of inter-State supplies made to unregistered persons, composition taxable persons and UIN holders, Eligible and ineligible ITC, Values of exempt, nil-rated and non-GST inward supplies, Payment of tax, TDS/TCS credit.

## **11. MAXIMUM TIME-LIMIT FOR FURNISHING FORM GSTR-3B**

Maximum time-limit upto which a registered person can furnish the return in Form GSTR-3B for a tax period is 3 years from the due date of furnishing such return.

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

## **12. RECTIFICATION OF ERRORS/OMISSIONS - GSTR-3B**

Any error in GSTR-3B can be rectified in the return to be filed for the tax period during which such omission or incorrect particulars are noticed.

Any tax payable as a result of such error or omission will be required to be paid along with interest.

However, section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities. Hence, taxpayer may not be able to pass on the ITC to the receiver in respect of tax payments made by him in pursuance of any of the aforementioned situations.

**Time limit for making rectification**

- a. 30th day of November following the end of the financial year to which such details pertain, or
  - b. Date of filing of the relevant annual return
- Whichever is earlier  
(Same time limit is applicable for GSTR-1)

It is important to note that GSTR-3B only contains summary of invoices and invoice level correction is to be done in GSTR-1 only. So, if there is any error in invoice uploading, first that has to be corrected in GSTR-1 and after correction, the same is reflected in GSTR-3B automatically on the GST portal.

**13. DUE DATE FOR PAYMENT OF TAX BY NON-QRMP TAX PAYER**

1. Due dates for payment of tax in respect of the persons required to file monthly GSTR-3B are linked with the due dates for filing of such returns, i.e. the last dates (due dates) of filing such returns are also the due dates for payment of tax in respect of persons required to file such returns.
2. Composition tax payer should deposit by 18th of the month succeeding such quarter in CMP-08.

**14. DUE DATE FOR PAYMENT OF TAX BY QRMP TAX PAYER**

1. Every registered person under QRMP scheme shall pay the tax due for each of the first 2 months of the quarter, by depositing the said amount in Form GST PMT-06, by the 25th day of the month succeeding such month
2. While making a deposit in Form GST PMT-06, such a registered person may –
  - (a) for the 1st month of the quarter, take into account the balance in the electronic cash ledger.
  - (b) for the 2nd month of the quarter, take into account the balance in the electronic cash ledger excluding the tax due for the 1st month.

While

**15. FURNISHING OF RETURNS - GSTR-4 AND CMP-08**

1. Every registered person paying tax under section 10, i.e. a composition supplier is required to file an annual return in Form GSTR-4 by 30th June of the succeeding financial year.
2. The persons required to file GSTR-4 are also required to furnish a statement in the Form GST CMP-08 containing details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.
3. The inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in FORM GSTR-4A for viewing.
4. Composition taxpayers are required to provide consolidated details of outward supplies in GSTR-4 and not invoice-wise details. However, details of inter-State and intra-State inward supplies received from registered and un-registered persons are to be provided invoice-wise.

### **Broad contents of GSTR-4**

**Basic & Other Details** – GSTIN, Legal name and Trade name, TDS/TCS credit received [Table 7], Tax, interest, late fee payable and paid [Table 8], Refund claimed from Electronic cash ledger [Table 9]

#### **Details regarding Inward and Outward Supplies –**

- Invoice-wise details of all inward supplies (i.e., intra and inter- State supplies and from registered and unregistered persons) including reverse charge supplies and import of services [Table 4],
- Summary of self-assessed liability as per GST CMP-08 (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) [Table 5],
- Tax rate wise details of outward supplies/inward supplies attracting reverse charge (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) - Consolidated details of outward supplies [Table 6]

### **Nil GST CMP-08**

Filing of GST CMP-08 is mandatory for all taxpayers who have opted to pay tax under composition scheme, even if there is no business activity in any particular tax period.

A Nil GST CMP-08 can be filed through an SMS using the registered mobile number of the taxpayer.

### **Statements/return for the period prior to opting for composition scheme**

If a registered person opts to pay tax under composition scheme from the beginning of a financial year, he will, where required, furnish statements/return relating to the period prior to paying tax under composition scheme till the

- ✓ 30th day of November following the end of the financial year to which such details pertain, or
- ✓ furnishing of annual return of the preceding financial year, whichever is earlier.

The composition supplier 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.

### **Statements/return for the period prior to exiting for composition scheme**

CMP 08 - 18th of the month succeeding the quarter in which the date of withdrawal falls

GSTR-4 - 30th April following the end of the financial year during which such withdrawal falls

3. generating the challan, taxpayers should select “Monthly payment for quarterly taxpayer” as reason for generating the challan for the first 2 months of quarter.

### **QRMP GSTIN can use any of the following two options provided below for monthly payment of tax during the first 2 months**

#### **Fixed sum method:**

1. If a taxpayer chooses this option, a facility is available on the GST portal for generating an auto-generated/pre-filled challan in Form GST PMT-06. The challan amount is calculated by the system which cannot be edited. The amount is equal to:
  - a. 35% of the tax paid in cash in the return for the preceding quarter where the return was furnished quarterly; or
  - b. tax liability paid in cash in the return for the last month of the immediately preceding quarter where the return was furnished monthly.
2. However, no such amount may be required to be deposited-
  - a. for the 1st month of the quarter, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability;

- b. for the 2nd month of the quarter, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the cumulative tax liability for the 1st and the 2nd month of the quarter or where there is nil tax liability
3. 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.
4. 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.
5. **No interest would be payable in case the tax due is paid in the first 2 months of the quarter by way of depositing auto-calculated fixed sum amount by the due date.**
6. **In case such payment of tax by depositing the system calculated amount in Form GST PMT-06 is not done by due date, interest would be payable at the applicable rate, from the due date of furnishing Form GST PMT-06 till the date of making such payment.**

**Self-Assessment Method:**

1. The said persons, in any case, can pay the tax due by considering the tax liability on inward and outward supplies and the input tax credit available, in Form GST PMT-06.
2. an auto-drafted input tax credit statement has been made available in Form GSTR-2B, for every month to ascertain ITC.
3. In this case Interest amount would be payable as per the provision of section 50 for tax or any part thereof (net of ITC) which remains unpaid / paid beyond the due date for the first 2 months of the quarter.

**16. GSTR-5 - RETURN FOR NON-RESIDENT TAXABLE PERSONS**

1. A simplified monthly tax return has been prescribed in Form GSTR-5 for a NRTP for every calendar month or part thereof.
2. The details of outward supplies and inward supplies of a NRTP are incorporated in GSTR-5.
3. GSTR-5 should be furnished within
  - a. 13 days after the end of the calendar month or
  - b. within 7 days after the last day of validity period of the registration, whichever is earlier
4. A NRTP should pay the tax, interest, penalty, fees or any other amount payable, till the last date of filing GSTR-5.
5. A NRTP is not required to file an annual return.

**17. GSTR-7 - RETURN FOR TAX DEDUCTED AT SOURCE**

- 1) Deductor shall furnish a monthly return in Form GSTR-7
- 2) The details in GSTR-7 should be furnished on/before 10th of the month succeeding the calendar month in which tax has been deducted at source.
- 3) GSTR-7 is to be filed every month whether or not any deductions have been made during the said month.
- 4) The details of TDS furnished by the deductor in GSTR-7 shall be made available electronically to each of the deductees on the common portal.
- 5) A TDS certificate shall be made available electronically to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished by the deductor.

**18. GSTR-8 - RETURN FOR TCS BY E-COMMERCE OPERATOR**

- 1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in FORM GSTR-8 within ten days after the end of such month.

- 2) Form GSTR-8 contains the details of supplies of goods or services or both effected through ECO, including the supplies of goods or services or both returned through it and the amount of tax collected at source.
- 3) The details of tax collected at source shall be made available electronically to each of the registered suppliers on the common portal after filing of FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.
- 4) Rectification of errors/omissions in GSTR-8 – Same as GSTR-1
- 5) Maximum time-limit for furnishing Form GSTR-8 – Same as GSTR-1

## **19. FIRST RETURN [SECTION 40]**

1. When a person becomes liable to registration after his turnover crosses the threshold limit, he may apply for registration within 30 days of so becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate. During such time, the person may make taxable supply.
2. The registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration. The format for this return is the same as that for regular return.

## **20. ANNUAL RETURN - GSTR – 9**

1. All registered persons are required to file an annual return. However, following persons are not required to file the annual return:
  - a. Casual taxable persons.
  - b. Non- resident taxable person
  - c. Input service distributors
  - d. Persons authorized to deduct/collect tax at source under section 51/52
  - e. Person supplying OIDAR services from outside India to unregistered persons in India
2. The annual return for a financial year needs to be filed by 31<sup>st</sup> December of the next financial year.
3. Along with GSTR-9, a reconciliation statement to be filed in GSTR-9C, if AATO exceeds 5 crores for the financial year.
4. Registered person having AATO upto 2 crores are exempted for filing annual return.
5. Maximum time-limit for furnishing annual return – Same as GSTR-1

## **21. FINAL RETURN – GSTR-10**

1. Every registered person who is required to furnish return u/s 39(1) and whose registration has been surrendered or cancelled is required to file a final return electronically in Form GSTR- 10 through the common portal.
2. The final return has to be filed within 3 months of the:
  - (i) date of cancellation
  - or
  - (ii) date of order of cancellationwhichever is later.

## **22. DETAILS OF INWARD SUPPLIES OF PERSONS HAVING UIN – GSTR-11**

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, if refund is claimed.

If UIN is issued for purposes other than refund of taxes paid then 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.

## **23. DEFAULT/DELAY IN FURNISHING RETURN**

### **Notice to return defaulters**

1. A notice in prescribed form is issued, electronically, to a registered person who fails to furnish return under section 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement].
2. The notice requires the registered person to furnish the return within 15 days failing which the tax liability will be assessed under section 62.

### **LATE FEES LEVIED FOR DELAY IN FILING RETURN (OTHER THAN ANNUAL RETURN)**

1. Delay in filing any of the following by their respective due dates, attracts late fee:
  - a. Statement of Outward Supplies [Section 37]
  - b. Returns (including returns under QRMP Scheme) [Section 39]
  - c. Final Return [Section 45]
  - d. TCS return u/s 52
2. Amount of Late Fee = 200 per day (100+100) or 10000(5000+5000), which is lower
3. Late fees levied for delay in filing annual return under section 44 - 200 per day (100+100) or 0.5% (0.25+0.25) of the turnover of the registered person in the State/Union Territory, which is lower

However, u/s 128 government is empowered to waive fee. The rationalized fees as follows

### **For delayed filing of GSTR-1 and/or GSTR-3B:-**

(1) Registered persons filing NIL GSTR-1/3B	20 (10 CGST + 10 SGST/UTGST) for every day
(2) Registered persons other than those covered in (1) above whose	50 (25 CGST + 25 SGST/UTGST) for every day
However max late fees will be as follows	
Nil GSTR 1/3B	500 (250 each under CGST & SGST/UTGST)
AATO ≤ 1.5 crores in the preceding FY	2000 (1000 each under CGST & SGST/UTGST)
AATO ≤ 5 crores in the preceding FY	5000 (2500 each under CGST & SGST/UTGST)
AATO > 5 crores in the preceding FY	10000 (5000 each under CGST & SGST/UTGST)

### **For delayed filing of GSTR-4**

Total Tax Payable in GSTR-4 is NIL	20 (10 CGST + 10 SGST/UTGST) for every day 500 (250 each under CGST & SGST/UTGST) Whichever is lower
Other cases	50 (25 CGST + 25 SGST/UTGST) for every day 2000 (1000 each under CGST & SGST/UTGST) Whichever is lower

**For delayed filing of GSTR-7**

- ✓ 50 (25 CGST + 25 SGST/UTGST) for every day
- ✓ 2000 (1000 each under CGST & SGST/UTGST)

Whichever is lower.

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.

**For delayed filing of GSTR-9**

AATO ≤ 5 crore in financial year	50 (25 CGST + 25 SGST/UTGST) for every day 0.04% (.02+.02) of turnover in the state/UT
AATO ≤ 20 crore in financial year	100 (50 CGST + 50 SGST/UTGST) for every day 0.04% (.02+.02) of turnover in the state/UT
AATO > 20 crore in financial year	200 (100 CGST + 100 SGST/UTGST) for every day 0.5% (.25+.25) of turnover in the state/UT

**24. DIFFERENCE IN LIABILITY IN FORM GSTR-1 AND FORM GSTR-3B [RULE 88C]**

1. Where the tax payable as per the statement of outward supplies in Form GSTR-1 or using the IFF in respect of a tax period, exceeds the amount of tax payable as furnished in Form GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference on common portal and through email.
2. In said intimation, the said difference between GSTR-1 and GSTR-3B will be highlighted and he will be directed to:
  - (a) pay the differential tax liability, along with interest under section 50; or
  - (b) explain the aforesaid difference in tax payable on the common portal, within a period of 7 days.
3. Such registered person shall, upon receipt of the aforesaid intimation, either:
  - (a) pay the amount of the differential tax liability, as specified in intimation, fully or partially, along with interest under section 50, and furnish the details thereof electronically on the common portal; or
  - (b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, within the period of 7 days.
4. Where any amount specified in the said intimation remains unpaid within 7 days' period and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79.
5. Further, a registered person, to whom such an intimation of difference between GSTR-1 and GSTR-3B for a tax period is issued, will be blocked from furnishing the GSTR-1/using IFF for subsequent tax period unless he deposits amount specified in intimation or explains the reasons for any unpaid amount.

**25. DIFFERENCE IN ITC AVAILABLE IN FORM GSTR-2B AND FORM GSTR-3B [RULE 88D]**

- ✓ 88D has been introduced to give a system-based intimation to the registered person in those cases where difference between the ITC availed as per GSTR-3B and that available as per

GSTR-2B exceeds such amount and such percentage as may be recommended by the Council.

- ✓ Said intimation shall highlight the said difference and will direct him to —
  - pay an amount equal to the excess ITC availed in the said Form GSTR- 3B, along with interest payable under section 50, through prescribed form, or
  - explain the reasons for the aforesaid difference in ITC on the common portal, within a period of 7 days.
- ✓ Such registered person shall, upon receipt of said intimation, either,
  - pay an amount equal to the excess ITC, as specified in intimation, fully or partially, along with interest payable, through prescribed form and furnish the details thereof, electronically on the common portal, or
  - furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess ITC that has still remained to be paid, within 7 days' period.
- ✓ Where any amount specified in the intimation remains to be paid within 7 days' period and where no explanation/reason is furnished by the registered person in default or where the explanation/reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73/section 74/74A.

## **26. GOODS AND SERVICES TAX PRACTITIONERS [SECTION 48]**

### **What is the eligibility criteria for GSTP**

1. Indian citizen
2. Person of sound mind
3. Not adjudicated as insolvent
4. Not been convicted by a competent court
5. Satisfies any of the conditions
  - a. 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  $\geq 2$  years
  - b. 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.
  - c. Has acquired any of the prescribed qualifications
    - i. 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.
    - ii. Degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in sub-clause (i)
    - iii. Any other examination notified by the Government, on the recommendation of the Council, for this purpose
    - iv. Has passed final examination of ICAI/ ICSI/Institute of Cost Accountants of India.

### **What are the activities which can be undertaken by a GSTP?**

1. furnish the details of outward supplies;
2. furnish monthly, quarterly, annual or final return;
3. make deposit for credit into the electronic cash ledger;

4. file a claim for refund;
5. file an application for amendment or cancellation of registration;
6. furnish information for generation of e-way bill;
7. furnish details of challan in FORM GST ITC-04;
8. file an application for amendment or cancellation of enrolment under rule 58; and
9. file an intimation to pay tax under the composition scheme or withdraw from the said scheme.

Provided that where any application relating to

1. a claim for refund or
2. an application for amendment or cancellation of registration or
3. where an intimation to pay tax under composition scheme or to withdraw from such scheme

has been submitted by the goods and services tax practitioner authorised by the registered person, a confirmation shall be sought from the registered person and the application submitted by the said practitioner shall be made available to the registered person on the common portal and such application shall not be further proceeded with until the registered person gives his consent to the same.

### **What is the procedure for enrolment as GSTP**

1. An application in prescribed form may be made electronically through the common portal for enrolment as GSTP.
2. The Application will be scrutinized and GSTP certificate will be granted in the prescribed form.
3. If the application is rejected, proper reasons need 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.

Till now, exam required only for “Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws for a period of not less than 5 years”

### **Other Points related to GSTP**

- 1) Where a statement required to be furnished by a registered person has been furnished by the goods and services tax practitioner authorised by him, a confirmation shall be sought from the registered person over email or SMS and the statement furnished by the goods and services tax practitioner shall be made available to the registered person on the common portal.
- 2) where the registered person fails to respond to the request for confirmation till the last date of furnishing of such statement, it shall be deemed that he has confirmed the statement furnished by the goods and services tax practitioner.
- 3) The responsibility for correctness of any particulars furnished in the return or other details filed by the GSTP continues to rest with the registered person.
- 4) A goods and services tax practitioner enrolled in any other State or Union territory shall be treated as enrolled in the State or Union territory for the purpose of below activities.
- 5) A goods and services tax practitioner attending on behalf of a registered or an unregistered person in any proceedings under the Act before any authority shall produce before such authority, if required, a copy of the authorisation given by such person in FORM GST PCT-05.

