



THIS BOOK HAS BEEN A REALITY
ONLY BECAUSE OF MY FAMILY &
STUDENTS.

CA SURAJ AGRAWAL

PREFACE

Taxation is a dynamic subject, which is not only a vast subject but also difficult to comprehend in view of frequent amendments. Yet it is the scoring subject of your syllabus. In addition, practice in the field of Taxation is also highly remunerative.

My association with the students has helped me to bring this book in its present form – simplified, comprehensive and easy to understand.

The present edition of this book is designed to bridge the gap between theory & applications and incorporates the following Chapters:

- ❖ *Introduction to GST*
- ❖ *Registration*
- ❖ *Supply under GST*
- ❖ *Charge of GST*

Hope this book serves the purpose of the students. I shall be thankful to the readers for their suggestions, criticism and feedback if any.

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This book is a result of sincere efforts of our family members, colleagues, associates, well-wishers and students, whose contribution cannot go unacknowledged.

Master Reyaan, my wife **CA Monika Agrawal** and my mother deserve special mention for the time (on which they had the first right) they allowed me for this book. My brother **CA Roshan Agrawal** & Sisters have been a constant source of inspiration & motivation for me.

I dedicate this book to my beloved late grandparents & Papa.

CA Suraj Agrawal

“One more step towards success”

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GST IN INDIA – AN INTRODUCTION

Taxes are broadly classified into Direct and Indirect Taxes

Direct Taxes: 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. A direct tax is one that cannot be shifted by the taxpayer to someone else. A significant direct tax imposed in India is **income tax**.

Indirect Taxes: If the taxpayer is just an agent 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 is one that can be shifted by the taxpayer to someone else.

Its incidence is borne by the consumers who ultimately consume the product or the service, while the immediate liability to pay the tax may fall upon another person such as a manufacturer or provider of service or seller of goods.

Also called consumption taxes, they 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.

Indirect taxes are levied on consumption, expenditure, privilege, or right **but not on income or property**. Hitherto (Until now), a number of indirect taxes were levied in India, namely, excise duty, customs duty, service tax, central sales tax (CST), value added tax (VAT), entry tax, purchase tax, entertainment tax, tax on lottery, betting and gambling, luxury tax, tax on advertisements, etc.

However, Indirect taxation in India has witnessed a major change on July 01, 2017 **to introduced a unified indirect tax regime** wherein a large number of Central and State indirect taxes have been amalgamated into a **single tax – Goods and Services Tax (GST)**.

The introduction of GST is a very significant step in the field of indirect tax reforms in India. Customs duty will continue in post-GST regime.

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

FEATURES OF INDIRECT TAXES

- (i) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow **as more countries move to consumption oriented tax regimes**. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- (ii) **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. **Hence, it is also known as commodity taxation**. It is also levied on provision of services.
- (iii) **Shifting of burden:** There is a **clear shifting of tax burden in respect of indirect taxes**. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- (iv) **No perception of direct pinch:** Since, value of indirect taxes is **generally inbuilt in the price** of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.
- (v) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly **affects the prices of commodities and services and leads to inflationary trend**.
- (vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- (vii) **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as '**sin goods**') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- (viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

GENESIS OF GST IN INDIA

- ✓ It has now been more than a decade since the idea of national Goods and Services Tax (GST) was mooted by Kelkar Task Force in 2004. The Task Force strongly recommended fully integrated 'GST' on national basis.
- ✓ Subsequently, the then Union Finance Minister, Shri P. Chidambaram, while presenting the Central Budget (2007-2008), announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by the clouds of uncertainty.
- ✓ The GST introduction, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament **on 19th December, 2014**.
- ✓ The Lok Sabha passed the Bill **on 6th May, 2015** and Rajya Sabha **on 3rd August, 2016**. Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 **received the assent of the President on 8th September, 2016 and became Constitution (101st Amendment) Act, 2016**, which paved the way for introduction of GST in India.
- ✓ In the following year, on 27th March, 2017, **the Central GST legislations – (a) Central Goods and Services Tax Bill, 2017, (b) Integrated Goods and Services Tax Bill, 2017, (c) Union Territory Goods and Services Tax Bill, 2017 and (d) Goods and Services Tax (Compensation to States) Bill, 2017** were introduced in Lok Sabha.
- ✓ Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the President's assent **on 12th April, 2017, the Bills were enacted**. The enactment of the Central Acts was followed by the enactment of the 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.
- ✓ GST is a path breaking indirect tax reform which will create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.
- ✓ **France was the first country to implement GST in the year 1954**. Within 62 years of its advent, about 160 countries across the world have adopted GST because this tax has the capacity to raise revenue in the most transparent and neutral manner.

CONCEPT OF GST

- ✓ **GST is a Value Added Tax** levied on manufacture, sale and consumption of goods and services.
- ✓ GST offers comprehensive and 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 and can set off this credit against the GST payable on the supply of goods and services to be made by him. **Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.**
- ✓ Since, only the value added at each stage is taxed under GST, **there is no tax on tax or cascading of taxes under GST system.** *GST does not differentiate between goods and services and thus, the two are taxed at a single rate.*

NEED FOR GST IN INDIA

- ✓ In the earlier indirect tax regime, a manufacturer of excisable goods charged excise duty and value added tax (VAT) on intra-State sale of goods. However, the VAT dealer on his subsequent intra-State sale of goods charged VAT (as per prevalent VAT rate as applicable in the respective State) **on value comprising of (basic value + excise duty charged by manufacturer + profit by dealer).**
- ✓ Further, in respect of tax on services, service tax was payable on all 'services' **other than the Negative list of services or otherwise exempted.**
- ✓ The earlier indirect tax framework in India suffered from various shortcomings. Under the earlier indirect tax structure, the various indirect taxes being levied **were not necessarily mutually exclusive.**

To illustrate, when the **goods were manufactured and sold**, both central excise duty (CENVAT) and State- Level VAT were levied. Though CENVAT and State- Level VAT were essentially value added taxes, **set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.**

Moreover, CENVAT was applicable **only at manufacturing level and not at distribution levels.**

The erstwhile sales tax regime in India **was a combination of origin based (Central Sales Tax) and destination based multipoint system of taxation (State-Level VAT).**

Service tax was also a value added tax and credit across the service tax and the central excise duty was integrated at the central level.

- ✓ Despite the introduction of the principle of taxation of value added in India - at the Central level in the form of CENVAT and at the State level in the form of State VAT - **its application remained piecemeal and fragmented on account of the following reasons:**
 - (a) Non Inclusion of several Local Levies in State VAT such as Luxury Tax, Entertainment tax etc
 - (b) No CENVAT after manufacturing stage
 - (c) Cascading of taxes on account of (i) Levy of Non-VATable CST & (ii) inclusion of CENVAT in the value for imposing VAT
 - (d) Non Integration of VAT & Service Tax
 - (e) Double Taxation of a transaction as both goods and services

GST – A cure for ills of Existing Indirect Tax Regime

- ✓ A comprehensive tax structure covering both goods and services viz. Goods and Service Tax (GST) addresses these problems.
- ✓ 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 VAT are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level is established.
- ✓ In the GST regime, the major indirect taxes have been subsumed in the ambit of GST. The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable **since the tax is now levied on "Supply of Goods and/or Services"**.

TAXES TO BE SUBSUMED IN GST**CENTRAL LEVIES TO BE SUBSUMED**

- a. *Central Excise Duty*
- b. *Additional Duties of excise (Goods of Special Importance)*
- c. *Additional Duties of excise (Textiles & Textile Product)*
- d. *Excise Duty under Medicinal & Toilet Preparation Act*
- e. *Additional Duties of Custom - CVD & Special CVD levied under Custom Tariff Act 1975*
- f. *Service Tax*
- g. *Central Sales Taxes*
- h. *Central Surcharges and Cesses in so far as they relate to Supply of Goods & Services*

STATE LEVIES TO BE SUBSUMED

- a. *State Value Added Tax/Sales Taxes*
- b. *Luxury Tax*
- c. *Taxes on Advertisement*
- d. *Entry Tax (All Forms)*
- e. *Purchase Tax*
- f. *Tax on Lottery, Betting & Gambling*
- g. *Entertainment tax (Except those levied by local bodies)*
- h. *State surcharges and cesses in so far as they relate to supply of goods & services*

FRAMEWORK OF GST AS INTRODUCED IN INDIA**A. Dual GST:**

India has adopted a dual GST which is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.

Now, Centre has the power to tax intra-State sales in addition to services & States are empowered to tax services in addition to goods. **GST extends to whole of India including the State of Jammu and Kashmir.**

B. CGST/SGST/UTGST/IGST

- ✓ GST is a **destination based tax** applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof.
- ✓ GST in India comprises of **Central Goods and Service Tax (CGST)** - levied and collected by Central Government, **State Goods and Service Tax (SGST)** - levied and collected by State Governments/Union Territories with State Legislatures and **Union Territory Goods and Service Tax (UTGST)** - levied and collected by Union Territories without State Legislatures, **on intra-State supplies of taxable goods and/or services.**
- ✓ **Inter-State supplies of taxable goods and/or services** are subject to Integrated Goods and Service Tax (IGST).
- ✓ IGST is approximately the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.

C. Legislative Framework

There is single legislation – **CGST Act, 2017 for levying CGST**. Similarly, **Union Territories without State legislatures [Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh]** are governed by **UTGST Act, 2017 for levying UTGST**. States and **Union territories with their own legislatures [Delhi and Puducherry]** have their own GST legislation for levying SGST.

Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are **uniform in all the SGST legislations**, as far as feasible. **This is necessary to preserve the essence of dual GST.**

D. Classification of goods and services

HSN (Harmonised System of Nomenclature) code is used for classifying the goods under the GST.

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. Each group consists of various Service Codes (Tariff).

E. Registration

Every supplier of goods and/ or services is required to obtain registration in the State/UT from where he makes the taxable supply if his aggregate turnover **exceeds Rs 20 lakh during a FY.**

However, the limit of Rs 20 lakh **will be reduced to Rs 10 lakh if the person is carrying out business in the Special Category States.**

[11 Special Category States are specified in Article 279A(4)(g) of the Constitution - **States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim, Jammu and Kashmir, Himachal Pradesh and Uttarakhand.**]

F. Composition Scheme

In GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) is payable by every taxable person and in this regard provisions have been prescribed.

However, **for providing relief to small businesses making intra-State supplies**, a simpler method of paying taxes and accounting thereof is also prescribed, **known as Composition Levy.**

G. Exemptions

Apart from providing relief to small-scale business, the law also contains provisions for granting **exemption from payment of tax on essential goods and/or services.**

H. Manner of utilization of ITC

Input Tax Credit (ITC) of CGST and SGST/UTGST is available throughout the supply chain, but cross utilization of credit of CGST and SGST/UTGST is not possible, i.e. CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.

However, cross utilization is allowed between CGST/SGST/UTGST and IGST, i.e. **credit of IGST can be utilized for the payment of CGST/SGST/UTGST and vice versa.**

I. Seamless flow of credit

Since GST is a destination based consumption tax, **revenue of SGST ordinarily accrues to the consuming States.**

The inter-State supplier in the exporting State is allowed to set off the available credit of IGST, CGST and SGST/UTGST (in that order) against the IGST payable on inter-State supply made by him.

The buyer in the importing State is allowed to avail the credit of IGST paid on inter-State purchase made by him.

Thus, unlike the earlier scenario where the credit chain used to break in case of inter-State sales on account of non-VATable CST, under GST regime there is a seamless credit flow in case of inter-State supplies too.

The revenue of inter-State sale does not accrue to the exporting State **and the exporting State transfers to the Centre the credit of SGST/UTGST used in payment of IGST.**

The Centre transfers to the importing State the credit of IGST used in payment of SGST/UTGST.

Thus, the inter- State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre.

A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.

GST Common Portal

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

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

A common GST system **provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders.** The eco-system consists of all stakeholders starting from taxpayer to tax professional, tax officials, Banks, Accounting authorities etc

Primarily, GSTN provides **3 front end services** to the taxpayers namely **Registration, Payment and Return** through GST Common Portal.

The functions of the GSTN include:

- a) Facilitating Registration;
- b) Filing of Return: Forwarding the returns to Central and State authorities;
- c) Computation and settlement of IGST;
- d) Matching of tax payment details with banking network;
- e) Providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
- f) Providing analysis of taxpayers' profile; and running the matching engine for matching, reversal and reclaim of input tax credit.

GSPs/ASPs

- GSTN has **selected certain IT, ITeS and financial technology companies, to be called GST Suvidha Providers**
- GSPs develop applications to be used by taxpayers for interacting with the GSTN.
- They facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services.
- They customize products that address the needs of different segment of users.
- GSPs may take the help of **Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.**

BENEFITS OF GST

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.

The significant benefits of GST are discussed hereunder:

1. **Creation of unified national market:**

GST aims to make India a common market with common tax rates and procedures **and remove the economic barriers** thus paving the way for an integrated economy at the national level.

2. **Mitigation of ill effects of cascading :**

By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, **it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses.**

3. **Elimination of multiple taxes and double taxation:**

GST has subsumed majority of existing indirect tax levies both at Central and State level into one tax i.e., GST which is leviable uniformly on goods and services. This will make **doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.**

4. **Boost to 'Make in India' initiative:**

GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.

5. **Buoyancy to the Government Revenue:**

GST is expected to bring buoyancy (cheerfulness) to the Government Revenue by widening the tax base and improving the taxpayer compliance.

CONSTITUTIONAL PROVISIONS

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

The Constitution of India is the supreme law of India. 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.**

Thus, a study of the basic provisions of the Constitution is essential for understanding the genesis of the various taxes being imposed in India. The significant provisions of the Constitution relating to taxation are:

- (i) **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.
- (ii) **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 the Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.
- (iii) **Article 246:** It gives the respective authority to Union and State Governments for levying tax. Whereas Parliament may make laws for the whole of India or any part of the territory of India, the State Legislature may make laws for whole or part of the State.
- (iv) **Seventh Schedule to Article 246:** It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

Entries 82 to 91 of List I enumerate the subjects where the Central Government has power to levy taxes. Entries 45 to 63 of List II enumerate the subjects where the State Governments have the power to levy taxes. Parliament has a further power to make any law for any part of India not comprised in a State **even if such matter is included in the State List.**

Power to levy Goods and Services Tax (GST) has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016.

Need for constitutional amendment

- ✓ The Constitutional provisions hitherto had delineated separate powers for the Centre and the States to impose various taxes. Whereas 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 (the Central Sales Tax), but the tax was collected and retained entirely by the States.
- ✓ Services were exclusively taxed by the Centre together with applicable cesses, if any.
- ✓ Besides, there were State specific levies like entry tax, Octroi, luxury tax, entertainment tax, lottery and betting tax, local taxes levied by Panchayats etc.
- ✓ With respect to goods imported from outside the country into India, Centre levied basic customs duty and additional duties of customs together with applicable cesses, if any.
- ✓ Introduction of the GST required amendment in the Constitution ***so as to enable integration of the central excise duty including additional duties of customs, State VAT and certain State specific taxes and service tax levied by the Centre into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it.***
- ✓ Consequently, Constitution (101st Amendment Act), 2016 (hereinafter referred to as Constitution Amendment Act) was passed. ***It has 20 sections. Newly inserted Article 279A empowering President to constitute GST Council was notified on 12.09.2016. Remaining provisions were notified with effect from 16.09.2016.***

Significant provisions of Constitution (101st Amendment) Act, 2016

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

1. Notwithstanding anything contained in Articles 246 and 254, **Parliament, and, subject to clause (2), the Legislature of every State**, have power to make laws with respect to goods and services tax imposed by the Union or by such State.
2. **Parliament has exclusive power** to make laws with respect to goods and services tax where the supply of goods, or of services, or both **takes place in the course of inter-State trade or commerce**.

Explanation-

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

[GST on Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel.]

Note:

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.

Article 269A: Levy and collection of GST on Inter-State Supply

- 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**.
- In addition to above, **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 duty (CVD) under the Customs Tariff Act, 1975.
- 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**. This is to facilitate transfer of funds between the Centre and the States.
- 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**.

Definitions of 'Goods and Services Tax', 'Services' and 'Goods' incorporated under Article 366

- **“Goods and Services Tax”** means any tax on supply of goods, or services or both **except taxes on the supply of the alcoholic liquor for human consumption**. Consequently, GST can be levied on supply of all goods and services except alcoholic liquor for human consumption.
- **“Services”** means anything **other than goods**.
- **Definition of “Goods”**: The term “Goods” has already been defined under clause (12) of Article 366 in an inclusive manner to provide that **“Goods includes all materials, commodities, and articles”**.

GST Council: Article 279A

- Article 279A of the Constitution empowers the President **to constitute a joint forum** of the Centre and States namely, **Goods & Services Tax Council (GST Council)**.
- The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.
- The **Union Finance Minister is the Chairman** of this Council and Ministers in charge of Finance/Taxation or **any other Minister nominated by each of the States/UTs** with Legislatures **are its members**. Besides, the **Union Minister of State in charge of Revenue or Finance** is also its member.
- The **function of the Council is to make recommendations to the Union and the States** on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- It **shall also recommend the date on which GST be levied** on Petroleum Crude, High Speed Diesel, Motor Spirit, Natural Gas and Aviation Turbine Fuel.
- Every decision of the GST Council is taken by a **majority of not less than three fourths** of the weighted votes of the members present and voting.
- **Vote of the Centre has a weightage of one-third of total votes cast and votes of all the State Governments taken together has a weightage of two-thirds of the total votes cast**, in that meeting.

Note: State, with reference to articles 246A, 268, 269, 269A and article 279A, **includes a Union territory with Legislature.**

Even after the Introduction of GST:

- (i) **Central Excise Duty** continues to be levied on manufacture/production of **Tobacco**, Petroleum crude, Diesel, Petrol, ATF and Natural Gas
- (ii) **State Excise Duty** is leviable on manufacture/production of alcoholic liquor, opium, Indian hemp and narcotics.
- (iii) VAT is leviable **on intra-State sale** of Petroleum crude, Diesel, Petrol, ATF and Natural Gas and Alcoholic Liquor.
- (iv) **Petroleum crude, Diesel, Petrol, ATF and Natural Gas are presently not taxable under GST and alcoholic liquor is outside the ambit of GST.**

Note: Union Government has retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as Central Excise Duty.

REGISTRATION

- ☛ **Chapter VI - Registration [Sections 22 to 30]** of the CGST Act stipulates the provisions relating to registration.
- ☛ Provisions of registration under CGST Act have also been made applicable to IGST Act **vide section 20 of the IGST Act.**
- ☛ State GST laws **also prescribe identical provisions** in relation to Registration.

INTRODUCTION

- ✓ **Under any taxation system,**
 - (a) registration is the most fundamental **requirement for identification of tax payers** ensuring tax compliance in the economy.
 - (b) Under indirect tax regime, without registration, a **person can neither collect tax** from his customers **nor claim any credit of tax** paid by him.
 - (c) Registration **legally recognizes a person as supplier** of goods or services and **legally authorizes him to collect taxes** from his customers **and pass on the credit of the taxes paid** on the goods or services supplied to the purchasers/recipients.
 - (d) He **can claim the input tax credit of taxes paid** and can **utilize the same for payment of taxes due** on supply of goods or services.
 - (e) There is **seamless flow of input tax credit** from suppliers to recipients at the national level.
- ✓ **Prior to introduction of GST**
 - (a) a **service provider** was required to be registered with the Service Tax Department, while a **trader of goods** had to be registered with the VAT Department. Similarly, a **manufacturer** of goods has to be registered with Central Excise and VAT Department with respect to the goods manufactured as also with the **Service Tax Department in respect of services availed which were taxed under reverse charge mechanism.**
 - (b) The **Central Excise law** prescribed **factory wise registration** with few exceptions where centralized registration was permitted, **VAT laws provided for State-wise registrations** while the **Service Tax law provided for either centralised or premise-wise registration.**
The registration numbers allotted under central laws were PAN-based which was not the case under State laws.

✓ **Under GST**

- (a) Registrations need to be taken **State-wise**, i.e. **there are no centralized registrations** under GST.
 - (b) A business entity having its branches in multiple States will have to take **separate State wise registration for the branches in different States**.
 - (c) Further, within a State, an entity with different branches would have single registration wherein it can declare **one place as Principal Place of Business (PPoB) and other branches as Additional Place(s) of Business (APoB)**.
 - (d) However, a PAN based business entity **having separate business verticals** in a registration State **may obtain separate registration for each of its business verticals** otherwise a given PAN based legal entity would have one registration number – Goods and Services Tax Identification Number (GSTIN) per State.
- ✓ **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.**

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 Rs. 20,00,000**.

Provided that where such person makes taxable supplies of goods or services or both **from any of the special category States**, he shall be liable to be registered if his aggregate turnover in a financial year **exceeds Rs. 10,00,000**.

[11 Special category States are specified in Article 279A(4)(g) of the Constitution - States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim, Himachal Pradesh, Uttarakhand and Jammu and Kashmir]

- (2) Every person who, on the day immediately **preceding the appointed day**, is registered or holds a license under an existing law, **shall be liable to be registered under this Act** with effect from the appointed day. **[Appointed day is 22.06.2017]**
- (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.
- (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 / 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

Meaning of Aggregate Turnover [Section 2(6)]

Aggregate turnover means the aggregate value of all

- (a) Taxable Supplies
 - (b) Exempt Supplies
 - (c) Exports of Goods or Services or both **and**
 - (d) Inter State Supplies
- of persons having the same PAN computed on all India Basis**

but excludes

- (a) CGST
- (b) SGST/UTGST
- (c) IGST and
- (d) Compensation Cess
- (e) **value of inward supplies on which tax is payable by a person (i.e. the Recipient) on reverse charge basis**

Note:

1. The Expression “**Aggregate Turnover**” **includes** all supplies made by the taxable person whether **on his own account or made on behalf of all his principals**
2. If a person has **more than one branch** whether in the same State/Union Territory or in more than one state or UT, he shall be liable to registration **if the turnover of all the branches exceeds** Rs. 20,00,000.
3. If a person having place of business in different States across India **has one branch in any of the Special Category States [11 States]**, the threshold limit for GST registration will be **reduced to Rs. 10 lakh.**
4. Outward supplies taxable under reverse charge **would continue to be part of the aggregate** turnover of the supplier of such supplies.
5. Value of exported goods/services, exempted goods/ services, Inter-State supplies between distinct persons **having same PAN to be included** in aggregate turnover.
6. **Aggregate turnover’ Vs. ‘Turnover in a State’:**

The aggregate turnover is different from turnover in a State. The former is used for determining the threshold limit for registration as well as eligibility for composition scheme. However, the composition levy would be calculated on the basis of ‘turnover in the State’.

Few Examples

- A. Rohan Oils, Punjab, is engaged in **supplying machine oil as well as petrol**. Supply of petrol is not leviable to GST, but supply of machine oil is taxable. In order to determine whether Rohan Oils is liable for registration, turnover of both the supplies – non -taxable as well as taxable - would be taken into account and if the same exceeds Rs 20 lakh, Rohan Oils is liable for registration.
- B. Mohini Enterprises has appointed **M/s Bestfords & Associates as its agent**. All the supplies of goods made by M/s Bestfords & Associates as agent of Mohini Enterprises will also be included in the aggregate turnover of M/s Bestfords & Associates.
- C. A dealer ‘X’ has two offices – one in Delhi and another in Haryana. In order to determine whether ‘X’ is liable for registration, **turnover of both the offices** would be taken into account and only if the same exceeds Rs 20 lakh, X is liable for registration.

Registration required only for a place of business from where taxable supply takes place

A person is required to obtain registration with respect to his each place of business in India from where a taxable supply has taken place. **However, a supplier is not liable to obtain registration if his aggregate turnover consists exclusively of goods or services or both which are not taxable under GST.**

Taxpayers registered under earlier indirect tax laws required to migrate

All the taxpayers who were registered under various earlier indirect tax laws are liable to be registered under GST with effect **from the appointed day [when the CGST Act came into force, i.e. 22nd June, 2017].**

Such taxpayers have been issued a **Provisional ID and password** by their respective tax Departments to logon on **GST Common Portal (<https://www.gst.gov.in/>)** to fill up the required details and upload the supporting documents. After they provided the requisite details, **an ARN (Application Reference Number) is communicated to them.**

Once a taxpayer had the ARN, **he would have migrated to GST on the appointed day with issue of provisional certificate and would have received a provisional GSTIN.**

Final registration certificate and GSTIN would be granted within 6 months of the appointed day.

COMPULSORY REGISTRATION IN CERTAIN CASES [SECTION 24]

Notwithstanding anything contained in Section 22(1), the following categories of persons shall be required to be registered under this Act- (means turnover is not relevant here)

- (i) Persons making any *Inter-State taxable supply*;
- (ii) **Casual Taxable Persons** (CTP) making taxable supply;
- (iii) Persons who are required to **pay tax under Reverse Charge**;
- (iv) Person who are required to **pay tax under Section 9(5)**;
- (v) **Non-Resident Taxable Persons** (NRTP) making taxable supply;
- (vi) Persons **who are required to deduct tax under Section 51**, whether or not separately registered under this Act;
- (vii) Persons who make taxable supply of goods or services or both ***on behalf of other taxable persons whether as an agent or otherwise***;
- (viii) **Input Service Distributor**, whether or not separately registered under this Act
- (ix) 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**;
- (x) Every **Electronic Commerce Operator [ECO]**;
- (xi) Every person supplying **Online Information and Data base Access or Retrieval [OIDAR] services from a place outside India to a person in India, other than a registered person**; and
- (xii) Such other person or class of persons **as may be notified** by the Government on the **recommendations of the Council**

CONCEPT OF TAXABLE PERSON

As per Section 2(107) of the CGST Act, taxable person ***means a person who is registered or liable to be registered under section 22 or section 24.***

From the definition of 'taxable person' provided above, it may be inferred that even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

PERSONS NOT LIABLE FOR REGISTRATION [SECTION 23]

(1) The following persons shall not be liable to registration, namely:-

- a) any person engaged **exclusively** in the business of supplying goods or services or both that are **not liable to tax or wholly exempt from tax** under this Act or under the Integrated Goods and Services Tax Act
- b) **an agriculturist**, to the extent of supply of produce out of cultivation of land

(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.

Persons making only reverse charge supplies exempted from obtaining registration

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) have been notified** as the category of persons exempted from obtaining registration under GST law [**Notification No. 5/2017 CT dated 19.06.2017**].

Notification No. 10/2017 – Integrated Tax Dated 13.10.2017

CG on recommendation of the council, hereby specifies the persons making **Inter-state supplies of services** and having an aggregate turnover to be computed on all India basis, **not exceeding an amount of Rs. 20 Lakhs** in a financial year as the category of **persons exempted from obtaining registration**.

[limit is Rs. 10 Lakhs in case of “Special Category States” as specified in Article 279A(4)(g) other than J&K]

Agriculturist [Section 2(7)]:

means an **Individual/HUF** who undertakes cultivation of land-

- (a) by own labour, or
- (b) by the labour of family, or
- (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.

PROCEDURE FOR REGISTRATION [SECTION 25]

- 1 Every person who is liable to be registered under Section 22 or Section 24 shall apply for registration in **every such State or Union territory** in which he is so liable **within 30 days** from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed.

Provided that a **Casual Taxable Person (CTP) or a Non-Resident Taxable Person (NRTP)** shall apply for registration **at least 5 days** prior to the commencement of business.

- 2 A person seeking registration under this Act shall be granted a **single registration** in a State or Union territory.

Provided that a person having **multiple business verticals** in a State or Union territory may be granted a **separate registration for each business vertical**, subject to such conditions as may be prescribed.

- 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.

- 4 A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, **in respect of each such registration, be treated as distinct persons for the purposes of this Act**

- 5 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** for the purposes of this Act.

Example: Mohan, a Chartered Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan shall be treated as distinct persons in respect of registrations in West Bengal and Delhi.

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

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

- 7 Notwithstanding anything contained in sub-section (6), a Non-Resident Taxable Person may be granted registration under sub-section (1) **on the basis of such other documents as may be prescribed**
- 8 Where a person who is liable to be registered under this Act **fails to obtain registration**, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, **proceed to register such person in such manner as may be prescribed**
- 9 **Notwithstanding anything contained in sub-section (1),-**
- a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries ; and
 - b) any other person or class of persons, **as may be notified** by the Commissioner, **shall be granted a Unique Identity Number (UIN)** in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.
- 10 The **Registration or the Unique Identity Number** shall be granted or rejected after due verification in such manner and **within such period** as may be prescribed
- 11 A **certificate of registration** shall be issued in such form and with effect from such date as may be prescribed
- 12 A **registration or a Unique Identity Number shall be deemed to have been granted** after the expiry of the period prescribed under sub-section (10), **if no deficiency has been communicated to the applicant within that period**

Business Vertical [Section 2(18)].

Business Vertical means **a distinguishable component of an enterprise** that is engaged in the supply of individual goods or services or **a group of related goods** or services which is **subject to risks and returns** that are **different from those of the other business verticals**.

Explanation - For the purposes of this clause, factors that should be considered in determining whether goods or services are related include -

- a) the nature of the goods or services;
- b) the nature of the production processes;
- c) the type or class of customers for the goods or services;
- d) the methods used to distribute the goods or supply of services; **and**
- e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities

FEW IMPORTANT POINTS

- A. Under GST, the application for registration has to be submitted electronically **at the GST Common Portal “www.gst.gov.in” duly signed** or verified through **Electronic Verification Code (EVC)** [Aadhar OTP].
- B. Around 30 forms/formats have been prescribed in the CGST Rules, 2017. For every process in the registration chain such as application for registration, acknowledgment, query, rejection, registration certificate, show cause notice for cancellation, reply, cancellation, amendment, field visit report etc., there are standard formats. This makes the process uniform all over the country. The decision-making process will also be fast. Strict time lines have been stipulated for completion of different stages of registration process.
- C. **One registration per State**
Registration needs to be taken State-wise, i.e. there are no centralized registrations under GST. A business entity having its branches in multiple States will have to **take separate State-wise registration for the branches in different States**.

Further, within a State, an entity with different branches would have single registration wherein it can declare **one place as Principal Place of Business (PPoB) and other branches as Additional Place of Business (APoB)**.

D. Separate registration for different business verticals within a State/UT may be granted

- ✓ Although a taxpayer having multiple business verticals in one State **is not mandatorily** required to obtain separate registration for each such vertical in the State, **he has an option** to obtain independent registration with respect to each such separate business vertical.
- ✓ Separate registration for each business vertical shall be granted provided all separately registered business verticals **pay tax on supply of goods/services/both made to another registered business vertical, of such person and issue a tax invoice for such supply.**
- ✓ Separate registration application needs to be filed **for each business vertical.**

E. Registration under composition levy

- ✓ If one of the business verticals of a taxable person is paying tax under normal levy [Section 9], **no other business vertical shall be granted registration to pay tax under composition levy** [Section 10].
- ✓ If one of the business vertical [separately registered] **becomes ineligible to pay tax under composition levy**, all other business verticals would **also become so ineligible.**
- ✓ The provisions of rules 9 and 10 relating to verification and grant of registration shall **mutatis mutandis apply to an application submitted under this rule.**

F. Voluntary registration [Section 25(3)]

- ✓ A person who is not liable to be registered under section 22 or section 24 **may get himself registered voluntarily.** In case of voluntary registration, all provisions of this Act, as are applicable to a registered person, shall apply to voluntarily registered person.
- ✓ Voluntary registration is advantageous for the persons which supply of goods or services or both to registered persons. The reason for the same is that by virtue of section 9(4) of the CGST Act, in case of supplies received from unregistered supplier by registered recipient, recipient has to pay the tax under reverse charge.

Therefore, business units would prefer receiving supplies from the registered persons only.

Thus, voluntary registration enables a supplier of goods or services or both to enhance its B2B [Business to Business] transactions.

- ✓ However, once a person obtains voluntary registration, **he has to pay tax even though his aggregate turnover does not exceed Rs 20 lakh / Rs 10 lakh.**

G. Unique Identity Number (UIN) [Section 25(9) & (10) read with rule 17]

- ✓ 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 and any other person notified by the Commissioner, **is required to obtain a UIN from the GSTN portal.**
- ✓ 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.
- ✓ Such person **shall file an application in a different prescribed form.**
- ✓ UIN shall be assigned and **registration certificate shall be issued within 3 working days** from the date of submission of application.

Registered Person: means a person who is registered under Section 25 **but does not include a person having a Unique Identity Number**

H. Suo-motu registration by the proper officer [Section 25(8) read with Rule 16]

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.

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.**

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 Tribunal.**

Provisions relating to verification and issue of registration certificate [as contained in Rules 9 and 10] shall, mutatis mutandis, apply to such application submitted by the person granted temporary registration.

GSTIN thereafter granted shall be effective from the date of order of proper officer granting temporary registration.

I. Procedure for registration [Section 25 read with rules 8, 9 & 10]

Provisions relating to procedure for application for registration, verification of the application and approval & issue of registration certificate are contained in the rules 8, 9 and 10 of the CGST Rules, 2017 respectively. The same have to be read in conjunction with section 25 provisions.

However, procedure so laid down will not apply to:

- ✓ Non-resident taxable person
- ✓ A person required to deduct tax at source under section 51
- ✓ A person required to collect tax at source under section 52
- ✓ A person supplying online information and database access or retrieval services from a place outside India **to a non-taxable online recipient** referred to in section 14 of 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 under section 25(3) as well as a Casual Taxable Person.

Such persons shall apply for registration in **Form GST REG 01**. **The application for registration in FORM GST REG 01 is divided into two parts – Part A and Part B.**

In order to cater to the needs of tax payers who are not IT savvy, Facilitation centres have been established which help the taxpayer in submitting the application for registration, amending the registration certificate, submitting application for cancellation of registration, revocation of cancellation of registration, etc. Facilitation Centre shall be responsible for the digitization and/or uploading of the forms and documents.

PROCEDURE FOR REGISTRATION**Part I**

- (a) Every person liable to get registered & person seeking voluntary registration shall, before applying for registration **declare his PAN, Mobile Number, Email-Address, State/UT** in **Part A of Form GST REG-01** on GST Common Portal
- (b) PAN is validated **online by Common Portal from CBDT Database**
- (c) Mobile Number & Email verified **through one time password** sent to it
- (d) **Temporary Reference Number (TRN)** is generated and communicated to the applicant on the validated mobile number & email address
- (e) Using TRN, applicant shall **electronically submit application in Part B of the application form**, along with specified documents at the Common Portal
- (f) On receipt of such application, **an acknowledgment** in the prescribed form shall be issued to the applicant electronically. ***A Casual Taxable Person applying for registration gets a TRN for making an advance deposit of tax in his electronic cash ledger and an acknowledgment is issued only after deposit.***
- (g) Application shall be forwarded to the Proper Officer
- (h) The procedure after receipt of application by the proper officer is discussed below

Part II

- (a) Proper officer examines the application & accompanying documents
- (b) If the same are found in Order, then proper officer will grant registration certificate in **Form GST REG-06 within 3 working days** from the date of submission of application
- (c) **If documents are not in order**, Proper officer issues notice **electronically within 3 working days** from application date thereby seeking clarification, information or documents from the applicant
- (d) If applicant has furnished the clarification, information or documents **within 7 working days from the receipt of notice** & proper office is satisfied then the proper officer will grant registration certificate in **Form GST REG-06 within 7 working days**.
- (e) If applicant has not furnished documents etc within 7 working days or documents so furnished are not proper, **then proper officer will reject the application for reasons to be recorded in writing.**

Deemed Approval of Application

If the proper officer fails to take any action-

- **within 3 working days** from the date of submission of application, or
- **within 7 working days** from the date of receipt of clarification, information or documents furnished by the applicant,

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

Information required while filing application for Registration

- (a) Valid PAN
- (b) Valid Indian Mobile Phone Number
- (c) Valid E-mail Address
- (d) Jurisdictional Details
- (e) Place of Business
- (f) Prescribed Documents & Information on all mandatory fields of Registration Application
- (g) Valid Bank Account Number from India
- (h) Indian Financial System Code (IFSC) number of the same bank & Branch
- (i) At least one Proprietor/Partner/Director/Trustee/Karta/Member with corresponding PAN
- (j) An Authorised Signatory who is resident of India with Valid Details including PAN

Physical verification of business premises in certain cases after grant of registration [Rule 25]

Where the proper officer is satisfied that the physical verification of the place of business of a registered person **is required after grant of registration**, he may get such verification done and the verification report along with other documents, including photographs, **shall be uploaded in the prescribed form on the GST Common Portal, within 15 working days following the date of such verification.**

Issuance of registration certificate [Rule 10]

Where the application for grant of registration has been approved, a certificate of registration [duly signed or verified through EVC by the proper officer] in **FORM GST REG-06** showing the principal place of business (PPoB) and additional place(s) of business (APoB) is made available to the applicant on the Common Portal and a Goods and Services Tax Identification Number (hereinafter referred to as “GSTIN”) i.e. **the GST Registration No. is communicated to applicant, within 3 days after the 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.

Where an applicant submits application for registration	Effective date of registration is
Within 30 Days from the date he becomes liable to registration	<u>The date on which he becomes liable to Registration</u>
After 30 Days from the date he becomes liable to registration	<u>Date of Grant of Registration</u>

Example:

Sugam Services Ltd. is engaged in taxable supply of services in Madhya Pradesh. The turnover of Sugam Services Ltd. exceeded Rs 20 lakh on 1st November. It is liable to get registered by 1st December [30 days] in the State of Madhya Pradesh. It applies for registration on 28th November and is granted registration certificate on 5th December. **The effective date of registration of Sugam Services Ltd. is 1st November.**

Example:

In above example, if Sugam Services Ltd. applies for registration on 3rd December and is granted registration certificate on 10th December. **The effective date of registration of Sugam Services Ltd. is 10th December.**

Application for Registration by Special Economic Zone (SEZ) [Proviso to Rule 8(1) of the CGST Rules, 2017]:

A person having unit in SEZ or SEZ developer will make a separate application for registration as a **business vertical distinct from his other units located outside SEZ**. Thus, there may be a case where two units of a tax payer are located in same State - one in SEZ and another outside SEZ. **Separate registrations have to be obtained for each of the two units as separate business vertical.**

Example: Suvarna Industries is engaged in manufacturing activities in Uttar Pradesh. It has two manufacturing units in UP - one in SEZ and another outside SEZ.

Under GST, one registration per State is required. However, since in this case, one of the two units of Suvarna Industries is located in SEZ, **it will make a separate application for registration as a business vertical distinct from unit located outside SEZ.**

Deemed Registration [Section 26]

- ☛ The grant of registration or UIN (Unique Identity Number) under the SGST Act / UTGST Act shall be deemed to be a grant of registration or the UIN under this Act subject to the condition that the application for registration or the UIN **has not been rejected under this Act within the time specified in Section 25(10)**.
- ☛ Notwithstanding anything contained in Section 25(10), any rejection of application for registration or the UIN under the SGST Act / UTGST Act shall be deemed to be a rejection of application for registration under this Act.

Special provisions for grant of registration in case of Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP) [Sections 25 & 27 read with rules 13 & 15]

Casual Taxable Person: means a person who **occasionally undertakes transactions** involving supply of goods or services or both ***in the course or furtherance of business***, whether as principal, agent or in any other capacity, ***in a State/UT*** where he has no fixed place of business [Section 2(20)].

Non-Resident Taxable Person: means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, **but who has no fixed place of business or residence *in India*** [Section 2(77)].

NOTE:

- ✓ A CTP does not have a fixed place of business in the State/UT where he undertakes supply **though he might be registered with regard to his fixed place of business in some other State/UT, while a NRTP does not have fixed place of business/residence in India** at all.
- ✓ A CTP has to undertake transactions **in the course or furtherance of business** whereas the **business test is absent in the definition of NRTP**.

Special Registration Provisions:

- A. Both CRTP and NRTP have to compulsorily get registered under GST ***irrespective of the threshold limit***, at least 5 days prior to commencement of business.
- B. 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**.

He 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.**

C. Period of validity of registration certificate granted to CTP/NRTP

Registration Certificate granted to CTP/NRTP will be valid for:

- (i) **Period specified** in the registration application, or
- (ii) **90 days from the effective date of registration**
whichever is earlier.

Provided that the proper officer may, on sufficient cause being shown by the said taxable person, **extend the said period of 90 days by a further period not exceeding 90 days** in case application is filed before the end of the validity of the registration granted.

D. Provisions relating to verification of application and grant of registration [under Rules 9 and 10] will apply mutatis mutandis, **to an application for registration filed by NRTP.**

E. CTP & NRTP will make taxable supplies only after the issuance of the Certificate of Registration.

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.**

Note:

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.

AMENDMENT OF REGISTRATION [SECTION 28]

(1) Every registered person and a person to whom a Unique Identity Number (UIN) has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and **within a period of 15 days of such change**

(2) The proper officer may, on the basis of information furnished under sub-section (1) **or as ascertained by him, approve or reject amendments** in the registration particulars in such manner and within such period as may be prescribed.

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed.

Provided further that the proper officer shall not reject the application for amendment in the registration particulars **without giving the person an opportunity of being heard.**

(3) **Any rejection or approval of amendments under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a rejection or approval under this Act.**

Important Point:

a) Where there is any change in the particulars furnished in registration application/UIN application, registered person **shall submit an application in prescribed manner, within 15 days of such change, along with documents relating to such change at the Common Portal.**

b) 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.

- **Core fields of information**

✓ Legal Name of Business

✓ Address of **PPoB/APoB**

✓ Addition, Deletion or Retirement of partners or Directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or Equivalent, responsible for day to day affairs of the business

- If PO is of the Opinion that documents furnished are complete/correct for amendments, the PO **shall grant permission within 15 working days** for amendment in registration certificate.

- If PO is of the Opinion that amendment is unwarranted or documents furnished are incomplete/incorrect, **the PO within 15 working days of receipt of application**, will serve a SCN why application for amendment should not be rejected

- If registered Person replies to the notice **within 7 working days & reply is satisfactory** the registration certificate will be amended

- If reply is not received within 7 working days or reply is not satisfactory, **then application shall be rejected.**

- Change of such particulars shall be applicable for all registrations of a registered person obtained under provisions of this chapter on same PAN.
- Above Changes **does not warrant cancellation of Registration** under Section 29
- Mobile No. / Email address of authorised signatory can be amended **only after online verification through GST Portal**

c) 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.**

d) **If the proper officer fails to take any action**

- within a period of **15 working days** from the date of submission of the application, or
- 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.

NOTE:

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**. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

Cancellation of Registration [Section 29]

- (1) The proper officer may, **either on his own motion or on an application filed by the registered person or by his legal heirs**, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where:
- (a) the business has been **discontinued, transferred fully** for any reason including death of the proprietor, **amalgamated with other legal entity, demerged** or **otherwise disposed of OR**
 - (b) there is any **change in the constitution** of the business **OR**
 - (c) the taxable person, other than voluntarily registered person [registered under Section 25(3)], **is no longer liable to be registered under Section 22 or Section 24**

- (2) The proper officer **may cancel the registration** of a person **from such date, including any retrospective date**, as he may deem fit, **where**, -

- (a) a registered person **has done following contraventions:**

- (i) He does not conduct any business from the declared place of business or
- (ii) He issues invoices/bill without supply of goods/services in violation of the provisions of this Act or the Rules made there under,
- (iii) If he violates the provisions of Section 171 of the CGST Act [Provisions relating to Anti-Profeetering measure]

- (b) a person paying tax under section 10 [Composition Levy] **has not furnished returns for 3 consecutive tax periods**

- (c) any registered person, other than a person specified in clause (b), **has not furnished returns for a continuous period of 6 months**

- (d) any person who has taken voluntary registration under Section 25(3) **has not commenced business within 6 months from the date of registration**

- (e) registration has been **obtained by means of fraud, wilful misstatement or suppression of facts**

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

- (3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder **for any period prior to the date of cancellation** whether or not such tax and other dues are determined **before or after** the date of cancellation.

- (4) The cancellation of registration under the SGST Act or the UTGST Act, as the case may be, **shall be deemed to be a cancellation of registration under this Act.**

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of **input tax in respect of inputs** held in stock and inputs contained in semi-finished or finished goods held in stock or **capital goods or plant and machinery on the day immediately preceding the date of such cancellation** or the output tax payable on such goods, **whichever is higher**, calculated in such manner as may be prescribed.

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount **equal to the ITC taken on the said CGs or P&M, reduced by such percentage points** as may be prescribed **OR** the tax on the transaction value of such **CGs or P&M** under section 15, **whichever is higher**.

The manner of determination of amount of credit to be reversed is prescribed under rule 44 of the CGST Rules, 2017.

Procedure for cancellation of registration

- a. 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**.
- b. 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.
- c. 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**.
- d. 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**.
- e. If reply to SCN is satisfactory, proper officer shall drop the proceedings **and pass an order** in prescribed form. 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**.

- f. The cancellation of registration shall be **effective from a date to be determined by the proper officer**. 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).

Other Points:

- a. A Voluntarily registered person **cannot seek cancellation before the Expiry of a period of 1 year** from the effective date of registration [Proviso to Rule 20]
- b. A person to whom a UIN has been granted under Rule 17 **cannot apply for cancellation of registration** [Rule 20]

Revocation of Cancellation of Registration [Section 30 read with rule 23]

- a. Where the registration of a person is **cancelled suo-motu by the proper officer**, such registered person may apply for revocation of the cancellation to such proper officer, **within 30 days from the date of service of the order of cancellation of registration**, at the **GST Common Portal** in the prescribed manner.
- b. However, in case registration was cancelled ***for failure of registered person to furnish returns***, before applying for revocation the person **has to make good the defaults** (by filing all pending returns, making payment of all dues in terms of such returns alongwith interest, penalty, late fee, etc.) for which the registration was cancelled by the officer.
- c. 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.
- d. 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.

- e. 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**

Question & Answer

1. **Mr. A has started supply of goods in Delhi. He is required to obtain registration if his aggregate turnover exceeds _____ during a financial year.**
 - a) Rs 10 lakh
 - b) **Rs 20 lakh**
 - c) Rs 30 lakh
 - d) Rs 50 lakh

2. **Aggregate turnover includes:**
 - a) Taxable supplies
 - b) Exempt supplies
 - c) Exports
 - d) **All of the above**

3. **Which of the following persons are compulsorily required to obtain registration?**
 - a) Persons making any inter-State taxable supply
 - b) Non-resident taxable persons making taxable supply
 - c) Casual taxable persons making taxable supply
 - d) **All of the above**

4. **Which of the following persons are not liable for registration?**
 - a) **Any person engaged exclusively in supplying services wholly exempt from tax**
 - b) Casual Taxable Person
 - c) Both (a) and (b)
 - d) None of the above

5. **Rohan Toys is a registered supplier of goods in Delhi. It intends to attend a 7 days' Business Fair organised in Mumbai (next month) where it does not have a fixed place of business. Examine which of the following statements are true for Rohan Toys:**
 - a) Rohan Toys is not required to obtain registration in Mumbai for attending a 7 days' Business Fair.
 - b) **Rohan Toys has to obtain registration as a casual taxable person for attending the Business Fair.**
 - c) Rohan Toys has to obtain a Unique Identification Number for attending the Business Fair.
 - d) None of the above

6. **Determine the effective date of registration in following cases:**
 - a) **The aggregate turnover of Dhampur Industries of Delhi has exceeded Rs 20 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.**

Answer:

Every supplier becomes liable to registration if his turnover exceeds Rs 20 lakh [in a State/UT other than Special Category States] in a financial year [Section 22]. Since in the given case, the turnover of Dhampur Industries exceeded Rs 20 lakh on 1st September, it becomes liable to registration on said date.

Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration [Section 25 read with rule 10 of the Chapter III - Registration of CGST Rules, 2017]. Therefore, the effective date of registration is 1st September.

- b) Mehta Teleservices is an internet service provider in Lucknow. Its aggregate turnover exceeds Rs 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.

Answer:

Since in the given case, the turnover of Mehta Teleservices exceeds Rs 20 lakh on 25th October, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

7. State the time-period within which registration needs to be obtained in each of the following independent cases:

- a) Casual taxable person
b) Person making inter-State taxable supply

Answer:

Section 25(1) of the CGST Act stipulates the time-period within which registration needs to be obtained in various cases. It provides the following time-limits:

In case of	registration needs to be obtained
a person who is liable to be registered under section 22 or section 24	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 the commencement of business

In view of the aforesaid provisions:

- (a) A casual taxable person must obtain registration at least 5 days prior to the commencement of its business.
- (b) As per section 24 of the CGST Act, person making inter-State taxable supply is liable to get compulsorily registered. Therefore, such person must obtain registration within 30 days from the date on which he becomes liable to registration.

8. In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.

Answer:

A Permanent Account Number is mandatory to be eligible for grant of registration. One exception to this is a non-resident taxable person. A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He 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 and application will be submitted in a different prescribed form [Section 25(6) & (7)].

9. State which of the following suppliers are liable to be registered:

- (a) Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed Rs 20 lakh during the financial year.

Answer:

Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds Rs 20 lakh in a State/UT [Rs 10 lakh in Special Category States] in a financial year. However, as per section 24, a person supplying goods/services or both on behalf of other

taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed Rs 20 lakh during the financial

(b) An agriculturist who is only engaged in supply of produce out of cultivation of land.

Answer:

As per section 23, an agriculturist who is only engaged in supply of produce out of cultivation of land is not required to obtain registration.

10. What are the advantage of taking registration in GST?

Answer:

- (a) Legally recognized as supplier of goods or services.
- (b) Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- (c) Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- (d) Become eligible to avail various other benefits and privileges rendered under the GST laws.

11. Can a person without GST registration collect GST and claim ITC?

Answer:

No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

12. If a person is operating in different States, with the same PAN number, can he operate with a single registration?

Answer:

No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation (and is liable to pay GST)

13. Can a person having multiple business verticals in a State obtain separate registrations for each business vertical?

Answer:

Yes. In terms of the proviso to sub-section (2) of section 25, a person having multiple business verticals in a State may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed.

14. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Answer:

Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

15. Can the Department, through the proper officer, suo-moto proceed to register of aperson?**Answer:**

Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as is prescribed in the CGST Rules, 2017.

16. Whether the registration granted to any person is permanent?**Answer:**

Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

17. Is it necessary for the UN bodies to get registration under GST?**Answer:**

Yes. In terms of section 25(9) of the CGST Act, all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons sonotified would be required to obtain a unique identification number (UIN) from the GST portal.

18. What is the responsibility of the taxable person making supplies to UN bodies?**Answer:**

The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B) and the invoices of the same will be uploaded by the supplier.

19. What is the validity period of the registration certificate issued to a casual taxable person and non- resident taxable person?**Answer:**

In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a “casual taxable person” or a “non-resident taxable person” shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

20. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?**Answer:**

In such cases, the registration may be cancelled with retrospective effect by the proper officer [Section 29(2)(e)].

21. Is there an option to take centralized registration for services under GST Law?**Answer:**

No, the taxpayer has to take separate registration in every State from where he makes taxable supplies

22. What could be the liabilities (in so far as registration is concerned) on transfer of a business?**Answer:**

The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

23. At the time of registration, will the assessee have to declare all his places of business?**Answer:**

Yes. The principal place of business and place of business have been separately defined under section 2(89) & 2(85) of the CGST Act respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

24. What will be the time limit for the decision on the on-line registration application?**Answer:**

If the information and the uploaded documents are found in order, the proper officer has to respond to the application within 3 common working days. If he communicates any deficiency or discrepancy in the application within such time, then the applicant will have to remove the discrepancy / deficiency within 7 days of such communication. Thereafter, for either approving the application or rejecting it, the proper officer has 7 days' time from the date when the taxable person communicates removal of deficiencies. In case no response is given by the proper officer within the said time line, the portal shall automatically generate the registration.

25. What will be the time of response by the applicant if any query is raised in the online application?**Answer:**

If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the applicant and to the other tax authority through the GST Common Portal within 3 common working days. The applicant will reply to the query/rectify the error/ answer the query within a period of 7 days from the date of receipt of deficiency intimation.

On receipt of additional document or clarification, the relevant tax authority will respond within 7 common working days from the date of receipt of clarification

26. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?**Answer:**

Yes, as per section 29(5) of the CGST Act, every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.

SUPPLY UNDER GST

GST Law, by levying tax on the 'Supply' of Goods and/or Services, departs from the historically understood concepts of 'taxable event' under the State VAT Laws, Excise Laws and Service Tax Laws i.e. sale, manufacture and service respectively.

In GST, the entire value of supply of goods and /or services **is taxed in an integrated manner**, unlike the earlier indirect taxes, which were charged independently either on the manufacture or sale of goods, or on the provisions of services.

The concept of 'Supply' is the key stone of the GST architecture. The provisions relating to meaning and scope of supply are contained in Chapter III of the CGST Act read with various Schedules given under the said Act:

Section 7 Meaning and Scope of Supply

Section 8 Taxability of Composite and Mixed Supplies

Schedule I Matters to be treated as supply even if made without consideration

Schedule II Matters to be treated as supply of goods or as supply of services

Schedule III Matters or transactions which shall be treated neither as supply of goods nor as supply of services [Negative List]

Section 7: Meaning and Scope of Supply**(1) “Supply” includes-**

- (a) **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**;
- (b) import of **services** for a consideration **whether or not** in the course or furtherance of **business**;
- (c) the activities specified in **Schedule I**, made or agreed to be **made without a consideration**; and
- (d) the **activities to be treated as supply of goods or services** as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),-

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

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

- a. a supply of goods **and not as** a supply of services; or
- b. a supply of services **and not as** a supply of goods.

Supply for consideration in course or furtherance of business [Section 7(1)(a)]

The first part of Section 7 [Clause (a) of sub-section (1)] includes **all forms of supply** of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made **for consideration in the course or furtherance of business**.

Forms of supply have two pre-requisites:

- ✓ the supply should be for a consideration;
- ✓ and in the course or furtherance of business.

MODES OF SUPPLY

Supply includes all forms of supply of goods or services or both. Supply of anything other than goods or services does not attract GST.

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 **[Sec. 2(52) of CGST Act]**.

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** **[Section 2(102) of CGST Act]**.

Various illustrative modes of supply mentioned in Section 7(1)(a):**1 Sale and Transfer:**

Earlier, VAT was levied by the State on the sale of goods which was defined under most State VAT laws as transfer of property in goods for consideration. Under the CGST Act, although sale has been treated as a form of supply leviable to GST, the **definition of ‘sale’ has not been provided**.

Further, the term ‘transfer’ which has also been included as a form of supply **is also not defined**.

2 Barter and Exchange:

While barter may deal with a transaction which **only includes an exchange** of goods/services, Exchange may cover a situation where the goods are **partly paid for in goods and partly in money**. ***When there is a barter of goods or services, same activity constitutes supply as well as consideration.***

By making a specific inclusion in the definition of supply, **all barter and exchanges would be leviable to GST**.

Example of exchange

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

Example of barter is as follows:

Medical consultancy is a SUPPLY of services by doctor. It is a consideration for the hair cut by the barber.

3 Licence, Lease, Rental etc.:

Licenses, leases and rentals of goods were **earlier treated as services** where the goods were transferred without transfer of right to use (effective possession and control over the goods) and **were treated as sales** where the goods were transferred with transfer of right to use.

Under the GST regime, such licenses, leases and rentals of goods with or without transfer of right to use are **covered under the supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service in Schedule-II of CGST Act.**

CONSIDERATION

One of the essential conditions for the supply of goods and/or services to fall within the ambit of GST is that a supply is made for a consideration. However, consideration does not always mean money. 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.

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.

However, **a deposit** given in respect of the supply of goods or services or both **shall not be considered as payment** made for such supply **unless the supplier applies such deposit as consideration for the said supply** **[Section 2(31) of CGST Act]**

Money: means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler 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) of CGST Act]**

PERSON: includes [Section 2(84) of CGST Act]

- a. an Individual;
- b. a Hindu Undivided Family;
- c. a Firm;
- d. a Limited Liability Partnership;
- e. an Association of Persons or a Body of Individuals, whether incorporated or not, in India or outside India;
- f. a Company;
- g. 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;
- h. any Body Corporate incorporated by or under the laws of a country outside India;
- i. a Co-operative Society registered under any law relating to co-operative societies;
- j. Society as defined under the Societies Registration Act, 1860;
- k. Trust; and
- l. a Local Authority;
- m. Central Government or a State Government;
- n. every Artificial Juridical Person, not falling within any of the above.

IN COURSE OR FURTHERANCE OF BUSINESS

GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business.

Example:

Rishabh buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act because supply is not made by Rishabh in the course or furtherance of business.

Meaning of Supply made in the course or furtherance of business:

In order to understand the term 'in the course or furtherance of business', we need to understand the term 'business'.

Business: includes –

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, **whether or not it is for a pecuniary benefit;**
- (b) any activity or transaction in connection with or incidental or ancillary to (a) above;
- (c) any activity or transaction in the nature of (a) above, **whether or not there is volume**, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital assets and services in connection with **commencement or closure of business;**
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits **to its members**, as the case may be;
- (f) admission, for a consideration, of persons **to any premises;** and
- (g) **services supplied by a person as the holder of an office** which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence **to book maker in such club**
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority **in which they are engaged as public authorities**

[Section 2(17) of CGST Act]

Any activity undertaken in course / for furtherance of business would constitute a supply. Since 'business' includes vocation, sale of goods or service even as a vocation is a supply under GST.

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 **even though it is a one-time occurrence.**

Services provided by the club/association to its members for consideration is a supply.

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'.

SUPPLY BY A TAXABLE PERSON

A supply to attract GST should be made **by a taxable person**. *Hence, a supply between two non-taxable persons does not constitute taxable supply under GST.*

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

[As per Section 2(107) of the CGST Act, taxable person **means a person who is registered or liable to be registered under section 22 or section 24.**]

TAXABLE SUPPLY

For a supply to attract GST, the **supply must be taxable**. Taxable supply has been broadly defined and means any supply of goods or services or both which, **is leviable to tax under the GST Law**.

Exemptions may be provided to the specified goods or services or to a specified category of persons/entities making supply [Discussed in Chapter “Exemptions from GST”].

Importation of Services for Consideration whether or not in course or furtherance of business

The connotation of ‘supply’ gets expanded significantly through the second part of section 7 i.e. 7(1)(b) which brings within the ambit of ‘supply’, **the importation of services for a consideration whether or not in the course or furtherance of business**.

This is the only exception to the condition of supply being in course or furtherance of business.

Example:

Ramaiyaa, a proprietor, has received the architect services for his house from an architect located in New York at an agreed consideration of \$ 5,000. The import of services by Ramaiyaa is supply under section 7(1)(b) **though it is not in course or furtherance of business**.

Supply without Consideration – Deemed Supply [Section 7(1)(c) & Schedule I]

This includes all supplies made by a taxable person to a taxable/ non-taxable person, even if the same is without consideration. These are specifically mentioned in Schedule I appended to the CGST Act.

In the past regime, in every tax statute, “consideration” played the most important role for levying taxes. For eg, if any service was provided for free to a person, such service was not subject to service tax. **However, under GST, the importance of consideration has been diluted in certain cases – this is an important departure from the earlier indirect tax regime.**

As per Schedule I, in the following 4 cases, supplies made without consideration will be treated as supply under section 7 of the CGST Act:

I. Permanent Transfer/Disposal of Business Assets:

Any kind of **disposal or transfer of business assets made by an entity on permanent basis** even though without consideration qualifies as supply.

(This clause is wide enough to cover transfer of business assets from holding to subsidiary company for NIL consideration.)

However, it is important to note that this provision would apply **only if input tax credit has been availed on such assets.**

Examples:

- a) XYZ & Co. donates old laptops to Charitable Schools when new laptops are purchased by business will qualify as supply provided input tax credit has been availed by XYZ & Co. on such laptops.
- b) A cloth retailer gives clothes from his business stock to his friend free of cost. In this case, transfer of business stock would amount to ‘supply’ if he had claimed input tax credit on his purchase of the business asset.
- c) A dealer of air-conditioners permanently transfers an air conditioner from his stock in trade, for personal use at his residence. The transaction will constitute a supply as it is a permanent transfer/ disposal of business assets. **The only condition is that input tax credit should have been availed on such assets.**

II. Supply between related person or distinct persons:

Supply of goods or services or both **between related persons or between distinct persons as specified in section 25**, will qualify as supply **provided it is made in the course or furtherance of business.**

Related persons:

Explanation to Section 15, related persons have been defined as follows:

(a) persons shall be deemed to be “related persons” if-

- i. such persons are officers or directors of one another’s businesses;
- ii. such persons are legally recognised partners in business;
- iii. such persons are employer and employee;
- iv. any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- v. one of them directly or indirectly controls the other;
- vi. both of them are directly or indirectly controlled by a third person;
- vii. together they directly or indirectly control a third person; or
- viii. they are members of the **same family**;

(b) the term “person” also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Distinct Persons specified under Section 25

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.**

Stock transfers or branch transfers:

Transactions between different locations (with separate GST registrations) of same legal entity (eg., stock transfers or branch transfers) will qualify as ‘supply’ under GST

Example:

Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir Fabrics are registered in the States where they are located. **Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.**

FAMILY: means

- (a) Spouse and Children of the person and
- (b) the parents, grandparents, brothers & sisters of the Person **if they are wholly or mainly dependent on the said person.**

Supply of goods or services or both between an employer and employee:

By virtue of the definition of related person given above, employer and employee are related persons. However, services provided by an employee to the employer in the course of or in relation to his employment are **not treated** as supply of services [**Schedule III of CGST Act**].

Gifts by employer to employee

Schedule I provides that gifts not exceeding Rs 50,000 in value in a financial year by an employer to an employee **shall not be treated as supply of goods or services or both**. However, gifts of value more than Rs 50,000 made without consideration are subject to GST, when made in the course or furtherance of business.

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

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

It follows therefrom that supply by the employer to the employee **in terms of contractual agreement** entered into between the employer and the employee, **will not be subjected to GST**.

III. Principal – Agent:

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) of CGST Act**].

Principal: means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [**Section 2(88) of CGST Act**].

Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal **is considered as supply**.

Similarly, **supply of goods** by an agent to his principal, without consideration, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

Example:

ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana.

Supply of goods by ABC Manufacturers Ltd. **to Raghav & Sons will qualify as supply even though Raghav & Sons has not paid any consideration yet.**

IV. Importation of services:

Import of services by a taxable person **from a related person** or from his establishments located outside India, **without consideration, in the course or furtherance of business** shall be treated as “supply”.

Example:

- (a) ABC Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services **free of cost** to its branch office.

Since ABC Associates and the branch office **are related persons**, services received by ABC Associates will qualify as supply even though the head office has not charged anything from it.

- (b) Sumedha, a proprietor registered in Delhi, has sought architect services from his brother located in US, with respect to his newly constructed house in Delhi. Although services have been received by Sumedha without consideration from a related person, **yet it will not qualify as supply since the same has not been received in course or furtherance of business.**

Activities to be treated as supply of goods or as supply of services [Schedule II]

Section 7(1)(d) of the Act refers to Schedule II for determining whether a particular transaction is a supply of goods or supply of service. This helps in mitigating the ambiguities which existed in earlier laws

Schedule II appended to the CGST Act enlists the matters/transactions to be treated as Supply of either goods or services. The matters listed out are primarily those which had been entangled in litigation in the earlier regime owing to their complex nature and susceptibility to double taxation.

These are as follows:-

A.	Transfer of Title in goods	Supply of Goods
B.	Transfer of Right in goods/ undivided share in goods without transfer of title in goods	Supply of Services
C.	Transfer of Title in goods under an agreement which stipulates that property shall pass at a future date.	Supply of Goods
D.	Lease, tenancy, easement, licence to occupy land	Supply of Services
E.	Lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly (Lease rentals collected shall be taxable as supply of services under GST)	Supply of Services
F.	Treatment or Process applied to another person's goods ('Job Work' performed by a job worker like dyeing of fabric in various colours)	Supply of Services
G.	Goods forming part of business assets are transferred or disposed off by/under directions of person carrying on the business so as no longer to form part of those assets, whether or not for consideration	Supply of Goods
H.	Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business, whether or not for consideration (A director using car provided by the company for personal travels.)	Supply of Services
I.	Goods forming part of assets of any business carried on by a person who ceases to be a taxable person 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. (A, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him and GST shall be payable.) Exceptions: ➤ Business is transferred as a going concern to another person. ➤ Business is carried on by a personal representative who is deemed to be a taxable person	Supply of Goods

J.	<p>(a) Renting of immovable property</p> <hr/> <p>(b) Construction of complex, building, civil structure, etc. 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.</p> <p>The term construction includes additions, alterations, replacements, or remodeling of any existing civil structure.</p> <hr/> <p>(c) Temporary transfer or permitting use or enjoyment of any intellectual property right</p> <hr/> <p>(d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software (Supply of GST related software to businesses for smooth processing of returns and accounts is supply of service.)</p> <hr/> <p>(e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act.</p> <hr/> <p>(f) Transfer of right to use any goods for any purpose</p>	Supply of Services
K.	<p>Following composite supplies :-</p> <ul style="list-style-type: none"> ✓ Works contract services. <p>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.</p> <ul style="list-style-type: none"> ✓ 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. 	Supply of Services
L.	<p>Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.</p>	Supply of Goods

Negative List under GST [Section 7(2)(a) read with Schedule III]**Activities or transactions which shall be treated neither as a supply of goods nor a supply of services**

- 1) Services **by an employee to the employer** in the course of or in relation to his employment.
- 2) Services **by any Court (SC, HC, District Court etc) or Tribunal** established under any law for the time being in force.
- 3)
 - (a) **Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;**
 - (b) **Duties performed by any person who holds any post in pursuance of the provisions of the Constitution** in that capacity; or
 - (c) **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 paragraph 5(b) of Schedule II**, sale of building.
- 6) **Actionable claims**, other than lottery, betting and gambling.
- 7) **Activities/transactions notified by the Government:**

Such activities/ 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.**

Notification No. 14/2017 CT (R) dated 28.06.2017 has notified **the services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution** for the said purpose.

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 of two or more supplies shall be treated as supply of that particular supply ***that attracts highest rate of tax***.

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

However, in certain cases, supplies are not such simple and clearly identifiable supplies. ***Some of the supplies are a combination of goods or combination of services or combination of goods and services both and each individual component of such supplies may attract a different rate of tax.***

In such a case, the rate of tax to be levied on such supplies may be a challenge. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

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].

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. [Section 2(90) of CGST Act]

Example: Suvarna Manufacturers entered into a contract with XYZ Ltd. for supply of readymade shirts packed in designer boxes at XYZ Ltd.'s outlet. Further, Suvarna Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.

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

Example: A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transport of passenger, constitutes the predominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.

Works contract and restaurant services **are classic examples of composite supplies**. However, the GST law identifies both as supply of services and such services are chargeable to specific rate of tax mentioned against such services (works contract and restaurants).

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

Whether the services are bundled in the ordinary course of business, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:

- ✓ **The perception of the consumer or the service receiver** - If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
- ✓ Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
- ✓ The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.

For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

✓ **Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:**

- There is a single price or the customer pays the same amount, no matter how much package they actually receive or use.
- The elements are normally advertised as a package.
- The different elements are not available separately.
- The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

Mixed supply means:

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

[Section 2(74) of the CGST Act].

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

A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a mixed supply.

Example: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. 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.

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

TEST YOUR KNOWLEDGE

- 1) Which of the following is not a supply as per section 7 of the CGST Act?
- (a) Management consultancy services not in course or furtherance of business
 - (b) Import of service for consideration not in course or furtherance of business
 - (c) Both (a) and (b)
 - (d) None of the above
- 2) _____ specifies the activities to be treated as supply even if made without consideration.
- (a) Schedule I of CGST Act
 - (b) Schedule II of CGST Act
 - (c) Schedule III of CGST Act
 - (d) All of the above
- 3) Which of the following activity is outside the scope of supply and not taxable under GST?
- (a) Services by an employee to the employer in the course of or in relation to his employment
 - (b) Services of funeral
 - (c) Actionable claims, other than lottery, betting and gambling.
 - (d) All of the above
- 4) Which of the following supplies are naturally bundled?
- (a) Rent deed executed for renting of two different floors of a building-one for residential and another for commercial purpose to same person
 - (b) Pack of watch, tie and belt
 - (c) Package of canned food such as burger, chocolates, sweets, cake etc.
 - (d) None of the above
- 5) A _____ supply comprising of two or more supplies shall be treated as the supply of that particular supply that attracts highest rate of tax.
- (a) Composite
 - (b) Mixed
 - (c) Both (a) and (b)
 - (d) None of the above
- 6) Which of the following activities is a supply of services?
- (a) Transfer of right in goods/ undivided share in goods without transfer of title in goods
 - (b) Transfer of title in goods
 - (c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.
 - (d) All of the above
- 7) What is the taxable event under GST?
- Answer:**
Taxable event under GST is Supply of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.
- 8) What is the tax treatment of composite supply and mixed supply under GST?
- Answer:**
Composite supply shall be treated as **supply of the principal supply**. Mixed supply would be treated as supply of **that particular goods or services which attracts the highest rate of tax**.

9) Supply of all goods and/or services is taxable under GST. Discuss the validity of the statement.

Answer:

The statement is incorrect. Supplies of all goods and services are taxable **except alcoholic liquor for human consumption**. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable **with effect from a future date**. This date would be notified by the Government on the recommendations of the GST Council.

10) Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

Answer:

Title as well as possession **both have to be transferred** for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II (1)(b) of the CGST Act.

In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

11) Examine whether the following activities would amount to supply under Section 7 of the CGST Act:

- (a) Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.
- (b) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
- (c) Raman is an Electronic Commerce Operator in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
- (d) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Answer:

- (a) Section 7 of the CGST Act, inter alia, provides that supply must be made for a consideration **except the activities specified in Schedule I and in course or furtherance of business**. Since, both these elements are missing, donation of clothes and toys to children living in slum area **would not amount to supply** under section 7 of the CGST Act.
- (b) Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, **is supply even without consideration provided it is made in the course or furtherance of business**.

Further, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act].

In view of the same, factory and depot of Sulekha Manufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot **without consideration, but in course/furtherance of business, is Supply under Section 7** of the CGST Act.

- (c) Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business.

In the given case, Raman has received legal services from his brother free of cost **in a personal matter and not in course or furtherance of business**. Hence, services provided by Raman's brother to him would **not be treated as Supply under Section 7** of the CGST Act.

- (d) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would be treated as supply under section 7 of the CGST Act as the same are provided in course or furtherance of business **though received from a related person.**

12) State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

- (a) Renting of immovable property
- (b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration.
- (c) Transfer of right in goods without transfer of title in goods.
- (d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Answer:

- (a) Supply of services
- (b) Supply of goods
- (c) Supply of services
- (d) Supply of goods

13) Determine whether the following supplies amount to composite supplies:

- (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.
- (b) A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste.

Answer:

Under composite supply, 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].

In view of the same,

- (a) since, supply of breakfast and dinner with the accommodation in the hotel **are naturally bundled**, said supplies qualify as 'composite supply'.
- (b) since supply of toothbrush along with the toothpaste are **not naturally bundled**, said supplies **do not qualify as 'composite supply'**.

14) Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.

Answer:

Supply of goods on hire purchase shall be treated **as supply of goods** as there is transfer of title, albeit at a future date.

CHARGE OF GST

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

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.

EXTENT & COMMENCEMENT OF CGST ACT/ SGST ACT/ UTGST ACT

- a) **Central Goods and Services Tax Act, 2017 extends** to the whole of India including State of Jammu & Kashmir

India means

- **territory of India** as referred to in Article 1 of the Constitution
- its **territorial waters (12NM)**,
- seabed and sub-soil underlying such waters,
- the **air space** above its territory and territorial 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 (200 NM)**

[Section 2(56) of CGST Act]

- b) **State GST law of the respective State/Union Territory with State Legislature [Delhi and Puducherry] extends** to whole of that State/Union Territory.

[State includes a Union Territory with legislature (Section 2(103) of the CGST Act)]

- c) **Union Territory Goods and Services Tax Act, 2017 extends** to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh **and other territory**, i.e. **the Union Territories without State Legislature** [Section 1 of the UTGST Act].

Union Territory: means the territory of -

- (a) The Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli;
- (d) Daman and Diu;
- (e) Chandigarh; and
- (f) **other territory.**

Explanation: For the purposes of this Act, **each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union Territory** [Section 2(114) of CGST Act].

LEVY & COLLECTION OF CGST [SECTION 9 OF THE CGST ACT]

1. Subject to the provisions of sub-section (2), there shall be levied a tax called the CGST **on all intra-State supplies of goods or services** or both, **except on the supply of alcoholic liquor for human consumption**, on the **Value determined under Section 15** and at such rates, **not exceeding 20%**, 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 **(Here supplier may be register or unregistered supplier)**
4. The central tax in respect of the **supply of taxable goods or services or both** by a supplier, who is **not registered, to a registered person** shall be paid by **such person on reverse charge basis as the recipient** 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 **[Section 9(4) has been deferred till 31.03.2018]**

Intra-State supply of taxable goods or services or both by an ***unregistered supplier*** to a registered person **are exempt** from CGST provided the aggregate value of such supplies of goods and/or services received by a registered person **from any or all the unregistered suppliers does not exceed Rs. 5,000 in a day**.

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 ECO as if he is the supplier liable for paying the tax in relation to the supply of such services**.

Provided that where an ***ECO 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 ***ECO does not have a physical presence in the taxable territory and also does not have a representative in the said territory***, such ECO shall **appoint a person** in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

List of services taxable under reverse charge, i.e. the services where tax is payable by the recipient:

Notification No. 13/2017 CT (R) dated 28.06.2017 has notified the following categories of supply of services wherein whole of the CGST shall be **paid on reverse charge basis by the recipient of services**:

S. No.	Category of Supply of Services	Recipient of Services
1.	<p>Supply of services by a <u>Goods Transport Agency (GTA)</u> in respect of <u>transportation of goods by road to</u></p> <p>a) any Factory registered under or 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; or</p> <p>d) any Person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>e) any Body Corporate established, by or under any law; or</p> <p>f) any Partnership Firm whether registered or not under any law including association of persons; or</p> <p>g) any Casual Taxable Person</p>	<p>Specified person located in the taxable territory.</p> <p>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.</p>
2.	<p>Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.</p>	<p>Any business entity located in the taxable territory.</p> <p>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</p>
3.	<p>Services supplied by an arbitral tribunal to a business entity.</p>	<p>Any business entity located in the taxable territory.</p>

4.	Services provided by way of sponsorship to any body corporate or partnership firm	Any body corporate or partnership firm located in the taxable territory.
5.	Services supplied by the <u>Central Government, State Government, Union territory or local authority</u> to a business entity excluding- (1) Renting of immovable property, and (2) Services specified below- (i) Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel , inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Any business entity located in the taxable territory.
6.	Services supplied by a director of a company/body corporate to the said company/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	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 banking company or a financial institution or a nonbanking financial company, located in the taxable territory
9.	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a <u>copyright covered under section 13(1)(a) of the Copyright Act, 1957</u> relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like	Publisher, Music Company, Producer or the like, located in the taxable territory.

Tax payable by the electronic commerce operator on notified services

Electronic Commerce Operators (ECO) display products as well as services which are actually supplied by some other person to the consumer, on their electronic portal. The consumers buy such goods/ services through these portals. On placing the order for a particular product/ service, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.

The Government may notify **specific categories of services** the tax on intra -State supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

Notification No. 17/2017 CT (R) dated 28.06.2017 has notified the following categories of **services** supplied through ECO for this purpose-

- (a) services by way of **transportation of passengers by a radio-taxi**, motorcab, maxicab and motor cycle;
- (b) 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.**

GST Rates**GST Rates prescribed for various goods:**

Broadly, **6 rates** of CGST have been notified for goods, viz., **0.125%, 1.5%, 2.5%, 6%, 9% and 14%**. **Some items have been kept at Nil rate.** Equivalent rate of SGST/ UTGST will also be levied.

GST Rates prescribed for various services:

Broadly, **4 rates** of CGST have been notified for services, viz., **2.5%, 6%, 9% and 14%**. Equivalent rate of SGST/ UTGST will also be levied.

[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**. Each group consists of various Service Codes (Tariff). Chapters referred are the Chapters of the First Schedule to the Customs Tariff Act, 19754.]

Reverse charge in respect of Supply of Goods

Notification No. 4/2017 CT (R) dated 28.06.2017 as amended by Notification No. 36/2017 CT (R) dated 13.10.2017 has notified the **following categories of supply of Goods** wherein whole of the CGST shall be ***paid on reverse charge basis by the recipient of Goods:***

S. No.	Description of supply of Goods	Supplier of goods	Recipient of supply
1	Cashew nuts, not shelled or peeled	Agriculturist	Any Registered Person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any Registered Person
3	Tobacco leaves	Agriculturist	Any Registered Person
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any Registered Person
5	Supply of <u>lottery</u>	State Government, Union Territory or any local authority	Lottery distributor or selling agent.
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	Any registered person

COMPOSITION LEVY [SECTION 10 OF THE CGST ACT] (Section 10)

The **objective of composition scheme** is to bring simplicity and to reduce the compliance cost for the small taxpayers.

Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on the same, etc. They are not required to raise any tax invoice, but simply need to issue a Bill of Supply.

At the end of a quarter, the registered person opting for composition levy would pay a certain specified percentage of his turnover of the quarter as tax, without availing the benefit of input tax credit.

1. ***Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9***, a registered person, whose **aggregate turnover** in the **preceding financial year did not exceed Rs. 50,00,000**, **may opt** to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, **but not exceeding-**
 - a. **1% of the turnover** in State or turnover in Union territory **in case of a manufacturer (Manufactures excludes manufacturer of ice cream, Pan masala & Tobacco)**
 - b. **2.5% of the turnover** in State or turnover in Union territory in case of persons engaged in making supplies referred to in **clause (b) of paragraph 6 of Schedule II** **(Supply by way of or as part of any services or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink)** **and**
 - c. **0.5% of the turnover** in State or turnover in Union territory **in case of other suppliers** subject to such conditions and restrictions as may be prescribed.

Provided that the Government may, by notification, increase the said limit of Rs. 50,00,000 to such higher amount, not exceeding 1 crore rupees, as may be recommended by the Council.

(Above Rates are composite rates specified under Rule 7 of the CGST Rules 2017. An equivalent amount of SGST is also payable)

The turnover limit for Composition Levy for CGST and SGST purposes for all eligible registered persons has been increased from Rs 50 lakh to Rs 75 lakh **vide Notification No. 8/2017 CT dated 27.06.2017. Further increased to Rs. 1 Crore vide Notification No. 46/2017 dated 13.10.2017.**

However, the said notification further stipulates that the turnover limit for composition levy shall be Rs 50 lakh (**further increased to 75 Lakh**) in respect of **9 of the Special Category States (Except UK & JK)**

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

- (a) he is **not engaged in the supply of services other than supplies** referred to in clause (b) of paragraph 6 of Schedule II (**other than Restaurant Services, Mandap Keeper & Outdoor catering Services**)
- (b) he is not engaged in making any supply of goods which **are not leviable to tax** under this Act
- (c) he is not engaged in making any **inter-State outward supplies of goods**
- (d) 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; and**
- (e) he is not a **manufacturer of such goods as may be notified** by the Government on the recommendations of the Council (**manufacturer of ice cream, Pan masala & Tobacco**)

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), 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.**

- 3. The option availed of by a registered person under sub-section (1) **shall lapse with effect from the day** on which his aggregate turnover during a financial year **exceeds the limit specified** under sub-section (1).
- 4. A taxable person to whom the provisions of sub-section (1) apply **shall not collect any tax from the recipient on supplies** made by him (cannot issue tax invoice) **nor shall he be entitled to any credit of input tax.**
- 5. If the proper officer has **reasons to believe** that a taxable person has paid tax under sub-section (1) **despite not being eligible**, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, **be liable to a penalty** and the **provisions of section 73 or section 74** shall, mutatis mutandis, apply for determination of tax and penalty.

Intimation of opting for composition levy [Rules 3 & 4]

(i) **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. Such intimation shall be considered **only after the grant of registration** to the applicant and his option to pay tax under composition levy **shall be effective from the date from which registration is effective**.

(ii) **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 Common Portal [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 [Discussed in Input Tax Credit chapter] **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**
- 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) (reverse charge) **on inward supply of goods or services** or both. **[Section 9(4) has been deferred till 31.03.2018]**
- 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. 8/2017 CT dated 27.06.2017:
 - ✓ ***Ice Cream and other edible ice, whether or not containing cocoa***
 - ✓ ***Pan Masala***
 - ✓ ***Tobacco & manufactured Tobacco substitutes***
- 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.

Validity of Composition Levy [Section 10(3) read with Rule 6]

- The option exercised by a registered person to pay amount under composition levy shall remain valid **so long as he satisfies all the conditions** mentioned in the said section and these rules.
- The option to pay tax under composition scheme **lapses** from the day on which his aggregate turnover during the FY **exceeds the specified limit**.
- Such person is required to **pay normal tax under section 9(1) from the day he ceases to satisfy** any of the conditions prescribed for composition levy. He shall issue tax invoice for every taxable supply made thereafter.
- Further, he is required to **file an intimation for withdrawal** from the scheme in prescribed form **within 7 days of the occurrence of such event**.
- However, such person shall be **allowed to avail the ITC** in respect of the stock of inputs and inputs contained in semi- finished or finished goods **held in stock by him and on capital goods held by him on the date of withdrawal** and **furnish a statement, within 30 days of withdrawal of the option**, containing the details of such stock held in prescribed form on the common portal.

Example: A person availing composition scheme during a financial year crosses the turnover of Rs 1 Crore **on 9th of December**. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds Rs. 1 Crores, **i.e. on 9th December in this case**.

Imposition of penalty in case of irregular availment of the composition scheme [Section 10(5) read with rule 6(4) and 6(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**.

Further, where the **proper officer has reasons to believe** that the registered person was not eligible to pay tax under composition levy or has contravened the provisions of the Act/provisions of this Chapter, **he may issue a show cause notice to such person in prescribed form**.

Upon receipt of the reply to such show cause notice from the registered person in prescribed form, the proper officer **shall issue an order in prescribed form within 30 days** of the receipt of such reply, **either accepting the reply, or denying the option to pay tax under composition levy from the date of the option or from the date of the event concerning such contravention**, as the case may be.

EXTENT AND COMMENCEMENT OF IGST [SECTION 1 OF IGST ACT]

Integrated Goods and Services Tax Act, 2017 extends to the **whole of India including Jammu & Kashmir**. IGST is levied on the **inter-State supply of goods or services** or both.

LEVY & COLLECTION OF IGST [SECTION 5 OF THE IGST ACT]

1. Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax **on all inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption**, on the **value determined under Section 15 (Transaction Value)** of the Central Goods and Services Tax Act and at such rates, **not exceeding 40%.**, 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.

Integrated tax on goods imported into India shall be levied and collected in accordance with the **provisions of Section 3 of the Customs Tariff Act, 1975** on the **value as determined under the said Act (Custom Act, 1962)** at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962. (IGST shall be levied as additional duty of customs in addition to basic customs duty under the Customs Tariff Act, 1975)

[Inter-State supply of alcoholic liquor for human consumption is outside the purview of IGST]

2. The integrated 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 integrated tax in respect of the supply of taxable goods or services or both **by a supplier, who is not registered, to a registered person** shall be paid by such person **on reverse charge basis** as the recipient 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.

5. The Government may, on the recommendations of the Council, by notification, ***specify categories of services***, the tax on inter-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 ECO as if he is the supplier liable for paying the tax in relation to the supply of such services***.

Provided that where an ***ECO 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 ***ECO does not have a physical presence in the taxable territory and also does not have a representative in the said territory***, such ECO shall appoint a ***person*** in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

List of services taxable under reverse charge [Notification No. 10/2017 IT (R) dated 28.06.2017]

Notification No. 10/2017 has notified specified categories of supply of services wherein ***whole of the IGST shall be paid on reverse charge basis by the recipient of services***.

All the services which have been notified for reverse charge purposes under CGST Act have also been notified for reverse charge under IGST Act. ***Further, following two services are additionally included for IGST purposes:***

S. No.	Category of Supply of Services	Supplier of Services	Recipient of Services
1.	<i>Any service supplied by any person who is located in a non-taxable territory <u>to any person other than non-taxable online recipient.</u></i>	Any person located in a non-taxable territory	Any person located in the taxable territory <i>other than <u>non-taxable online recipient.</u></i>
2.	<i>Services supplied by a person located in non- taxable territory <u>by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India</u></i>	A person located in non-taxable territory	<i>Importer</i> as defined in section 2(26) of the Customs Act, 1962, <i>located in the taxable territory.</i>

[***Importer***, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, ***includes any owner, beneficial owner or any person holding himself out to be the importer*** (Section 2(26) of the Customs Act, 1962)]

Notification No. 14/2017 IT (R) dated 28.06.2017 has notified the following categories of services supplied through ECO for the purpose of Section 5(5) of IGST Act:

- (a) Services by way of **transportation of passengers by a radio-taxi**, motorcab, maxicab and motor cycle;
- (b) 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 20 of the IGST Act read with section 22(1) of the CGST Act**.

IGST Rates

➤ **IGST Rates prescribed for various goods:**

Broadly, **6 rates of IGST** have been notified for goods, viz., **5%, 12%, 18%, 28%, 3% and 0.25%**.

➤ **IGST Rates prescribed for various services:**

Broadly, **4 rates of IGST** have been notified for services, viz., **5%, 12%, 18% and 28%**.

➤ For **certain specified goods & services**, **NIL rate of IGST** has been notified

TEST YOUR KNOWLEDGE

1. What is the maximum rate of CGST prescribed under CGST Act?
 - (a) 20%
 - (b) 28%
 - (c) 24%
 - (d) 40%

2. Which of the following taxes levied on intra-State supply?
 - (a) CGST
 - (b) SGST/UTGST
 - (c) Both (a) and (b)
 - (d) IGST

3. What is the threshold limit of turnover in the preceding financial year to be eligible for composition levy in Delhi ?
 - (a) Rs 20 lakh
 - (b) Rs 30 lakh
 - (c) Rs 50 lakh
 - (d) Rs 1 Crore

4. Which of the following is not included in aggregate turnover?
 - (a) Exempt supplies of goods or services or both
 - (b) Export of goods or services or both
 - (c) Inter-State supply of goods or services or both
 - (d) Value of inward supplies on which tax is paid under reverse charge

5. IGST is levied on:
 - (a) Inter-State supplies
 - (b) Intra-State Supplies
 - (c) Both (a) and (b)
 - (d) None of the above

6. _____ is levied on the import of goods and/or services.
 - (a) IGST
 - (b) CGST and SGST
 - (c) CGST and UTGST
 - (d) None of the above

7. The maximum rate of IGST can be:
 - (a) 20%
 - (b) 30%
 - (c) 40%
 - (d) None of the above

8. On supply of which of the following items, GST shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:
 - (a) Petroleum crude
 - (b) Alcoholic liquor for human consumption
 - (c) Both (a) and (b)
 - (d) None of the above

9. A radio taxi driver has provided his services through Electronic Commerce Operator – Kuber Cabs. The tax on such supplies shall be paid by the _____.
 - (a) Electronic Commerce Operator – Kuber Cabs
 - (b) Radio taxi driver
 - (c) Customer receiving the services from radio taxi driver
 - (d) None of the above

10. GST is payable by the recipient under reverse charge on:

- (a) Sponsorship services
- (b) Transport of goods by rail
- (c) Transport of passengers by air
- (d) All of the above

11. State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

- (a) Services provided by an arbitral tribunal to any business entity.
- (b) Sponsorship services provided by a company to an individual.
- (c) Renting of immovable property service provided by the Central Government to a business entity.

Solution:

- (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory **is payable under reverse charge**, in the given case, GST is payable by the recipient - business entity.
- (b) GST on sponsorship services provided **by any person to any body corporate or partnership firm** located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided **to an individual**, reverse charge provisions **will not be attracted**. GST is payable under **forward charge by the supplier – company**.
- (c) GST on services provided or agreed to be provided by the Central Government, State Government, Union Territory, or local authority to any business entity located in the taxable territory is payable under reverse charge. **However, renting of immovable property service is an exception to it**. Therefore, in the given case, reverse charge provisions will not be attracted. GST is payable **under forward charge by the supplier – Central Government**.

12. Can any person other than the supplier or recipient be liable to pay tax under GST?**Solution:**

Yes, the Government can specify categories of services the tax on which shall be paid by the **Electronic Commerce Operator**, if such services are supplied through it and all the provisions of the GST law shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

For this purpose, services by way of **transportation of passengers** by a radio-taxi, motorcab, maxicab and motor cycle and 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**, supplied through ECO have been notified.

13. A person availing composition scheme in Haryana during a financial year crosses the turnover of Rs 1 Crore during the course of the year i.e. he crosses the turnover of Rs 1 Crore in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?**Solution:**

No. The option to pay tax under composition scheme **lapses from the day** on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (**Rs 1 Crore**). He is required to **file an intimation for withdrawal** from the scheme in prescribed **form within 7 days** from the day on which the threshold limit has been crossed.

14. A hotel owner provided accommodation in Haryana, through an electronic commerce operator – Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act.

Who is the person liable to pay GST in this case?

Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India?

Solution:

Government may notify [on the recommendations of the GST Council] specific 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**. Services by way of providing accommodation in hotels through electronic commerce operator is a **specified service for said purpose**.

Thus, person liable to pay GST in this case is the Electronic Commerce Operator Cool Trips. All the provisions of the GST law 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.

Cool Trips does not have a physical presence in India, person liable to pay tax is the person **representing the Electronic Commerce Operator -Cool Trips** for any purpose in India.

15. Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs 1 Crore:

- a) Mohan is engaged in providing legal services in Rajasthan and is registered in the same State.
- b) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

Solution:

- a) A supplier of services engaged in the supplies other than the supplies referred to in clause (b) of paragraph 6 of Schedule II of CGST Act i.e. 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, **is not eligible for composition levy**. Since Mohan provides legal services, he is not eligible for composition scheme.
- b) Since supplier of inter-State outward supplies of goods **is not eligible for composition levy**, Sugam Manufacturers is **not eligible for composition levy**.

16. Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was Rs 70 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical. You are required to advice Mohan Enterprises whether he can do so?

Solution:

A registered person with an aggregate turnover in a preceding financial year up to **Rs 1 Crore** is eligible for composition levy in Delhi. Since the aggregate turnover of Mohan Enterprises does not exceed **Rs 1 Crore**, **it is eligible for composition levy in the current year**.

However, **all registered persons** having the same Permanent Account Number (PAN) have to opt for composition scheme. **If one such registered person opts for normal scheme, others become ineligible for composition scheme.**

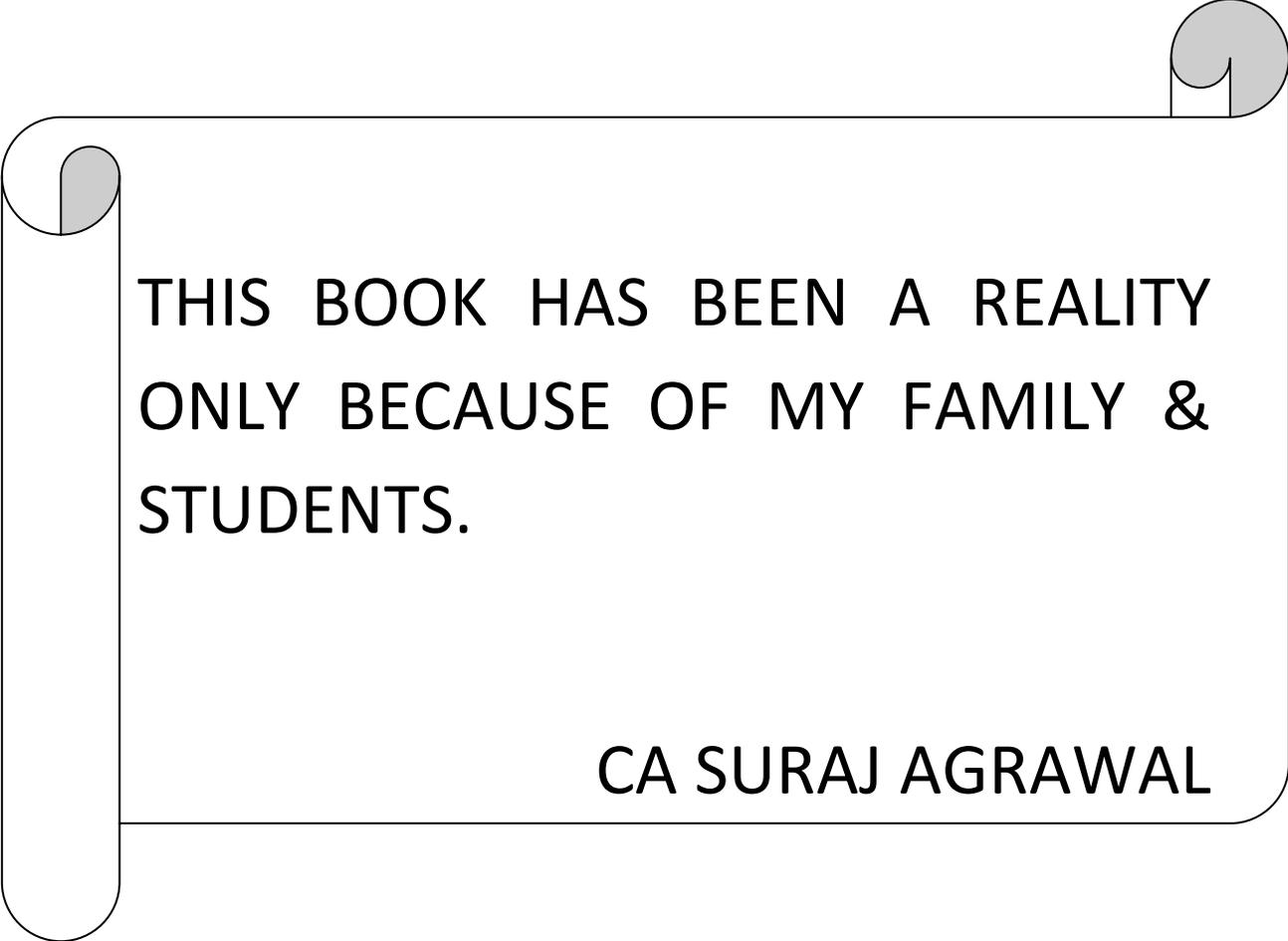
Thus, Mohan Enterprises either have to opt for composition levy for both the verticals or under normal levy for both the verticals.



GST SUMMARY

VOLUME 2

CA SURAJ AGRAWAL



THIS BOOK HAS BEEN A REALITY
ONLY BECAUSE OF MY FAMILY &
STUDENTS.

CA SURAJ AGRAWAL

Few Definitions FROM GST Volume 2

Recipient of supply of goods or services or both, means-

- (a) where a consideration is payable **for the supply of goods or services** or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable **for the supply of goods**, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the **supply of a service**, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the **recipient of the supply and shall include an agent acting as such on behalf of the recipient** in relation to the goods or services or both supplied.

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.

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) of the CGST Act, or under Section 5(3)/5(4) of the IGST Act.

Related persons

Explanation to Section 15, related persons have been defined as follows:

(a) persons shall be deemed to be “related persons” if-

- i. such persons are officers or directors of one another’s businesses;
- ii. such persons are legally recognised partners in business;
- iii. such persons are employer and employee;
- iv. any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- v. one of them directly or indirectly controls the other;
- vi. both of them are directly or indirectly controlled by a third person;
- vii. together they directly or indirectly control a third person; or
- viii. they are members of the **same family**;

(b) the term “person” also includes legal persons;

(c) persons who are associated in the business of one another in that **one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, **shall be deemed to be related.****

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

- ✓ 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

Exempt Supply: means supply of any goods or services or both which attracts **NIL rate of tax** or which may be **wholly exempt from tax under section 11 of CGST Act 2017** , or under **section 6** of the IGST Act, and includes **Non-Taxable Supply**.

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-**

- ✓ the integrated goods and services tax charged on import of goods;
- ✓ the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- ✓ the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
- ✓ 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
- ✓ 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.**

Output Tax in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.

Input Tax Credit means the credit of input tax.

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.

Input means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

Input Service means any service used or intended to be used by a supplier in the course or furtherance of business.

Taxable Supply means a supply of goods or services or both which is leviable to tax under CGST Act.

Zero-Rated Supply means any of the following supplies of goods or services or both, namely:-

- ✓ Export of goods or services or both; or
- ✓ Supply of goods or services or both to a **Special Economic Zone (SEZ) developer** or a **Special Economic Zone unit**.

TIME OF SUPPLY - SUMMARY

The CGST Act provides **separate provisions for Time of Supply for Goods and Services** vide **Sections 12 and 13** of CGST Act. Sections 12 and 13 **use the provisions of Section 31 relating to issue of tax invoice** as a reference point.

Section 12(2)

The Time of Supply of **Goods** shall be the **earlier** of the following dates, namely:-

- (a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or
- (b) The date on which the supplier **receives the payment** with respect to the supply:

Section 13(2)

The Time of Supply of **Services** shall be the following dates, namely:-

- (a) the date of issue of invoice by the supplier, **if the invoice is issued within the period of 30 days from provision of services (45 days in case of bank etc.) or the date of receipt of payment, whichever is earlier;** or
- (b) the **date of provision of service**, if the invoice is not so issued or **the date of receipt of payment, whichever is earlier;** or
- (c) the **date on which the recipient shows the receipt of services** in his books of account, in a case where the provisions of clause(a) or clause (b) do not apply

Notes common for Section 12(2) & Section 13(2)

- A. Where the supplier of taxable goods receives an amount **up to Rs. 1,000 in excess of the amount indicated in the tax invoice**, the time of supply to the extent of such excess shall, **at the option of the said supplier**, be the date of issue of invoice in respect of such excess amount.
- B. For the purposes of clauses (a) and (b), the “supply” shall be deemed to have been made **to the extent it is covered by the invoice or, as the case may be, the payment.**
- C. For the purpose of clause (b), “the date on which the supplier receives the payment” shall be the date on which the **payment is entered in his books** of account or the date on which the **payment is credited to his bank** account, **whichever is earlier.**

TIME OF SUPPLY IN CASE OF REVERSE CHARGE

Section 12(3) - Goods

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:

- (a) the date of the receipt of the goods, or
- (b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier, or
- (c) the date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof **by the supplier**.

Where it is not possible to determine the time of supply under clause (a), (b), or (c), the **time of supply shall be the date of entry in the books of account of the recipient of supply**.

Section 13(3) - Services

A. In case of supplies in respect of which tax is paid or liable to be paid **on reverse charge basis**, the time of supply shall be the **earlier of the following dates**, namely-

- (a) the **date of payment** as entered in the books of account of the recipient or the date on which the payment is **debited in his bank account, whichever is earlier**, or
- (b) the **date immediately following 60 days from the date of issue of invoice** or any other document, by whatever name called, in lieu thereof by the supplier.

Where it is not possible to determine the time of supply under clause (a) or (b), the time of supply shall be the **date of entry in the books of account of the recipient of supply**:

B. In case of supply by 'associated enterprises', where the supplier of service is located outside India, **the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier**.

Common provisions for Goods as well as Services

Section 12(4) / Section 13(4)

In case of supply of vouchers by a supplier, the time of supply shall be-

- (a) the date of issue of voucher, if the **supply is identifiable** at that point; or
- (b) the date of redemption of voucher, in all other cases;

Section 12(5) / Section 13(5)

Where it is not possible to determine the time of supply in the manner specified in sub-sections (2), (3) or (4), the time of supply shall

- (a) in a case where a **periodical return** has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, **be the date on which the tax is paid**.

Section 12 (6) / Section 13(6) - The time of supply to the extent it relates to an addition in the value of supply **by way of interest, late fee or penalty** for delayed payment of any consideration shall be the **date on which the supplier receives such addition in value**.

Tax Invoice - Section 31

1. A registered person **supplying taxable goods** shall, before or at the time of,-
 - (a) **removal of goods for supply** to the recipient, where the supply involves movement of goods; or
 - (b) **delivery of goods or making available** thereof to the recipient, in any other case,

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

2. In case of **continuous supply of goods**, where successive statements of accounts or successive payments are involved, the **invoice shall be issued before or at the time each such statement is issued** or, as the case may be, **each such payment is received**.
3. Where the **goods** being sent or taken on approval for sale or return are **removed before the supply** takes place, **the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.**
4. A registered person supplying taxable **services** shall issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed, before or after the provision of service but **within 30 days from the date of supply of services [45 days in case of Insurer or Banking Company or Financial Institution including a Non-Banking Financial Company]**

An insurer or a banking company or a financial institution, including NBFC, or a telecom operator, or **any other class of supplier of services** as may be notified by the Government, **making taxable supplies of services between distinct persons** as specified in section 25 may issue the invoice **before or at the time such supplier records the same in this books of account or before the expiry of the quarter** during which the supply was made.

5. In case of continuous supply of **services**,-
 - (a) where the **due date of payment is ascertainable** from the contract, the invoice shall be issued on or before the due date of payment;
 - (b) where the **due date of payment is not ascertainable** from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
 - (c) where the **payment is linked to the completion of an event**, the invoice shall be issued on or before the date of completion of that event.
6. In a case where the **supply of services ceases under a contract** before the completion of the supply, the invoice shall be issued **at the time when the supply ceases** and such invoice shall be issued to the extent of the supply made before such cessation.

CLASS NOTES

VALUE OF SUPPLY - SUMMARY

Section 15 of the CGST Act provides **common provisions** for determining the value of goods and services. It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration of the supply

VALUE OF SUPPLY [SECTION 15]

1. **[Section 15(1)]**: The value of a supply of goods or services or both **shall be the transaction value**, which is the price **actually paid or payable** for the said supply of goods or services or both **where the supplier and the recipient of the supply are not related and the price is the sole consideration** for the supply.

2. **[Section 15(2)]**: The value of supply **shall include: [P / T / T / E / I / S]**
 - (a) **Taxes**: Any taxes, duties, cesses, fees and charges levied under any law for the time being in force **other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act**, if charged separately by the supplier;

 - (b) **Third Party**: Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

 - (c) **Expenses**: Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

 - (d) **Interest**: Interest or late fee or penalty for delayed payment of any consideration for any supply; and

 - (e) **Subsidy**: Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

3. [Section 15(3)]:

The Value of the Supply shall not include any discount which is given

(a) before or at the time of the supply **if such discount has been duly recorded in the invoice issued in respect of such supply; and**

(b) after the supply has been effected, if-

(i) such discount **is established in terms** of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; **and**

(ii) *input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.*

TAX INVOICE - SUMMARY

[SECTION 31]

FEW SUB-SECTIONS OF SECTION 31 - ALREADY COVERED IN “TIME OF SUPPLY” CHAPTER

SECTION 31(3): - REVISED TAX INVOICE

A registered person may, **within 1 month from the date of issuance of certificate** of registration and in such manner as may be prescribed, **issue a revised invoice** against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him

- ✓ This provision is necessary, as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the time period and registration is granted, the effective date of registration is the date on which the person became liable for registration.
- ✓ Thus there would be a time lag between the date of grant of certificate of registration and the effective date of registration. ***For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that ITC can be availed by the recipient on such supplies.***
- ✓ **Consolidated Revised Tax Invoices:**
A registered person may issue a Consolidated Revised Tax Invoice in respect of **all taxable supplies made to an unregistered recipient during such period**. 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 Rs 2,50,000.**

SECTION 31(3): NO NEED TO ISSUE TAX INVOICE

A registered person **may not issue a tax invoice** if

- ✓ Value of the goods/services/both supplied < Rs. 200,
- ✓ the recipient is unregistered; **and**
- ✓ the recipient does not require such invoice.

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.

Above provisions are also applicable to Bill of Supply.

SECTION 31(3): - Bill of Supply

A registered person **supplying exempted goods or services or both or paying tax under the provisions of Section 10 (Composition Levy)** shall issue, **instead of a tax invoice, a Bill of Supply** containing such particulars and in such manner as may be prescribed:

Further, the registered person **may not issue a bill of supply** if the value of the goods or services or both supplied is **less than Rs. 200** subject to such conditions and in such manner as may be prescribed;

A registered person opting for the composition levy does not collect tax from the recipient on outward supplies made by him. Similarly, in case of a registered person supplying exempted goods and/or services, no tax implications are there. Recipients should not expect Tax Invoice from such suppliers as they cannot issue tax invoice.

Since no tax is collected from the recipient by a registered person opting for the composition levy as well as registered person supplying exempted goods and/or services, **Bill of Supply issued by such persons does not contain the details pertaining to rate of tax and amount of tax. Further, value to be mentioned in the Bill of Supply is not also taxable value.**

SECTION 31(3): - Receipt Voucher

A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, **issue a Receipt Voucher** or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment.

Where at the time of receipt of advance, rate of tax/ nature of supply is not determinable

- (i) Rate of tax is not determinable tax shall be paid **at the rate of 18%**
- (ii) nature of supply is not determinable, same **shall be treated as inter-State supply**

SECTION 31(3): - Refund Voucher

where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, **a Refund Voucher against such payment;**

SECTION 31(3): - Invoice & Payment Voucher to be issued by recipient

(a) a registered person who is liable to pay tax under Section 9(3)/9(4) shall **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

[Supplier may be registered or un-registered supplier. Invoice is required only in case supplier is unregistered]

(b) a registered person who is liable to pay tax under Section 9(3)/9(4) shall **issue a Payment Voucher** at the time of **making payment to the supplier**.

Number of HSN digits required on tax invoice and class of registered person not required to mention HSN

Board may, on the recommendations of the Council, by notification, specify -

- (i) the number of digits of HSN code for goods or services, that a class of registered persons shall be required to mention, for such period as may be specified in the said notification.
- (ii) the class of registered persons that would **not be required to mention the HSN code** for goods or services, for such period as may be specified in the said notification.

In this regard, Notification No. 12/2017 CT dated 28.06.2017 has notified the following:

S. No.	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
1.	AT ≤ Rs 1.5 crores	Nil
2.	Rs 5 crores ≥ AT > Rs 1.5 crores	2
3.	AT > Rs 5 crores	4

Manner of issuing the Invoice

In case of taxable supply of **Goods** : Invoice shall be prepared in **TRIPLICATE**

- ✓ Original Copy for **Recipient**
- ✓ Duplicate Copy for **Transporter**
- ✓ Triplicate for **Supplier**

In case of taxable supply of **Services** : Invoice shall be prepared in **Duplicate**

- ✓ Original Copy for **Recipient**
- ✓ Duplicate Copy for **Supplier**

Supplier permitted to issue any document other than tax invoice

Supplier of taxable service	Optional information	Mandatory information
Insurer/Banking company/ Financial institution, including NBFC	<ul style="list-style-type: none"> ✓ Serial number ✓ Address of the recipient of taxable service 	<ul style="list-style-type: none"> ✓ Other information as prescribed for a Tax Invoice, under rule 46 ✓ Such document may be issued/made available, physically/electronically
Supplier of passenger transportation service	<ul style="list-style-type: none"> ✓ Serial number ✓ Address of the recipient of taxable service 	<ul style="list-style-type: none"> ✓ Other information as prescribed for a tax invoice, under rule 46 ✓ Tax invoice shall include ticket in any form, by whatever name called
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage		<ul style="list-style-type: none"> ✓ Gross weight of the consignment ✓ Name of the consignor and the consignee ✓ Registration number of goods carriage in which the goods are transported ✓ Details of goods transported ✓ Details of place of origin and destination ✓ GSTIN of the person liable for paying tax whether as consignor, consignee or GTA ✓ Other information as prescribed for a tax invoice, under rule 46

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

- a. Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
- b. Transportation of goods for job work,
- c. Transportation of goods for reasons other than by way of supply, or
- d. Such other supplies as may be notified by the Board

Delivery challan in Triplicate

The delivery challan shall be prepared in **TRIPLICATE**, in case of supply of goods, in the following manner:

- ✓ **Original Copy** for Consignee
- ✓ **Duplicate Copy** for Transporter
- ✓ **Triplicate** for Consignor

Goods transported in SKD/CKD condition

- (a) Where the goods are being transported in a semi knocked down or completely knocked down condition, 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**.

CREDIT AND DEBIT NOTES [SECTION 34]

- (1) Where a tax invoice has been issued for supply of any goods or services or both and
- (a) the **taxable value** or **tax charged** in that tax invoice is **found to exceed** the taxable value or tax payable in respect of such supply, or
 - (b) where the **goods supplied are returned** by the recipient, or
 - (c) where goods or services or both supplied **are found to be deficient**,
- the **registered person, who has supplied such goods** or services or both, **may issue to the recipient a credit note** containing such particulars as may be prescribed
- (2) 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 September 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***, and the tax liability shall be adjusted in such manner as may be prescribed.

However, no reduction in output tax liability of the supplier shall be permitted, **if the incidence of tax and interest on such supply has been passed on to any other person.**

- (3) Where a **tax invoice** has been issued for supply of any goods or services or both and the **taxable value** or **tax charged** in that tax invoice is **found to be less than** the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, **shall issue to the recipient a Debit Note** containing such particulars as may be prescribed.
- (4) 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*** and the tax liability shall be adjusted in such manner as may be prescribed.

PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]

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. No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE [SECTION 33]

Notwithstanding anything contained in this Act or any other law for the time being in force, 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.

Particulars of a Tax Invoice

There is no format prescribed for an invoice, **but rules make it mandatory for an invoice to have the following fields** (only applicable fields are to be filled):

- (a) Name, Address and GSTIN of the Supplier;
- (b) A Consecutive Serial Number not exceeding 16 characters, in one or multiple series, containing alphabets / numerals / special characters (hyphen or dash and slash), and any combination thereof, unique for a FY;
- (c) Date of issue of Invoice;
- (d) If recipient is registered - Name, Address and GSTIN or UIN of recipient
- (e)

If recipient is unregistered and value of supply is	Particulars of Invoice
Rs 50,000 or more	Name and Address of the recipient and the address of delivery, along with the name of State and its code
less than Rs 50,000	Unregistered recipient may still request the aforesaid details to be recorded in the tax invoice

- (f) HSN Code for Goods or SAC code for Services;
- (g) Description of Goods or Services;
- (h) Quantity in case of Goods and unit or Unique Quantity Code thereof;
- (i) Total Value of Supply of goods or services or both;
- (j) Taxable Value of supply of goods or services or both taking into account discount or abatement, if any;
- (k) Rate of Tax (Central Tax, State Tax, Integrated Tax, Union Territory Tax or Cess);
- (l) Amount of Tax charged in respect of taxable goods or services;
- (m) Place of Supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) Address of delivery where the same is different from the place of supply;
- (o) Whether the tax is payable on reverse charge basis; and
- (p) Signature or digital signature of the supplier or his authorized representative

Particulars of Revised Tax Invoice

- (a) The word “Revised Invoice”, wherever applicable, indicated prominently;
- (b) Name, Address and GSTIN of the Supplier;
- (c) 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;
- (d) Date of issue;
- (e) Name, Address and GSTIN or UIN, if registered, of the recipient
- (f) 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**;
- (g) Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- (h) Value of taxable supply of goods or services, rate of tax and the amount of the tax credited/debited to the recipient
- (i) Signature/digital signature of the supplier/his authorized representative.

Note: Particulars of the Debit and Credit Notes are also same as revised tax invoices.

Particulars of Bill of Supply

- (a) Name, Address and GSTIN of the Supplier;
- (b) A **consecutive serial number** not exceeding 16 characters, in one or more multiple series, containing alphabets or numerals or special characters and any combination thereof, unique for a FY;
- (c) Date of its issue;
- (d) Name, Address and GSTIN or UIN, if registered, of the recipient;
- (e) HSN Code for goods or services;
- (f) Description of goods or services or both;
- (g) **Value of supply of goods or services** or both taking into account discount/ abatement, if any; and
- (h) Signature/Digital Signature of supplier/his authorized representative.

Particulars of Receipt Voucher

- (a) Name, Address and GSTIN of the Supplier;
- (b) A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters and any combination thereof, unique for a FY
- (c) Date of its issue;
- (d) Name, Address and GSTIN or UIN, if registered, of the recipient;
- (e) Description of goods or services;
- (f) **Amount of advance taken;**
- (g) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) 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;**
- (j) Whether the tax is payable on reverse charge basis; and
- (k) Signature/digital signature of supplier/his authorized representative

Particulars of Refund Voucher

- (i) Name, Address and GSTIN of the Supplier;
- (ii) 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 and any combination thereof, unique for a FY;
- (iii) Date of its issue;
- (iv) Name, address and GSTIN or UIN, if registered, of the recipient;
- (v) **Number and date of Receipt Voucher issued**
- (vi) Description of goods/services in respect of which refund is made
- (vii) **Amount of refund made**
- (viii) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess)
- (ix) Amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess)
- (x) Whether the tax is payable on reverse charge basis; and
- (xi) Signature/digital signature of supplier/his authorized representative

Particulars of Payment Voucher

- (a) Name, Address and GSTIN of the Supplier if registered;
- (b) 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
- (c) Date of its issue;
- (d) Name, Address and GSTIN of the Recipient;
- (e) Description of Goods or Services;
- (f) Amount paid;
- (g) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) Amount of tax payable in respect of taxable goods or services;
- (i) 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
- (j) Signature/digital signature of supplier/his authorized representative

Particulars of Delivery Challan

- a. **Date & number of the Delivery Challan**
- b. Name, Address and GSTIN of the Supplier if registered;
- c. A consecutive serial number not exceeding 16 characters, in one or multiple series
- d. Name, Address and GSTIN of the Recipient;
- e. HSN Code & Description of Goods;
- f. **Quantity (provisional, where the exact quantity being supplied is not known)**
- g. Taxable value
- h. 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
- i. Place of supply, in case of inter-state movement
- j. Signature

Note: Delivery challan will be issued at the time of removal of goods for transportation.

PAYMENT OF TAX

Sections 49 to 53.

The introduction of **E-ledgers** is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are **Statements of Cash** (Electronic Cash Ledger) and **Input Tax Credit** (Electronic Credit Ledger) in respect of each registered taxpayer. In addition, each taxpayer shall also have an Electronic Tax Liability register (**Electronic Liability Ledger**).

While **Section 49 discusses the 3 ledgers** namely the Electronic Cash Ledger, Electronic Credit Ledger and Electronic Liability Register, **Section 50 discusses** about the interest on delayed payment of tax. **Section 51 lays** down the circumstances in which tax deduction at source (TDS) becomes mandatory. **Section 52 deals** with the circumstances when tax is to be collected at source (TCS) by the Electronic Commerce Operator. Further, the manner of utilization of ITC is **laid down in Section 53**.

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49]

- (1) Every deposit made towards Tax, Interest, Penalty, Fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be **credited to the Electronic Cash Ledger** of such person to be maintained in such manner as may be prescribed.
- (2) The ITC as self-assessed in the return of a registered person shall be **credited to his Electronic Credit Ledger**, in accordance with section 41, to be maintained in such manner as may be prescribed.
- (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 this Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed.
- (4) The amount available in the ***Electronic Credit Ledger may be used for making any payment towards output tax (tax only)*** under this Act or **under the Integrated Goods and Services Tax Act** in such manner and subject to such conditions and within such time as may be prescribed.

(5) IMP: Section 49(5) - The amount of ITC available in the Electronic Credit Ledger of the registered person on account of-

- (a) **Integrated Tax (IGST) shall first be utilised** towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
 - (b) the **Central Tax (CGST) shall first be utilised** towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
 - (c) the **State Tax (SGST) shall first be utilised** towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
 - (d) the **Union Territory tax (UTGST) shall first be utilised** towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
 - (e) the central tax (CGST) **shall not be** utilised towards payment of State tax or Union territory tax; and
 - (f) the State tax or Union territory tax **shall not be** utilised towards payment of central tax.
- (6) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:-
- (a) self-assessed tax, and other dues related to returns of **previous tax periods**;
 - (b) self-assessed tax, and other dues related to the return of the **current tax period**;
 - (c) any other amount payable under this Act or the rules made thereunder **including the demand determined under Section 73 or Section 74**;

Rule 85: Electronic Liability Register [Chapter IX: Payment of Tax of the CGST Rules]

- (1) The Electronic Liability Register specified under Section 49(7) shall be maintained in **FORM GST PMT-01** for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him **shall be debited to the said register**.
- (2) **IMP: The Electronic Liability Register of the person shall be debited by:-**
- (a) the amount payable towards tax, interest, late fee or any other amount payable **as per the return** furnished by the said person;
 - (b) the amount of tax, interest, penalty or any other amount payable **as determined by a proper officer** in pursuance of any proceedings under the Act or as ascertained by the said person;
 - (c) the amount of tax and interest payable **as a result of mismatch** under Section 42 or Section 43 or Section 50; or
 - (d) any **amount of interest** that may accrue from time to time.

- (3) Subject to the provisions of Section 49, payment of every liability by a registered person as per his return shall be made by **debiting the Electronic Credit Ledger** maintained as per Rule 86 or the **Electronic Cash Ledger** maintained as per Rule 87 and the **Electronic Liability Register shall be credited accordingly.**
- (4) The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act **shall be paid by debiting the electronic cash ledger** maintained as per rule 87 and the **electronic liability register shall be credited accordingly.**
- (5) Any amount of **Demand debited** in the Electronic Liability Register **shall stand reduced** to the extent of **relief given by the appellate authority** or Appellate Tribunal or court and the electronic tax liability register **shall be credited** accordingly.
- (6) A registered person shall, upon **noticing any discrepancy** in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04.**

Rule 86: Electronic Credit Ledger

- (1) The **electronic credit ledger shall be maintained in FORM GST PMT-02** for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be **credited** to the said ledger.
- (2) The electronic credit ledger shall be **debited** to the extent of discharge of any liability in accordance with the provisions of section 49.
- (3) No entry shall be made directly in the electronic credit ledger under any circumstance.
- (4) A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, **through the common portal in FORM GST PMT-04.**

Rule 87 Electronic Cash Ledger

- (1) The **electronic cash ledger** under sub-section (1) of section 49 shall be maintained in **FORM GST PMT-05** for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal **for crediting the amount deposited and debiting the payment therefrom** towards tax, interest, penalty, fee or any other amount.
- (2) Any person, or a person on his behalf, **shall generate a challan in FORM GST PMT-06** on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.
- (3) **IMP: The deposit under sub-rule (2) 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 (NEFT) or Real Time Gross Settlement (RTGS) from any bank; or
 - (iv) **Over the Counter payment through authorised banks for deposits up to Rs. 10,000 per challan per tax period, by cash, cheque or demand draft.**

The restriction for deposit up to Rs. 10,000 per challan in case of an Over the Counter payment shall 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:

The **challan in FORM GST PMT-06** generated at the common portal shall be **valid for a period of 15 days**.

- (4) Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement mode from any bank, **the mandate form shall be generated along with the challan** on the common portal and the **same shall be submitted to the bank** from where the payment is to be made. [The mandate form **shall be valid for a period of 15 days** from the date of generation of challan.]

- (5) On successful credit of the amount to the concerned government account maintained in the authorised bank, a **Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.**
- (6) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be **credited to the electronic cash ledger** of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.
- (7) Any amount deducted under section 51 or collected under section 52 and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be **credited to his electronic cash ledger** in accordance with the provisions of rule 87.
- (8) A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, **through the common portal in FORM GST PMT-04.**

What are CPIN, CIN, BRN and E-FPB? - IMP

- **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.**

CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. **CIN is communicated by the authorized bank to taxpayer as well as to GSTN.**

- **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.*

Manner of utilization of amount reflected in Electronic Cash Ledger – Section 49(3)

The amount reflected in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fee, or any other amount under the relevant tax head in the prescribed manner.

In the 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.**

A registered taxpayer can make cash deposits in the recognized Banks through the prescribed modes to the Electronic Cash Ledger using any of the Online or Offline modes permitted by the GST Portal. The Cash deposits can be used for making payment(s) like tax liability, interest, penalties, fee, and others.

- ✚ **How can the cash available in the Electronic Cash Ledger be utilised? Can a taxpayer utilise the amount available in any minor head of a major head for any other minor head of the same major head?**

The amount available in the Electronic Cash Ledger can be utilised for payment of any liability for the respective major and minor heads. For example, liability for the tax under SGST/UTGST can be settled only from the available amount of cash under SGST/UTGST Major head.

Is transfer of funds between the major heads permissible for discharging liabilities?

Amount available under one major head (SGST/UTGST, CGST, IGST or CESS) **cannot be utilised** for discharging the liability under any other major head. For example, amount available in SGST/UTGST cannot be utilised for discharging liabilities under CGST, IGST, or CESS and vice versa

Transfer of Input Tax Credit (Section 53)

Section 53 of CGST Act provides simple but important modus operandi in respect of post CGST utilisation towards IGST liability. Under section 49(5)(b),(c) and (d) of the Act, CGST/SGST/UTGST credits can be utilised by a tax payer on priority basis to respective CGST/SGST/UTGST dues first.

Then, in case of CGST, balance, if any, can be used to pay towards IGST. **If used so, there shall be reduction in central tax caused by Central Government and equal credit shall be ensured to IGST in the prescribed manner.**

What happens if the taxable person files the return but does not make payment of tax?

In such cases, the return is **not considered as a valid return**. Section 2(117) defines a valid return to mean a return furnished under sub- section (1) of section 39 on which self-assessed tax has been paid **in full**. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient.

How do the new payment systems benefit the taxpayer and the Commercial Tax Department? - IMP

- No more queues and waiting for making payments as payments can be made online 24 X 7.
- Instant online receipts for payments made online.
- Tax Consultants can make payments on behalf of the clients.
- Single Challan form to be created online, replacing the three or four copy Challan.
- Revenue will come earlier into the Government Treasury as compared to the old system.
- Greater transparency.
- Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but **fails to pay** the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, **not exceeding 18%**, as may be notified by the Government on the recommendations of the Council.

[Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum.]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the **day succeeding the day on which such tax was due to be paid**.

(3) A taxable person who makes an **undue or excess claim of ITC** under Section 42(10) or **undue or excess reduction in output tax liability** under Section 43(10), **shall pay interest** on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate **not exceeding 24%**, as may be notified by the Government on the recommendations of the Council.

[Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 24% per annum.]

Other relevant points:

- The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.
- The interest payable under this section shall be debited to the Electronic Liability Register.
- The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger but not with balance in electronic credit ledger.

INPUT TAX CREDIT - SUMMARY

ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [SECTION 16]

1. Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in Section 49, be entitled to take credit of input tax charged on any supply of goods or services or both **to him** which are **used or intended to be used in the course or furtherance of his business** and the said amount shall be credited to the electronic credit ledger of such person.
2. **Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,– [4 Points]**
 - (a) **he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed**

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

- (i) Invoice issued by a supplier of goods and/or services
- (ii) Invoice issued by recipient (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge)
- (iii) A debit note issued by supplier
- (iv) Bill of entry or similar document prescribed under Customs Act
- (v) Revised invoice
- (vi) Document issued by Input Service Distributor

(b) he has received the goods or services or both

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods **where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person**, whether acting as an agent or otherwise, before or during movement of goods, **either by way of transfer of documents of title to goods or otherwise;**

“Bill to Ship to” Model also included:

Under this model, the **goods are delivered to a third party on the direction of the registered person who purchases the goods from the supplier**. Receipt of goods u/s 16(2)(b) includes delivery to another person on the direction of the registered person by way of transfer of documents of title to goods or otherwise either before or during the movement of goods. It would be deemed that the registered person has received the goods in such scenario. **So, ITC will be available to the registered person on whose order the goods are delivered to third person.**

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply

However, **provisional ITC can be taken initially**, prior to matching in the common portal, and used for payment of self-assessed tax on outward supply.

(d) he has furnished the return under section 39

Note: The details of inward supplies are to be filed in **GSTR-2 by the 15th of the month** succeeding the month in which the supplies were received. **With the furnishing of such details, electronic credit ledger gets credited with the relevant ITC.**

Where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Payment for the invoice to be made within 180 days

Further **where a recipient fails to pay** to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the **value of supply along with tax payable** thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the ITC availed by the recipient **shall be added to his output tax liability, along with interest** thereon, in such manner as may be prescribed:

Further, the recipient shall be **entitled to re-avail of the credit of input tax on payment** made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

- ✓ The registered person must pay 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, the details of such supplies and corresponding credits thereon must be **furnished in the GSTR 2 of the month immediately following such 180 days**. Such credits availed by the registered person would be added to his output tax liability of the month in which the details are furnished, with interest.
- ✓ Interest will be paid @ 18% from the date of availing credit till the date when amount is added to output tax liability.
- ✓ However, once the payment is made, the recipient will be entitled to avail the credit again **without any time limit**.

Exceptions

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

- Supplies on which tax is payable **under reverse charge**
 - Deemed supplies **without consideration**
3. Where the registered person has claimed depreciation on the tax component of the cost of CGs and P&M under the provisions of the Income-tax Act, 1961, **the ITC on the said tax component shall not be allowed.**
4. A registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both **after the due date of furnishing of the return under section 39 for the month of September** following the end of financial year to which such invoice or invoice relating to such debit note pertains or **furnishing of the relevant annual return, whichever is earlier.**

Exception: The time limit u/s 16(4) does not apply to claim for re-availing of credit that had been reversed earlier.

APPORTIONMENT OF CREDIT & BLOCKED CREDITS [SECTION 17]

1. Where the goods or services or both are used by the registered person partly for the purpose of any business **and partly for other purposes**, the amount of credit shall be **restricted to so much of the input tax as is attributable to the purposes of his business.**
2. Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act **and partly for effecting exempt supplies** under the said Acts, the amount of **credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.**
3. The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall **include supplies on which the recipient is liable to pay tax on reverse charge basis**, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
4. A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the **option to either comply with the provisions of sub-section (2)**, or avail of, every month, an amount **equal to fifty per cent of the eligible input tax credit** on inputs, capital goods and input services in that month and the rest shall lapse.

The option once exercised **shall not be withdrawn during the remaining part** of the financial year:

The **restriction of 50% shall not apply** to the tax paid on supplies made by one registered person to another registered person **having the same Permanent Account Number**.

Blocked credits [Section 17(5)]

(a) Motor Vehicles and Conveyances, EXCEPT WHEN USED

- For transportation of goods
- For making the following taxable supplies:
 - Further supply of such vehicles or conveyances; or
 - Transportation of passengers; or
 - Imparting training on driving, flying, navigating such vehicles or conveyances.

(b) Foods and beverages, Outdoor Catering, Beauty Treatment, Health Services, Cosmetic and Plastic Surgery, EXCEPT WHEN an inward supply of these is used for making an outward taxable supply of the **same category or as an element of a taxable composite or mixed supply**.

(c) Membership of a club, health and fitness centre

(d) Rent-a-cab, life insurance and health insurance, EXCEPT WHERE

- The Government has made it **obligatory for an employer** to provide any of these services to its employees; or
- Inward supply of these services is used for making an outward taxable supply of the **same category or as an element of a taxable composite or mixed supply**.

(e) Travel benefits to employees on vacation such as LTC or home travel concession

(f) Works contract services for construction of an immovable property

EXCEPT WHEN

- It is input service for further supply of works contract service
- Immovable property is plant and machinery

(g) Inward supplies received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even when such supplies are used in the course or furtherance of business

Meaning of construction and plant and machinery

“Construction”, includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

“Plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural supports **but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.**

- (h) Inward supplies on which tax has been paid under the composition scheme
- (i) Inward supplies received by a non-resident taxable person except goods imported by him
- (j) Goods and / or services used for personal consumption
- (k) Goods that are lost, stolen, destroyed, written off or disposed of by way of gift or free samples
- (l) Tax paid under sections 74, 129 and 130. (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.)

Rule 42 Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- (1) The ITC in respect of **inputs or input services**, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, **shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-**
- a) the total input tax involved on **inputs and input services** in a tax period, be denoted as 'T';
 - b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively **for the purposes other than business**, be denoted as 'T1';
 - c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used **exclusively for effecting exempt supplies**, be denoted as 'T2';
 - d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under Section 17(5), **be denoted as 'T3'**;
 - e) the amount of ITC **credited to the electronic credit ledger** of registered person, be denoted as 'C1' and **calculated as $C1 = T - (T1+T2+T3)$** ;
 - f) the amount of ITC attributable to inputs and input services intended to be used **exclusively for effecting supplies other than exempted but including zero rated supplies**, be denoted as 'T4';
 - g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the **invoice level in FORM GSTR-2**;
 - h) input tax credit left after attribution of input tax credit under clause (g) **shall be called common credit**, be denoted as 'C2' and calculated as $C2 = C1 - T4$;
 - i) the amount of **input tax credit attributable towards exempt supplies**, be denoted as 'D1' and **calculated as $D1 = (E \div F) \times C2$** where, 'E' is the aggregate value of exempt supplies during the tax period, and 'F' is the total turnover in the State of the registered person during the tax period:

Provided that where the **registered person does not have any turnover during the said tax period or the aforesaid information is not available**, the value of 'E/F' shall be

calculated by taking values of 'E' and 'F' of the **last tax period** for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover **shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;**

- j) the amount of credit **attributable to non-business purposes** if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', **and shall be equal to 5% of C2; and**

- k) **the amount equal to aggregate of 'D1' and 'D2' shall be added to the output tax liability of the registered person**

Rule 43 Manner of determination of ITC in respect of capital goods and reversal thereof in certain cases

Subject to the provisions of sub-section (3) of section 16, the ITC in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, **shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-**

- (a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies **shall be indicated in FORM GSTR-2 and shall not be credited to his electronic credit ledger;**

- (b) the amount of input tax in respect of capital goods used or intended to be used **exclusively** for effecting supplies **other than exempted supplies** but including zero-rated supplies shall be indicated in FORM **GSTR-2 and shall be credited to the electronic credit ledger;**

- (c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken **as 5 years** from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be **arrived at by reducing the input tax** at the rate of

5% points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

Explanation: An item of capital goods declared under clause (a) **on its receipt shall not attract the provisions of sub-section (4) of section 18 if it is subsequently covered under this clause.**

(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'Tc', **shall be the common credit** in respect of capital goods for a tax period.

Where any capital goods **earlier covered under clause (b) is subsequently covered under clause (c)**, the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'Tc';

(e) the amount of ITC attributable to a tax period on common capital goods during their useful life, be denoted as 'Tm' and calculated as:- $Tm = Tc \div 60$

(f) the amount of ITC, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'Tr' and shall be the aggregate of 'Tm' for all such capital goods.

(g) the amount of common credit attributable towards exempted supplies, be denoted as 'Te', and calculated as: $Te = (E \div F) \times Tr$ where, 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover of the registered person during the tax period.

CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]**(1) [Section 18(1)] Subject to such conditions and restrictions as may be prescribed-**

(a) a person who has applied for registration under this Act within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be **entitled to take credit of input tax in respect of inputs** held in stock and inputs contained in semi-finished or finished goods held in stock **on the day immediately preceding the date from which he becomes liable to pay tax** under the provisions of this Act.

(b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods **held in stock on the day immediately preceding the date of grant of registration;**

(c) where any registered person **ceases to pay tax under section 10**, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock **and on capital goods** on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

(d) where an exempt supply of goods or services or both by a registered person **becomes a taxable supply**, such person shall be entitled to take credit of input tax **in respect of inputs** held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply **and on capital goods exclusively used for such exempt supply** on the day immediately preceding the date from which such supply becomes taxable:

Provided that the **credit on capital goods shall be reduced** by such percentage points as may be prescribed.

(2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him **after the expiry of 1 year from the date of issue of tax invoice relating to such supply.**

(3) Where there is a **change in the constitution of a registered person** on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person **shall be allowed to transfer the input tax credit** which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

- (4) **[Section 18(4)]** Where any registered person who has availed of ITC *opts to pay tax under Section 10 or, where the goods or services or both supplied by him become wholly exempt*, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, **equivalent to the credit of input tax** in respect of **inputs** held in stock and inputs contained in semi-finished or finished goods held in stock and **on capital goods**, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the **balance of input tax credit**, if any, lying in his electronic credit ledger **shall lapse**.

- (5) **[Section 18(6)]** In case of **supply of CGs or P&M**, on which input tax credit has been taken, the registered person shall pay an amount
- (a) equal to the input tax credit taken on the said capital goods or plant and machinery **reduced by such percentage points as may be prescribed OR**
 - (b) the tax on the transaction value of such **CGs or P&M** determined under section 15, **whichever is higher**.

However, where **refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap**, the taxable person may pay tax on the transaction value of such goods determined under section 15.

Rule 40: Manner of claiming credit in special circumstances

- (1) The ITC claimed in accordance with the provisions of Section 18(1) on the **inputs held in stock** or **inputs contained in semi-finished or finished goods held in stock**, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, **shall be subject to the following conditions, namely –**
- (a) the ITC on capital goods, in terms of Section 18(1)(d), shall be claimed **after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof** from the **date of the invoice** or such other documents on which the capital goods were **received by the taxable person**.
 - (b) the registered person shall **within a period of 30 days** from the date of his becoming eligible to avail the ITC under Section 18(1) shall make a declaration, electronically, on the common portal in **FORM GST ITC-01** to the effect that he is eligible to avail the input tax credit as aforesaid;

- (c) the above declaration shall **clearly specify the details** relating to the Inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods–
- (i) on the day **immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act**, in the case of a claim under Section 18(1)(a);
 - (ii) on the day **immediately preceding the date of the grant of registration**, in the case of a claim under Section 18(1)(b);
 - (iii) on the day **immediately preceding the date from which he becomes liable to pay tax under section 9**, in the case of a claim under Section 18(1)(c);
 - (iv) on the day **immediately preceding the date from which the supplies made by the registered person becomes taxable**, in the case of a claim under Section 18(1)(d);
- (d) the details furnished in the declaration under clause (b) shall be **duly certified by a practicing chartered accountant or a cost accountant** if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax **exceeds Rs. 200,000**;
- (2) The amount of credit in the case of supply of **capital goods or plant and machinery**, for the purposes of Section 18(6), shall be calculated by reducing the input tax on the said goods **at the rate of 5% points for every quarter or part thereof** from the **date of the issue of the invoice** for such goods.

Rule 44: Manner of reversal of credit under special circumstances

- (1) The amount of ITC relating to **inputs** held in stock, inputs contained in semi-finished and finished goods held in stock, and **capital goods** held in stock shall, for the purposes of Section 18(4) or Section 29(5), **be determined in the following manner, namely,-**
- (a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the **ITC shall be calculated proportionately** on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;
 - (b) for capital goods held in stock, the **ITC involved in the remaining useful life in months (monthly) shall be computed on pro-rata basis**, taking the useful life as 5 years.
- (2) Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) **based on the prevailing market price** of the goods on the effective date of the occurrence of any of the **events specified in Section 18(4) or Section 29(5)**.
- The details furnished shall be **duly certified by a practicing chartered accountant or cost accountant**.

(3) The amount determined under sub-rule (1) **shall form part of the output tax liability** of the registered person and the details of the amount shall be furnished in **FORM GST ITC-03**, where such amount relates to any event specified in Section 18(4) and in **FORM GSTR-10**, where such amount relates to the cancellation of registration.

RETURNS - SUMMARY

The returns serve the following purposes:

- (a) Mode for transfer of information to tax administration;
- (b) Compliance verification program of tax administration;
- (c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation;
- (d) Providing necessary inputs for taking policy decision;
- (e) Management of audit and anti-evasion programs of tax administration

Under the GST laws, the correct and timely filing of returns is of utmost importance **because of two reasons**. **Firstly**, under GST laws, a taxpayer is required to estimate his tax liability on “self-assessment” basis and deposit the tax amount along with/before the filing of such return. The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been computed by the taxpayer. **Secondly**, under the GST regime, filing of returns not only determines the tax liability of the person filing the same, but it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into taxable activities.

Chapter IX of the CGST Act [Sections 37 to 48] prescribes the provisions relating to filing of returns as under:

- Section 37** : Furnishing details of **outward supplies**
- Section 38** : Furnishing details of **inward supplies**
- Section 39** : Furnishing of Returns
- Section 40** : First Return
- Section 41** : Claim of ITC and provisional acceptance thereof
- Section 42** : Matching, reversal and re-claim of **input tax credit**
- Section 43** : Matching, reversal and re-claim of **reduction in output tax liability**
- Section 44** : **Annual Return**
- Section 45** : **Final Return**
- Section 46** : Notice to return defaulters
- Section 47** : **Levy of late fee**
- Section 48** : Goods and Services Tax Practitioners [GSTP]

Returns can be filed using any of the following methods:

- A. GSTN portal (www.gst.gov.in)
- B. Offline utilities provided by GSTN
- C. GST Suvidha Providers (GSPs)

Various types of returns under GST Law

Return Form	Particulars	Frequency	Due Date
GSTR-1	Details of outward supplies of taxable goods and/ or services effected (Section 37 of the CGST Act, 2017).	Monthly	10 th of the next month
GSTR-2	Details of inward supplies of taxable goods and/ or services effected claiming input tax credit (Section 38 of the CGST Act, 2017).	Monthly	15 th of the next month
GSTR-3	Monthly return on the basis of finalization of details of outward supplies and inward supplies along with the payment of amount of tax (Section 39(1) of the CGST Act, 2017).	Monthly	20 th of the next month
GSTR-3B	Simple return	Monthly	20 th of the next month
GSTR-4	Return for compounding taxable person (Section 39(2) of the CGST Act, 2017)	Quarterly	18th of the month succeeding quarter
GSTR-5	Return for Non-Resident foreign taxable person (Section 39(5) of the CGST Act, 2017)	Monthly	20 th of the next month or within 7 days after the last day of the period of registration specified u/s 27(1), whichever is earlier
GSTR-9	Annual Return (section 44 of the CGST Act, 2017) a) Who Files: Registered Person other than an ISD, TDS/TCS Taxpayer, Casual	Annually	31st December of next financial year

	Taxable Person and Non-resident Taxpayer. b) In this return, the taxpayer needs to furnish details of expenditure and details of income for the entire Financial Year.		
GSTR-10	Final Return (Section 45 of the CGST Act, 2017)	Once	Within 3 months of the date of cancellation or date of cancellation order, whichever is later
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming refund.	Monthly	28th of the month following the month for which statement is filed

FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37]

(1) Every registered person, **other than an Input Service Distributor, a Non-Resident Taxable Person and a Person paying tax under the provisions of Section 10 or Section 51 or Section 52**, shall furnish, electronically, **the details of outward supplies of goods or services** or both effected during a tax period [**in Form GSTR 1**] **on or before the 10th day** of the month succeeding the said tax period and such details **shall be communicated to the recipient of the said supplies within such time and in prescribed manner.**

The registered person (Supplier) **shall not be allowed** to furnish the details of outward supplies during the period from the **11th day to the 15th day** of the month succeeding the tax period.

The Commissioner may, for reasons to be recorded in writing, by notification, **extend the time limit** for furnishing such details for such class of taxable persons as may be specified therein.

However, following are the exceptions:

- (a) **Casual Tax Persons** is required to file GSTR-1 after the closure of their business
- (b) A **taxpayer who has applied for cancellation of registration** will be allowed to file GSTR-1 after confirming receipt of the application

(2) Any registered person, who has furnished the details in GSTR-1 for any tax period and which have **remained unmatched under section 42 or section 43**, shall, upon discovery of any error or omission therein, **rectify such error or omission in such manner as may be prescribed, and**

shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, **in the return to be furnished for such tax period.**

No rectification of error or omission shall be allowed after furnishing of the return under section 39 **for the month of September** following the end of the financial year to which such details pertain, or furnishing of the relevant **annual return, whichever is earlier.**

- **Who is required to furnish details of outward supplies?** [Section 37(1) read with Rule 59(1) of CGST Rules]

Answer:

The details of outward supplies (see definition) of both goods and services are required to be furnished by every registered person including casual registered person **except the following:**

- **Input Service Distributor (ISD)**
 - **Non-Resident Taxable Person**
 - **Person paying tax under Composition Scheme (Section 10)**
 - **Person deducting Tax at Source**
 - **Person collecting Tax at Source i.e., e-commerce operator (ECO), not being an agent**
 - **A supplier of online information and database access or retrieval services (OIDAR)**
- **What kind of details of outward supplies are required to be furnished in GSTR-1?**
[Explanation to section 37 read with rule 59(2) of CGST Rules]

The registered person is required to furnish details of **invoices and revised invoices** issued in relation to supplies made by him **to registered and unregistered persons** during a month and **debit notes and credit notes** in GSTR-1 **in the following manner:**

(a) Invoice-wise details of all

- i. Inter-state & Intra-state supplies **made to registered persons &**
- ii. Inter-state supplies made to unregistered persons **with invoice value exceeding Rs. 250,000**

(b) Consolidated details of all

- i. Intra-State supplies made **to unregistered persons** for **each rate of tax**
- ii. Inter-state supplies made **to unregistered persons** with invoice value upto Rs. 250,000 for **each rate of tax separately for each state**

(c) Debit & Credit notes issued during the month for invoices issued previously.

IMPORTANT POINTS

- ✚ GSTR 1 needs to be filed **even if there is no business activity** (Nil Return) in the tax period.
- ✚ Filing of GSTR-1 for current month is possible **only when GSTR-1 for the previous month has been filed.**
- ✚ **The rounding off of the self-declared tax liability to the nearest rupee will be done in GSTR 3.**
- ✚ Taxpayer opting for voluntary cancellation of GSTIN **will have to file GSTR-1 for active period.**

Communication of details of GSTR-1 to the recipient of supply [Section 37(2)]

The details of outward supplies for a month furnished by the supplier are communicated and made **available electronically (auto populated) to the respective recipient(s) in Part A of Form GSTR-2A / Form GSTR-4A (in case of registered person opting for composition levy)** through the common portal **after the 10th day** of the succeeding month (due date of filing of GSTR-1).

The recipient is provided an opportunity to **add, correct or delete such details** in a two-way communication process. **After such modifications, recipient files the details of inward supplies in Form GSTR-2 by 15th day of that month.**

The details of inward supplies **added, corrected or deleted** by the recipient in Form GSTR-2/Form GSTR-4 (quarterly return for registered person opting for composition levy) **are made available to the supplier electronically in Form GSTR-1A through the common portal.**

The supplier may either **accept or reject the modifications made by the recipient between 15th day and 17th day of that month.**

If supplier accepts the modifications made by the recipient, **GSTR-1 furnished earlier by him gets amended accordingly.**

FURNISHING DETAILS OF INWARD SUPPLIES [SECTION 38]

- (1) Every registered person, **other than an Input Service Distributor or a Non-Resident Taxable Person or a Person paying tax under the provisions of Section 10, Section 51 or Section 52**, shall **verify, validate, modify or delete**, if required, the **details relating to outward supplies** and credit or debit notes communicated under Section 37(1) **to prepare the details of his inward supplies and credit or debit notes and** may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies **that have not been declared by the supplier** under Section 37(1).
- (2) Every registered person, **other than an Input Service Distributor or a Non-Resident Taxable Person or a person paying tax under the provisions of Section 10 or Section 51 or Section 52**, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, **including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975**, and credit or debit notes received in respect of such supplies **during a tax period after the 10th day but on or before the 15th day of the month** succeeding the tax period in such Form GSTR-2.

The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein.

- (3) The details of supplies **modified, deleted or included by the recipient** and furnished under sub-section (2) shall be **communicated to the supplier** concerned in prescribed manner **[GSTR 1A]**.
- (4) Any registered person, who has furnished the details under sub-section (2) for any tax period and **which have remained unmatched under section 42 or section 43**, shall, upon discovery of any error or omission therein, **rectify such error or omission** in the tax period during which such error or omission **is noticed** in such manner as may be prescribed, and **shall pay the tax and interest**, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period.

However, **No rectification of error or omission** shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, **whichever is earlier**.

- **Who is required to furnish details of Inward Supplies? [Section 38(2) read with rule 60(1) of CGST Rules]**

Answer:

The details of inward supplies of both goods and services and credit or debit notes received are required to be furnished **by every registered person except** the following:

- a) ISD
- b) Non-Resident Taxable Person
- c) Composition Taxpayer
- d) Person deducting tax at source
- e) ECO (not being an agent)
- f) Supplier of OIDAR services

Thus, the registered persons who file details of outward supplies are also required to file the details of inward supplies.

- **What kind of details of inward supplies are required to be furnished in GSTR-2? [Section 38(2) read with rule 60(8) of CGST Rules]**

The details of inward supplies of goods or services or both furnished in GSTR-2 include the -

- (a) **invoice wise details of all inter-State and intra-State supplies** received from registered persons or unregistered persons including inward supplies taxable under reverse charge;
- (b) **import of goods and services made;** and
- (c) **debit and credit notes, if any, received** by the registered person from suppliers in respect of above supplies

Furnishing of Returns [Section 39]

- (1) Every registered person, **other than an Input Service Distributor or a Non-Resident Taxable Person or a Person paying tax under the provisions of Section 10, Section 51 or Section 52** shall, for **every calendar month** or part thereof, furnish a **Return (Form GSTR-3), electronically, of inward and outward supplies of goods or services or both**, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, **on or before the 20th day of the month** succeeding such calendar month or part thereof. **[Section 39(1)]**
- (2) **Composition Scheme Supplier**: A registered person paying tax under the provisions of section 10 shall, **for each quarter** or part thereof, furnish a **return (Form GSTR-4), electronically, of turnover in the State or Union territory**, inward supplies of goods or services or both, tax payable and tax paid **within 18 days after the end of such quarter**. **[Section 39(2)]**

(3) Every registered **Non-Resident Taxable Person** shall, for every calendar month or part thereof, furnish a return (**Form GSTR-5**), electronically, **within 20 days** after the end of a calendar month **or within 7 days after the last day of the period of registration** specified under sub-section (1) of section 27, **whichever is earlier.** [Section 39(5)]

(4) The **Commissioner** may, for reasons to be recorded in writing, by notification, **extend the time limit for furnishing the returns** under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner. [Section 39(6)]

(5) [Section 39(9)]: Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return discovers any omission or incorrect particulars therein, **other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities**, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars **are noticed**, subject to payment of interest under this Act.

However, **no such rectification of any omission or incorrect** particulars shall be allowed **after the due date** for furnishing of return for the month of **September or Second quarter** following the end of the financial year, **or** the actual date of furnishing of relevant annual return, **whichever is earlier.**

Due date for payment of tax [Section 39(7)]

Due dates for payment of tax in respect of the persons required to file GSTR-3, GSTR-4 and GSTR-5 **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.

However, NRTPs or CTPs are required to make advance deposit of tax of an amount equivalent to the estimated tax liability of such person for a period for which **registration is sought or extension of registration is sought** in terms of section 27(2).

[GSTR-3 filed without payment of self-assessed tax disclosed therein, is not be regarded as a Valid Return in terms of Section 2(117).]

GSTR-3B [Sub rules (5) and (6) of rule 61 of CGST Rules]

FORM GSTR-3B is notified as the form for return by the Commissioner when the due dates for furnishing GSTR-1 and GSTR-2 get extended.

GSTR-3B is a simple return containing summary of outward and inward supplies liable to reverse charge, eligible ITC, payment of tax etc.

GSTR-3B can be submitted electronically through the common portal, either directly or through a notified Facilitation Centre.

Filing of returns by Composition Supplier [Section 39(2) read with rule 62 of CGST Rules]**a) Person eligible to file return, periodicity and form of return**

Every registered person paying tax under section 10 i.e., composition supplier will file a **quarterly return in FORM GSTR-4** electronically through the common portal either directly or through a notified Facilitation Centre. GSTR-4 should be furnished **by 18th of the month succeeding** the relevant quarter.

b) Auto-population of inward supplies

The inward supplies of a composition supplier received from registered persons filing GSTR-1 **will be auto populated in FORM GSTR-4A.**

c) Consolidated details of outward supplies

Composition taxpayers are neither entitled for any ITC nor entitled to pass on any credit of composition levy to its customers (registered / unregistered). **Therefore, composition taxpayers are required to provide consolidated details of outward supplies in GSTR-4 and not invoice-wise details of outward supplies.**

d) Details of only intra-state outward supplies**e) No matching of outward composition supplies****f) Auto population of inward supplies received from a registered person**

The details of inward supplies received by the composition taxpayer get auto-populated from various returns (GSTR-1 and GSTR -5) filed by taxable persons supplying goods/services to such composition taxpayer.

g) Auto population of inward reverse charge supplies received from a registered person

Composition taxpayer is also required to report cases of inward supplies where, he is liable to pay tax under reverse charge mechanism. This will include inward supplies received from registered persons as well as un-registered persons.

There is a process of matching outward supplies declared by taxable person in his GSTR-1 as reverse charge supplies against the composition taxpayer, with the details furnished by composition taxpayer in GSTR-4.

The tax payable by a composition taxpayer under reverse charge mechanism can either comprise of CGST and SGST (in case of intra-state inward supply) **or it can consists of IGST in case of (inter-state inward supply).**

Filing of Returns by Non-Resident Taxable Persons [Section 39(5)]

Non-Resident Taxable Persons (NRTPs) are those suppliers **who do not have a business establishment in India** and have come for **a short period** to make supplies in India. They would **normally import their products** into India and make local supplies.

A. Monthly Return: A registered NRTP is not required to file separately the Statement of Outward Supplies, Statement of Inward Supplies and Return. In place of the same, **a simplified monthly tax return has been prescribed in Form GSTR-5 for a NRTP for every calendar month or part thereof.**

NRTP shall incorporate the details of outward supplies and inward supplies in GSTR-5.

B. Last date of filing return: The details in GSTR-5 should be furnished within 20 days after the end of the calendar month **or within 7 days after the last day of validity period of the registration, whichever is earlier.**

C. A NRTP is not required to file Annual Return.

Details of inward supplies of persons having UIN [Rule 82 of CGST Rules, 2017]

Such person shall furnish the details of those 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.

FIRST RETURN [SECTION 40]

Every registered person **who has made outward supplies** in the period between the date on which he became liable to registration till the date on which registration has been granted **shall declare the same in the first return furnished by him after grant of registration. [Section 40]**

ANNUAL RETURN [SECTION 44]**➤ Who are required to furnish Annual Return and what is the due date?**

All taxpayers filing return in GSTR-1 to GSTR-3, are required to file an annual return. However, following persons are not required to file annual return:

- (i) Casual Taxable Persons.
- (ii) Non- resident taxable person
- (iii) Input Service Distributors and
- (iv) Persons authorized to deduct/collect tax at source under section 51/52.

This return needs to be filed by 31st December of the next Financial Year.

➤ What is the prescribed form for Annual Return? [Section 44(1) read with rule 80(1)]

Annual Return is to be filed **electronically in Form GSTR-9** through the common portal. A person paying tax under composition scheme is required to file the **Annual Return in Form GSTR-9A**.

➤ Who is required to furnish a Reconciliation Statement?

Section 35 contains the provisions relating to Accounts and Records. Sub-section (5) of section 35 read alongwith section 44(2) and rule 80 of the CGST Rules, 2017 stipulates as follows:

(i) Every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds Rs. 2 crores.

(ii) Such registered person is required to furnish electronically through the common portal alongwith Annual Return a copy of

- Audited annual accounts
- **A Reconciliation Statement, duly certified, in prescribed form**

Reconciliation Statement will reconcile the value of supplies declared in the return furnished for the financial year with the audited annual financial statement and such other particulars, as may be prescribed

FINAL RETURN [SECTION 45]

Every registered person who is required to furnish a return under sub-section (1) of section 39 **and** whose registration has been cancelled shall furnish a final return electronically in **Form GSTR-10** within 3 months of the **date of cancellation or date of order of cancellation, whichever is later.**

DEFAULT IN FURNISHING RETURN [SECTIONS 46 & 47]

- (1) Where a registered person fails to furnish a return under **Section 39 (Normal Return)** or **Section 44 (Annual Return)** or **Section 45 (Final Return)**, a notice **shall be issued** requiring him to furnish such return **within 15 days** in such form and manner as may be prescribed. **[Section 46]**
- (2) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date **shall pay a late fee of Rs. 100 for every day** during which such failure continues subject to a maximum amount of Rs. 5,000. **[Section 47]**
- (3) Any registered person who fails to furnish the return required under **Section 44** by the due date shall be liable to pay a **late fee of Rs. 100** for every day during which such failure continues subject to a maximum of an amount calculated at a **0.25% of his turnover** in the State or Union territory. **[Section 47]**

GOODS AND SERVICES TAX PRACTITIONERS [Section 48]

A **registered person may authorise an approved GSTP** to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed. **[Section 48]**

The **responsibility for correctness of any particulars** furnished in the return or other details filed by the **GSTPs shall continue to rest with the registered person** on whose behalf such return and details are furnished. **[Section 48]**

GSTN will provide **separate user ID and Password** to GSTP to enable him to work on behalf of his clients without asking for their user ID and passwords. They can do all the work on behalf of taxpayers as allowed under GST Law. **A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.**

➤ **What is the eligibility criteria for GSTP?**

Following are the persons who can act and file as GST practitioner. A person who:

- a. is a citizen of India;
- b. is a person of sound mind;
- c. is not adjudicated as insolvent;
- d. has not been convicted by a competent court,

➤ **Following are the conditions to be satisfied (any one) before applying as goods and services tax practitioner:**

(a) Retired Officer

he is a retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post **not lower in rank than that of a Group-B gazetted officer for a period of not less than two years**; or

(b) Enrolled as a sales tax practitioner or tax return preparer

he has been enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of **not less than five years**;

(c) Academic qualification: He must have passed:

- a 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; or
- a degree examination of any Foreign University **recognized by any Indian University** as equivalent to the degree examination mentioned in sub-clause (i); or
- any other examination notified by the Government, on the recommendation of the Council, for this purpose; or
- **has passed any of the following examinations, namely**
 - a) final examination of the Institute of Chartered Accountants of India; or
 - b) final examination of the Institute of Cost Accountants of India; or
 - c) final examination of the Institute of Company Secretaries of India

➤ **What are the activities which can be undertaken by a GSTP?**

Answer: A GST practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to:

- furnish the details of outward and inward supplies;
- furnish monthly, quarterly, annual or final return;
- make deposit for credit into the electronic cash ledger;
- file a claim for refund; and
- file an application for amendment or cancellation of registration.

GSTP is also allowed to appear as authorised representative before any officer of department, Appellate authority or appellate tribunal on behalf of such a registered person.

➤ **Furnishing returns through GSTP:**

When a registered person opts to furnish his return through GSTP, such registered person gives his consent in prescribed form to any GSTP to prepare and furnish his return. Before confirming submission of any statement prepared by GSTP, ensure that the facts mentioned in the return are true and correct

Thus, the responsibility for correctness of any particulars furnished in the return or other details filed by the GST practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished. The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation shall be treated as deemed confirmation.

➤ **What is the procedure for enrolment as GSTP?**

- (a) An **application in prescribed form** may be made electronically through the common portal for enrolment as GSTP
- (b) The application shall be scrutinized and **GST practitioner certificate** shall be granted in the prescribed form
- (c) In case the application is rejected, **proper reasons** shall have to be given
- (d) The enrolment once done remain **valid till it is cancelled**
- (e) No person enrolled as a GSTP shall be eligible to remain enrolled **unless he passes such examination conducted at such periods** and by such authority as may be notified by the commissioner on the recommendations of the council.
- (f) 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 law **shall remain enrolled only for a period of 1 year from the appointed day** unless he passes the said examination within the said period of 1 year.

CLAIM OF ITC AND PROVISIONAL ACCEPTANCE THEREOF [SECTION 41]

Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of **eligible input tax, as self-assessed**, in his return and such amount shall be **credited on a provisional basis** to his electronic credit ledger.

The credit shall be **utilised only for payment of self-assessed output tax** as per the return referred to in the said sub-section. **[Section 41]**

Section 42: Matching, reversal and reclaim of ITC

(1) **The details of every inward supply furnished by a registered person (hereafter in this section referred to as the “recipient”) for a tax period shall, in such manner and within such time as may be prescribed, be matched-**

- (a) with the corresponding details of outward supply furnished by the corresponding registered person (“supplier”) in his valid return **for the same tax period or any preceding tax period;**
- (b) with the IGST paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and
- (c) **for duplication of claims** of ITC.

Details to be matched:

- (a) *GSTIN of the Supplier*
- (b) *GSTIN of the Recipient*
- (c) *Invoice/Debit note number*
- (d) *Invoice/Debit Note Date*
- (e) *Tax Amount*

(2) The claim of ITC in respect of **invoices or debit notes** relating to inward supply **that match with the details** of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him **shall be finally accepted and such acceptance shall be communicated**, in such manner as may be prescribed, to the **recipient (Form GST MIS-1)**.

[If the claim of ITC is less than or equal to the tax amount declared by the corresponding supplier, the ITC claim will be finally accepted]

(3) [2 cases] Where the ITC claimed by a recipient in respect of an inward supply **is in excess of the tax declared by the supplier** for the same supply **or** the outward supply **is not declared** by the supplier in his valid returns, the **discrepancy shall be communicated to both such persons**. (on/before the last date of the month in which the matching has been carried out)

[Recipient – Form GST MIS-1 & Supplier – Form GST MIS-2]

(4) The duplication of claims of input tax credit (wrong claimed ITC more than once) shall be **communicated to the recipient** [in Form GST MIS-1].

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is **not rectified by the supplier** in his valid return for the month in which discrepancy is communicated **shall be added to the output tax liability of the recipient** in his return **(Form GSTR 3) for the month succeeding the month in which the discrepancy is communicated**. [Interest is payable on amount so added @18%p.a.]

- ✓ *Supplier may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.*
 - ✓ *Supplier shall pay tax & interest on such rectification of error/omission, if any, in case there is a short payment of tax on account of such error/omission*
- (6) The amount claimed as ITC that is found to be in excess on account of duplication of claims **shall be added to the output tax liability** of the recipient in **his return** [GSTR-3] for the month in which the duplication is communicated. [Interest is payable on amount so added @18%p.a.]
- (7) The recipient **shall be eligible to reduce, from his output tax liability**, the amount added under sub-section (5), **if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.**
- (8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), **shall be liable to pay interest at the rate specified** under sub-section (1) of section 50 on the amount so added **from the date of availing of credit till the corresponding additions are made under the said sub-sections.**

*[Note: In case of **non-rectification of discrepancy of ITC claim**, interest is payable by recipient for a **minimum period** of approximately 2 months **while in case of duplication of claims**, interest is payable for a **minimum period** of approximately 1 month by the recipient]*

- (9) Where **any reduction in output tax liability is accepted** under sub-section (7), the interest paid under sub-section (8) **shall be refunded to the recipient** by crediting the amount in the corresponding head of **his electronic cash ledger**.

The amount of interest to be credited in any case **shall not exceed the amount of interest paid by the supplier**.

[The interest to be so refunded shall be claimed by the recipient in his return in Form GSTR-3]

- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) **shall be added to the output tax liability** of the recipient in his return for the month in which such contravention takes place and such recipient **shall be liable to pay interest** on the amount so added **at the rate specified in sub-section (3) of section 50** i.e. 24%.

MATCHING, REVERSAL AND RECLAIM OF REDUCTION IN OUTPUT TAX LIABILITY [SECTION 43]

(1) The details of **every credit note** relating to outward supply furnished by a registered person (hereafter in this section referred to as the “supplier”) **for a tax period shall, in such manner and within such time as may be prescribed, be matched—**

(a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the “recipient”) **in his valid return for the same tax period or any subsequent tax period; and**

(b) **for duplication of claims for reduction in output tax liability**

Details to be matched:

(a) *GSTIN of the Supplier*

(b) *GSTIN of the Recipient*

(c) *Credit note number*

(d) *Credit Note Date*

(e) *Tax Amount*

(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient **shall be finally accepted and communicated, in Form GST MIS-1, to the supplier.**

When the claim for reduction in output tax liability be considered as matched?

✓ *Credit Notes in Form GSTR-1 were accepted by the corresponding recipient in Form GSTR-2 without any amendment & valid GSTR-3 is filed by recipient.*

✓ *The amount of output tax liability after taking into account the reduction claimed is more than the ITC claimed after taking into account the reduction admitted & discharged on such credit note by the corresponding recipient on his valid return.*

(3) **[2 cases]** Where the reduction of output tax liability in respect of outward supplies **exceeds** the corresponding reduction in the claim for input tax credit **or** the corresponding credit note **is not declared** by the recipient in his valid returns, **the discrepancy shall be communicated to both such persons [(to Recipient in Form GST MIS-2 & to Supplier in Form GST MIS-1) on or before the last date of the month in which the matching has been carried out.]**

(4) The **duplication of claims for reduction in output tax liability** shall be communicated to the supplier in Form GST MIS-1.

(5) The amount in respect of which any discrepancy is communicated under sub- section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is

communicated **shall be added to the output tax liability of the supplier (debited to Electronic Liability register)**, in such manner as may be prescribed, in his return (GSTR-3) **for the month succeeding the month** in which the discrepancy is communicated.

- (6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims **shall be added to the output tax liability** of the supplier in his return for the month in which such duplication is communicated.
- (7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) **if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.**
- (8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), **shall be liable to pay interest at the rate specified under sub-section (1) of section 50 [18% p.a.]** in respect of the amount so added ***from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.***

EXEMPTIONS FROM GST

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST. **However, for determining the liability to pay the tax, one needs to further check whether such supply of goods and/or services are exempt from tax.**

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**.

Power to grant exemption from GST has been **granted vide section 11 of the CGST Act** and vide **section 6 of the IGST Act**. State GST laws also contain identical provisions granting power to exempt SGST.

Essential goods/services, i.e. public consumption products/services, have been exempted. Items such as unbranded atta/maida/besan, unpacked food grains, milk, eggs, meat, curd, lassi and fresh vegetables are among the items exempted from GST. Further, essential services like health care services, education services, etc. have also been exempted.



POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST 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/order, 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.**

Goods imported by unit/developer in SEZ exempt from IGST

All goods imported by a unit/developer in the Special Economic Zone (SEZ) for authorised operations are **exempt from the whole** of the integrated tax leviable thereon under section 3(7) of the Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017 [**Notification No. 64/2017 Cus dated 05.07.2017**].

Services imported by unit/developer in SEZ exempt from IGST

All services imported by a unit/developer in the Special Economic Zone (SEZ) for authorised operations **are exempt from the whole of the integrated tax leviable** thereon.

List of Services exempt from IGST under Notification No. 9/2017 IT (R) dated 28.06.2017

1. **Services received by the RBI**, from outside India in relation to management of foreign exchange reserves.
2. **Services provided by a tour operator** to a foreign tourist in relation to a **tour conducted wholly outside India**.
3. **Services received from a provider of service located in a non- taxable territory by –**
 - (a) the **Central Government, State Government, Union territory, a local authority, a governmental authority or an individual** in relation to any purpose **other than commerce, industry or any other business or profession**;
 - (b) an entity registered under section 12AA of the Income-tax Act, 1961 **for the purposes of providing charitable activities**; or
 - (c) **a person located in a non-taxable territory**.

However, the exemption **shall not apply to –**

- (i) **online information and database access or retrieval services [OIDAR Services] received by persons** specified in entry (a) or entry (b); or
- (ii) services by way of **transportation of goods by a vessel** from a place outside India up to the customs station of clearance in India received by persons specified in the entry **[OCEAN FRIEGHT IS TAXABLE IN CASE OF IMPORT OF GOODS]**

Online Information And Database Access or Retrieval Services [OIDAR Services]: means services whose delivery is ***mediated by information technology over the internet or an electronic network*** and the nature of which renders their supply ***essentially automated and involving minimal human intervention*** and impossible to ensure in the absence of information technology **and includes electronic services such as,—**

- (i) advertising on the internet;
- (ii) providing cloud services;
- (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming

LIST OF SERVICES EXEMPT FROM CGST UNDER NOTIFICATION NO. 12/2017 CT (R)

1. **IMP:** Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities.

In order to claim exemption under this head, following two conditions must be satisfied:-

- (i) The **entity is registered** with income tax authorities under section 12AA of the Income tax Act, 1961, and
- (ii) The entity **carries out one or more of the specified charitable activities.**

Charitable activities: means activities relating to -

- (i) **public health by way of,-**

(A) care or counseling of

- ✓ terminally ill persons or persons with severe physical or mental disability;
- ✓ persons afflicted with HIV or AIDS;
- ✓ persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

- (ii) **advancement of religion, spirituality or yoga;**

(iii) **advancement of educational programmes or skill development relating to,-**

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

- (iv) **preservation of environment including watershed, forests and wildlife;**

2. IMP: 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
 - ✓ a trust or an institution registered under section 10(23C)(v) or
 - ✓ a body or an authority covered under section 10(23BBA) of the Income-tax Act, 1961.

However, nothing contained in entry (b) of this exemption shall apply to-

- (i) **renting of rooms** where charges are Rs. 1,000 or more per day;
- (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are **Rs. 10,000 or more per day**;
- (iii) renting of shops or other spaces for business or commerce **where charges are Rs. 10,000 or more per month.**

3. Services by way of training or coaching in recreational activities relating to-

- (a) arts or culture, or
- (b) **sports by charitable entities registered under section 12AA of the Income-tax Act.**

4. Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below Rs. 1,000 per day or equivalent.**5. Services by way of renting of residential dwelling for use as residence.****6. IMP: Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution –**

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or
- (c) **up to an amount of Rs 5,000 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.

7. Pure services provided TO Government:

- Pure services (excluding works contract service or other composite supplies involving supply of any goods) **provided to the Central Government, State Government or Union territory or local authority or a Governmental authority**
- **by way of any activity:**
 - (i) in relation to any function entrusted **to a Panchayat** under article 243G of the Constitution or
 - (ii) in relation to any function entrusted **to a Municipality** under article 243W of the Constitution

8. Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution are exempt.

9. 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.

10. IMP: Services by the Central Government, State Government, Union Territory or local authority excluding the following services-

- (a) services by the Department of Posts by way of **speed post, express parcel post, life insurance, and agency services provided to a person** other than the Central Government, State Government, Union territory;
- (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (c) transport of goods or passengers; or
- (d) **any service**, other than services covered under entries (a) to (c) above, **provided to business entities.**

11. Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to Rs 20 lakh (Rs. 10 lakh in case of a Special Category States) in the preceding FY.

Explanation - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:-

- (i) Clauses (a), (b) and (c) of 'Point 10' above.
- (ii) **services by way of renting of immovable property.**

12. Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.

However, nothing contained in this entry shall apply to services referred in clauses (a), (b) and (c) of 'Point 10' above.

13. Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed Rs 5,000.

However, nothing contained in this entry shall apply to services referred in Clause (a), (b) and (c) of 'Point 10' above

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 Rs 5,000 in a FY.**

14. 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.

15. One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (30 years, or more) lease of industrial plots, **provided by the State Government Industrial Development Corporations or Undertakings to industrial units.**

16. Services provided by the Central Government, State Government, Union Territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period **prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.**

17. Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.

18. 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.

19. 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.

20. Services provided by the Central Government, State Government, Union territory or local authority **by way of assignment of right to use any natural resource** where such right to use was assigned by the Central Government, State Government, Union territory or local authority **before the 1st April, 2016:**

However, the exemption shall apply **only to tax payable on one time charge payable**, in full upfront or in installments, for assignment of right to use such natural resource.

21. 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.

22. Services provided to the Central Government, State Government, Union territory administration under **any training programme for which total expenditure is borne by the Central Government**, State Government, Union territory administration.

23. **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.

24. Services provided **by the Goods and Services Tax Network** to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.

25. Services of **leasing of assets** (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation **to Indian Railways**.

26. 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**.

27. 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**.

28. **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**:

However, nothing contained in this entry shall apply **on or after the expiry of a period of 1 year from the date of commencement of operations** of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

29. **IMP:** Transport of passengers, with or without accompanied belongings, by –

(a) air, 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;

(b) **non-air conditioned contract carriage** other than radio taxi, for transportation of passengers, **excluding** tourism, conducted tour, charter or hire; or

(a) **stage carriage other than air- conditioned stage carriage**.

➤ **Goods transport agency**: means any person who **provides service in relation to transport of goods by road and issues consignment note**, by whatever name called.

30. Services by way of **transportation of goods by an aircraft** from a place outside India upto the customs station of clearance in India.

31. **IMP:** Service of transportation of passengers, with or without accompanied belongings, by—
- (a) railways in a class **other than**—
 - (ii) first class; or
 - (iii) an air-conditioned coach;
 - (b) metro, monorail or tramway;
 - (c) inland waterways;
 - (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
 - (e) metered cabs or auto rickshaws (including e-rickshaws).
32. **IMP:** Services by way of transportation of goods-
- (a) by road **except the services of**—
 - (i) a goods transportation agency;
 - (ii) a courier agency;
 - (b) by inland waterways.
33. **IMP:** Services by way of transportation by rail or a vessel from one place in India to another of the following goods –
- (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
 - (b) defence or military equipments;
 - (c) newspaper or magazines registered with the Registrar of Newspapers;
 - (d) railway equipments or materials;
 - (e) agricultural produce;
 - (f) milk, salt and food grain including flours, pulses and rice; and
 - (g) organic manure.

34. **IMP:** Services provided by a Goods Transport Agency, by way of transport in a goods carriage of-
- (a) agricultural produce;
 - (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage **does not exceed Rs. 1,500**;
 - (c) goods, where consideration charged for transportation of all such goods for a single consignee **does not exceed Rs. 750**;
 - (d) milk, salt and food grain including flour, pulses and rice;
 - (e) organic manure;
 - (f) newspaper or magazines registered with the Registrar of Newspapers;
 - (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
 - (b) defence or military equipments.
35. **Services by way of giving on hire –**
- (a) to a state transport undertaking, a motor vehicle meant to **carry more than 12 passengers**; or
 - (b) to a **goods transport agency**, a means of transportation of goods.
36. Service by way of access to a road or a bridge on payment of **toll charges**.
37. Transmission or distribution of electricity by an electricity transmission or distribution **utility**.
38. **EPFO:** Services provided by the **Employees Provident Fund Organisation** to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.
39. Services by way of **collection of contribution under the Atal Pension Yojana**.
40. Services by way of **collection of contribution under any pension scheme of the State Governments**.
41. **IRDA:** Services provided by the **Insurance Regulatory and Development Authority** of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999.
42. **SEBI:** Services provided by the **Securities and Exchange Board of India** by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
43. **RBI:** Services by **the Reserve Bank of India**.

44. IMP: 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.

45. IMP: Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees 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.

46. 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.

47. ESI: Services by the Employees’ State Insurance Corporation to persons governed under the Employees’ State Insurance Act, 1948.**48. 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.****49. 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.**

50. Services of general insurance business provided under following schemes –

- (a) Hut Insurance Scheme;
- (b) Janata Personal Accident Policy and Gramin Accident Policy;
- (c) Group Personal Accident Policy for Self-Employed Women;
- (d) Jan Arogya Bima Policy;
- (e) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);
- (f) Universal Health Insurance Scheme;
- (g) Rashtriya Swasthya Bima Yojana;
- (h) Pradhan Mantri Suraksha Bima Yojna;
- (i) 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.

51. 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 fifty thousand rupees;
- (d) Varishtha Pension Bima Yojana;
- (e) Pradhan Mantri Jeevan Jyoti Bima Yojana;
- (f) Pradhan Mantri Jan Dhan Yojana;
- (g) Pradhan Mantri Vaya Vandana Yojana.

52. Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or **bio- incubators recognized by the Biotechnology Industry Research Assistance Council**, under the Department of Biotechnology, Government of India.

53. Services provided by an incubatee up to a total turnover of Rs 50 lakh in a financial year subject to the following conditions, namely:-

- (a) the total turnover **had not exceeded Rs 50 lakh** during the preceding financial year; and
- (b) a period of **three years has not elapsed from the date of entering** into an agreement as an incubatee.

54. Services **by way of collecting or providing news** by an independent journalist, Press Trust of India or United News of India.
55. Services of **public libraries** by way of lending of books, publications or any other knowledge-enhancing content or material.
56. Services by way of **public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.**
57. Services **by way of transfer of a going concern**, as a whole or an independent part thereof.
58. Services **by an organiser to any person** in respect of a **business exhibition held outside India.**
59. **IMP:** 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;
 - (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;
 - (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
 - (e) loading, unloading, packing, storage or warehousing of agricultural produce;
 - (f) agricultural extension services;
 - (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

Agricultural produce: means any produce out of cultivation of plants and rearing of all life forms of animals, **except the rearing of horses**, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer **which does not alter its essential characteristics but makes it marketable for primary market.**

60. Services by way of **loading, unloading, packing, storage or warehousing of rice.**
61. 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.**

62. Services by way of **slaughtering of animals**.

63. 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.

64. 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.

65. Services by a **foreign diplomatic mission** located in India.

66. Services by a **specified organisation in respect of a religious pilgrimage** facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement.

Specified organisation: shall mean,-

(b) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or

(c) 'Committee' or 'State Committee' as defined in section 2 of the Haj Committee Act, 2002.

67. **IMP:** Services provided by-

(a) an arbitral tribunal to –

(i) any person other than a business entity; or

(ii) a business entity with an aggregate turnover up to Rs. 20 lakh (Rs. 10 lakh in the case of Special Category States) **in the preceding financial year;**

(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-

(i) an advocate or partnership firm of advocates providing legal services;

(ii) any person other than a business entity; or

(iii) a business entity with an aggregate turnover up to Rs. 20 lakh (Rs.10 lakh in the case of Special Category States) in the preceding financial year;

(c) a senior advocate by way of legal services to-

(i) any person other than a business entity; or

(ii) a business entity with an aggregate turnover up to Rs. 20 lakh (Rs.10 lakh in the case of Special Category States) in the preceding financial year.

68. IMP: Services provided -

(a) **by an educational institution** to its students, faculty and staff;

(b) **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; upto higher secondary:

However, nothing contained in entry (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.**

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

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

Approved vocational education course: means, -

- ✓ a course run by an **industrial training institute or an industrial training centre** affiliated to the **National Council** for Vocational Training or **State Council** for Vocational Training offering courses in **designated trades notified under the Apprentices Act, 1961** or
- ✓ a **Modular Employable Skill Course**, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;

69. Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: -

- (a) 2 year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;
- (b) fellow programme in Management;
- (c) 5 year integrated programme in Management.

70. Any services provided by, _

- (a) the National Skill Development Corporation set up by the Government of India;
- (b) a Sector Skill Council approved by the National Skill Development Corporation;
- (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council,

in relation to-

- (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or
- (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
- (iii) any other Scheme implemented by the National Skill Development Corporation.

71. 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.

72. 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 Training.

73. IMP: Services by way of-

- (a) **health care services** by a clinical establishment, an authorised medical practitioner or paramedics;
- (b) services provided **by way of transportation of a patient in an ambulance**, other than those specified in (a) above.

- **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.

74. Services by a veterinary clinic in relation to health care of animals or birds.

75. Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.
76. Services provided **by operators of the common bio-medical waste treatment facility** to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.
77. **IMP:** 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 Rs 1,50,000.**
However, the exemption shall not apply to service provided by such artist as a brand ambassador.

78. **IMP:** Services by way of right to admission to-
- (a) circus, dance, or theatrical performance including drama or ballet;
 - (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
 - (c) **recognised sporting event,**
- where the consideration for admission is **not more than Rs. 250 per person** as referred to in (a), (b) and (c) above.

79. Services **by way of admission** to a museum, national park, wildlife sanctuary, tiger reserve or zoo.

80. **IMP:** 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.



THIS BOOK HAS BEEN A REALITY
ONLY BECAUSE OF MY FAMILY &
STUDENTS.

CA SURAJ AGRAWAL

PREFACE

Taxation is a dynamic subject, which is not only a vast subject but also difficult to comprehend in view of frequent amendments. Yet it is the scoring subject of your syllabus. In addition, practice in the field of Taxation is also highly remunerative.

My association with the students has helped me to bring this book in its present form – simplified, comprehensive and easy to understand.

The present edition of this book is designed to bridge the gap between theory & applications and incorporates the following Chapters:

- ❖ *Time of Supply*
- ❖ *Value of Supply*
- ❖ *Tax Invoice*
- ❖ *Payment of Tax*
- ❖ *Input Tax Credit*
- ❖ *Return*
- ❖ *Exemption*

Hope this book serves the purpose of the students. I shall be thankful to the readers for their suggestions, criticism and feedback if any.

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ACKNOWLEDGEMENT

This book is a result of sincere efforts of our family members, colleagues, associates, well-wishers and students, whose contribution cannot go unacknowledged.

Master Reyaan, my wife **CA Monika Agrawal** and my mother deserve special mention for the time (on which they had the first right) they allowed me for this book. My brother **CA Roshan Agrawal** & Sisters have been a constant source of inspiration & motivation for me.

I dedicate this book to my beloved late grandparents & Papa.

CA Suraj Agrawal

“One more step towards success”

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TIME OF SUPPLY

The CGST Act provides **separate provisions for Time of Supply for Goods and Services** vide **Sections 12 and 13** of CGST Act. Section 14 provides for the method of determining the time of supply in case there is a **change in the rate of tax** on supply of goods or services. Sections 12 and 13 **use the provisions of Section 31 relating to issue of tax invoice** as a reference point.

Provisions of time of supply under CGST Act have also been made applicable to IGST Act vide **Section 20 of the IGST Act**.

Few Definitions

Recipient of supply of goods or services or both, means-

- (a) where a consideration is payable **for the supply of goods or services** or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable **for the supply of goods**, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the **supply of a service**, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the **recipient of the supply and shall include an agent acting as such on behalf of the recipient** in relation to the goods or services or both supplied [Section 2(93)].

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 [Section 2(105)].

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) of the CGST Act, or under Section 5(3)/5(4) of the IGST Act [Section 2(98)].

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)].

TIME OF SUPPLY OF GOODS [SECTION 12]

1. The **liability to pay tax on Goods** shall arise at the time of supply as determined in terms of the **provisions of this section**.

2. The Time of Supply of Goods shall be the **earlier** of the following dates, namely:-

(a) the date of issue of invoice by the supplier or *the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply*; or

(b) The date on which the supplier **receives the payment** with respect to the supply:

Provided that where the supplier of taxable goods receives an amount **up to one thousand rupees in excess of the amount indicated in the tax invoice**, the time of supply to the extent of such excess shall, **at the option of the said supplier**, be the date of issue of invoice in respect of such excess amount.

Explanation 1:

For the purposes of clauses (a) and (b), the “supply” shall be deemed to have been made **to the extent it is covered by the invoice or, as the case may be, the payment.**

Explanation 2:

For the purpose of clause (b), “the date on which the supplier receives the payment” shall be the date on which the **payment is entered in his books** of account or the date on which the **payment is credited to his bank** account, **whichever is earlier.**

Example:

Company X receives an advance of Rs 50,000 on 30th April, against which it dispatches goods worth Rs 49,200 under invoice dated 5th May.

In this example, Company X has received Rs. 800 in excess, which cannot be considered as payment for the present invoice, in terms of Explanation 1 to Section 12(2). Company X will adjust this excess amount against the next supply.

The time of supply for Rs 800 can be taken as the date of the next invoice if the supplier so chooses, though the payment was received earlier. [Proviso to Section 12(2)]

Question 1

A machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

17th September	Purchase order with advance of Rs 50,000 is received for goods worth Rs 12 lakh and entry duly made in the seller's books of account
20th October	The machine is assembled, tested at site, and accepted by buyer
23rd October	Invoice raised
4th November	Balance payment of Rs 11,50,000 received

Determine the time of supply(ies) in the above scenario.

ANSWER

The time of supply of goods to the extent of Rs 50,000 is **17th September**, as this payment was received before the date of invoice [Section 12(2)(b)].

The time of supply of goods to the extent of the balance amount of Rs 11,50,000 is **20th October** which is the date on which the goods were made available to the recipient as per section 31(1)(b), **and the invoice should have been issued on this date** [Section 12(2)(a)]

Question 2

Gas is supplied by a pipeline. Monthly payments are made by the recipient as per contract. Every quarter, invoice is issued by the supplier supported by a statement of the goods dispatched and payments made, and the recipient has to pay the differential amount, if any. The details of the various events are:

August 5, September 5, October 1	Payments of Rs 2 lakh made in each month
October 3	Statement of accounts issued by supplier, with invoice for the quarter July – September
October 17	Differential payment of Rs 56,000 received by supplier for the quarter July – September as per statement of accounts

Determine the time of supply.

ANSWER

As per Section 31(4), in the case of continuous supply of goods, the invoice should be issued before or when the statement of accounts is issued; **hence October 3 is the correct invoice date.**

Time of supply will be August 5, September 5 and October 1 respectively for goods valued at Rs 2 lakh each, as the date of payment is earlier than the date of invoice. **[Invoice is yet to be issued for payment made on October 1].**

Time of supply will be October 3 for goods valued at Rs 56,000, as the date of invoice is earlier than the date of payment.

3. In case of supplies in respect of which tax is paid or liable to be paid on **reverse charge basis**, the time of supply shall be the **earliest** of the following dates, namely:

- (a) the date of the receipt of the **goods**, or
- (b) the date of payment as entered in the books of account of the **recipient** or the date on which the payment is **debited in his bank account, whichever is earlier**, or
- (c) the **date immediately following 30 days from the date of issue of invoice** or any other document, by whatever name called, in lieu thereof **by the supplier**:

Provided that where it is not possible to determine the time of supply under clause (a), (b), or (c), the **time of supply shall be the date of entry in the books of account of the recipient of supply**.

Question 3

Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)
May 12	Bridge & Co receives the goods
May 30	Bridge & Co makes the payment

ANSWER

Here, **May 12** will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and **date immediately following 30 days of issuance of invoice** [Section 12(3)]. (Here, date of invoice is relevant only for calculating thirty days from that date.)

Question 4

Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Pillar & Co receives the goods, which were held up in transit
July 3	Payment made for the goods

ANSWER

Here, **June 4, 31st day from the date of supplier's invoice**, will be the time of supply, being the **earliest of the three stipulated dates** namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)].

4. In case of **supply of vouchers** by a supplier, the time of supply shall be –

- (a) the **date of issue of voucher**, ***if the supply is identifiable*** at that point; or
- (b) the **date of redemption of voucher**, in all other cases.

Vouchers are instruments that can be exchanged as payment for goods or services of the designated value. As per the definition, they are instruments that certain persons (potential suppliers) are obliged to accept as consideration, part or full, for goods and/or services; the instrument or its related documentation sets out the terms and conditions of use, the goods / services covered, and the identity of the potential suppliers of these

Example:

A Limited sells food coupons to a company, which gives these to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food /provisions in the outlets that are part of the program.

As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the ***time of supply of the coupon will be the date on which the employee redeems it against food / provision items of his choice.***

Example:

With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for Rs. 20 which will be redeemable till 5 Jan for a small pizza.

As the supply against which the voucher will be redeemed **is known on the date of the sale**, the time of supply **is the date of issue of the voucher.**

5. Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall--

- (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, **be the date on which the tax is paid.**

Example:

Investigation reveals clandestine removal of goods by a supplier who is not registered under GST. The evidence is in the form of noting, often undated, and some corroborative material. The supplier voluntarily pays tax during the investigation, to close the case. The time of supply will be the date on which the tax is paid, as being unregistered, the supplier is not required to file periodical returns.

6. The **time of supply** to the extent it relates to an addition in the value of supply by way of ***interest, late fee or penalty*** for delayed payment of any consideration **shall be the date on which the supplier receives such addition in value.**

Tax Invoice (to the extent relevant to Time of Supply) - Section 31

1. A registered person supplying taxable goods shall, before or at the time of,-
 - (a) removal of goods for supply to the recipient, where the supply involves movement of goods; or
 - (b) delivery of goods or making available thereof to the recipient, in any other case,

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

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

2. In case of **continuous supply of goods**, where successive statements of accounts or successive payments are involved, the **invoice shall be issued before or at the time each such statement is issued** or, as the case may be, **each such payment is received**.
3. Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, ***the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.***

TIME OF SUPPLY OF SERVICES [SECTION 13]

1. The liability to **pay tax on services** shall arise at the time of supply, as determined in terms of the provisions of this section.
2. **The time of supply of services shall be the following dates, namely:-**
 - (a) the **date of issue of invoice** by the supplier, **if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier**; or
 - (b) the **date of provision of service**, if the invoice is not issued within the period prescribed under Section 31(2) or **the date of receipt of payment, whichever is earlier**; or
 - (c) the **date on which the recipient shows the receipt of services** in his books of account, in a case where the provisions of clause(a) or clause (b) do not apply

Provided that where the supplier of taxable service receives an amount **up to one thousand rupees** in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

A telephone company receives Rs 5,000 against an invoice of Rs 4,800. The excess amount of Rs 200 can be adjusted against the next invoice. The company has the option to take the **date of the next invoice as the time of supply of service** in relation to the amount of Rs 200 received in excess against the earlier invoice.

Explanation - For the purposes of clauses (a) and (b) -

- (i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.
 - (ii) “the date of **receipt of payment**” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, **whichever is earlier**.
3. In case of supplies in respect of which tax is paid or liable to be paid **on reverse charge basis**, the time of supply shall be the **earlier of the following dates**, namely-
 - (a) the **date of payment** as entered in the books of account of the recipient or the date on which the payment is **debited in his bank account, whichever is earlier**; or
 - (b) the **date immediately following 60 days from the date of issue of invoice** or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or (b), the time of supply **shall be the date of entry in the books of account of the recipient of supply**:

Provided further that in case of supply by ‘associated enterprises’, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

4. In case of supply of vouchers by a supplier, the time of supply shall be-

- (a) the date of issue of voucher, if the **supply is identifiable** at that point; or
- (b) the date of redemption of voucher, in all other cases;

Example: Best Hospitality Services enters into agreement with Drive Marketing Ltd by which Drive Marketing Ltd. markets Best Hospitality Services’ hotel rooms and sells coupons / vouchers redeemable for a discount against stay in the hotel.

As the supply against which the voucher will be redeemed **is identifiable**, the time of supply of the voucher will be its date of issue.

5. Where it is not possible to determine the time of supply of services in the manner specified in sub-sections (2), (3) or (4), the time of supply shall

- (a) in a case where a **periodical return** has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, **be the date on which the tax is paid.**

6. The time of supply to the extent it relates to an addition in the value of supply **by way of interest, late fee or penalty for delayed payment of any consideration shall be the **date on which the supplier receives such addition in value.****

Section 31: Tax invoice (to the extent relevant to time of supply)

A registered person supplying taxable services **shall, before or after the provision of service but within a prescribed period, issue a tax invoice**, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, **specify the categories of services** in respect of which–

- (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- (b) tax invoice may not be issued.

Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,-

- (a) where the **due date of payment is ascertainable** from the contract, the invoice shall be issued on or before the due date of payment;
- (b) where the **due date of payment is not ascertainable** from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
- (c) where the **payment is linked to the completion of an event**, the invoice shall be issued on or before the date of completion of that event.

In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued **at the time when the supply ceases** and such invoice shall be issued to the extent of the supply made before such cessation.

Tax Invoice, Credit and Debit Notes of CGST Rules (Rule 47)**Time limit for issuing tax invoice**

In case of taxable supply of services, the invoice shall be issued within a period of 30 days from the date of supply of service:

Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued **shall be 45 days** from the date of supply of service:

Provided further that an insurer or a banking company or a financial institution, including a non-banking financial company, **or a telecom operator, or any other class of supplier of services as may be notified** by the Government on the recommendations of the Council, making taxable supplies of services **between distinct persons as specified in section 25**, may issue the invoice before or at the time such **supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.**

Question 5

Determine the time of supply from the following particulars:

6th May	: Booking of convention hall, sum agreed Rs 15000, advance of Rs 3000 received
15th September	: Function held in convention hall
27th October	: Invoice issued for Rs 15000, indicating balance of Rs 12000 payable
3rd November	: Balance payment of Rs 12000 received

Answer:

As per Section 31 read with Rule 47 of CGST Rules, **the tax invoice is to be issued within 30 days of supply of service.** In the given case, the invoice is not issued within the prescribed time limit.

As per section 13(2)(b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier.

Therefore, the time of supply of service to the extent of Rs 3,000 is **6th May** as the date of payment of Rs 3000 is earlier than the date of provision of service.

The time of supply of service to the extent of the balance Rs 12,000 is **15th September** which is the date of provision of service.

Question 6

Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.

Answer:

The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13(2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of the supplier is also not available. **Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.**

Thus, time of supply will be 4th April, the date on which the Apartment Owners' Association records the receipt of service in its books of account.

Question 7

Determine the time of supply from the given information. (Assuming that service being supplied is taxable under reverse charge)

May 4 The supplier of service issues invoice for service provided. There is a dispute about amount payable, and payment is delayed.

August 21 Payment made to the supplier of service

Answer:

Here, July 4 will be the time of supply, being the earliest of the two stipulated dates namely, date of payment and date immediately following 60 days since issue of invoice.

Question 8

Determine the time of supply from the given information.

May 4 A German company issues email informing its associated company ABC Ltd. of the cost of technical services provided to it.

July 2 ABC Ltd transfers the amount to the account of the German company

Answer:

As there is **no prior entry of the amount in the books of account of ABC Ltd.**, July 2 will be the time of supply, being the date of payment in terms of second proviso to section 13(3).

TEST YOUR KNOWLEDGE

1. **Date on which the supplier receives the payment as per section 12 of CGST Act is**
 - (a) Date entered in books of accounts
 - (b) Date of credit in bank account
 - (c) **Date entered in books of accounts or date of credit in bank account, whichever is earlier**
 - (d) Date on which receipt voucher is issued by supplier

2. **What is time of supply of goods liable to tax under reverse charge mechanism?**
 - (a) Date of receipt of goods
 - (b) Date on which the payment is made
 - (c) Date immediately following 30 days from the date of issue of invoice by the supplier
 - (d) **Earlier of (a) or (b) or (c)**

3. **What is the time of supply of vouchers when the supply with respect to the voucher is identifiable?**
 - (a) **Date of issue of voucher**
 - (b) Date of redemption of voucher
 - (c) Date of entry in books of accounts
 - (d) Earlier of (a) or (b) or (c)

4. **What is the time of supply of vouchers when the supply with respect to the voucher is not identifiable?**
 - (a) Date of issue of voucher
 - (b) **Date of redemption of voucher**
 - (c) Date of entry in books of accounts
 - (d) Earlier of (a) or (b) or (c)

5. **What is the time of supply of service if the invoice is issued within 30 days from the date of provision of service?**
 - (a) Date of issue of invoice
 - (b) Date on which the supplier receives payment
 - (c) Date of provision of service
 - (d) **Earlier of (a) & (b)**

6. **What is the time of supply of service if the invoice is not issued within 30 days from the date of provision of service?**
 - (a) Date of issue of invoice
 - (b) Date on which the supplier receives payment
 - (c) Date of provision of service
 - (d) **Earlier of (b) & (c)**

7. **What is the time of supply of service in case of reverse charge mechanism?**
 - (a) Date on which payment is made to the supplier
 - (b) Date immediately following 60 days from the date of issue of invoice
 - (c) Date of invoice
 - (d) **Earlier of (a) and (b)**

8. **What is the time of supply of service where services are received from an associated enterprise located outside India?**
 - (a) Date of entry of services in the books of account of recipient of service
 - (b) Date of payment
 - (c) **Earlier of (a) & (b)**
 - (d) Date of entry of services in the books of the supplier of service

9. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of goods
	(1)	(2)	(3)
(i)	July 1	August 10	June 29
(ii)	July 1	June 25	June 29
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29
(iv)	July 5	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 1
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29
(vi)	August 1	August 10	June 29

Answer:

S. No	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of goods	Date Immediately following 30 days from the date of invoice	Time of supply of goods [Earlier of (1), (2) & (4)]
(i)	July 1	August 10	June 29	July 30	July 1
(ii)	July 1	June 25	June 29	July 30	June 25
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29	July 30	June 30 for part payment made and July 1 for balance amount
(iv)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)
(vi)	August 1	August 10	June 29	July 30	July 30 (i.e., 31st day from issuance of invoice)

10. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No.	Date of payment by recipient for supply of services	Date of issue of invoice by supplier of services
(i)	August 10	June 29
(ii)	August 10	June 1
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29

Answer:

S.N	Date of payment by recipient or supply of services	Date of issue of by supplier invoice of services	Date immediately following 60 days from date of invoice	Time of supply of goods [Earlier of (1)& (3)]
(i)	August 10	June 29	August 29	August 10
(ii)	August 10	June 1	August 1	August 1
(iii)	Part payment made on June 30 and balance amount paid Part on September 1	June 29	August 29	June 30 for Payment and August 29 for balance amount
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	August 1	June 28 (i.e. when payment is Entered in the books of account of the recipient)
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	August 29	June 26 (i.e. when payment is debited in the recipient's bank account)

11. Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e., 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July.

What is the time of supply of the transporter's service?

Note: Transporter's service is taxed on reverse charge basis.

Answer:

Time of supply of service taxable under reverse charge is the **earlier of the following two dates** in terms of section 13(3):

- A. Date of payment
- B. 61st day from the date of issue of invoice

In this case, the date of payment precedes 61st day from the date of issue of invoice by the supplier of service. **Hence, the date of payment, that is 17th June, will be treated as the time of supply of service [Section 13(3)(a)].**

12. Raju Pvt Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.

When is the time of supply of service?

Answer:

Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2)(b):

- A. Date of provision of service
- B. Date of receipt of payment

The payment was received on 5th January and the service was provided on 23rd April. **Therefore, the date of payment, i.e., 5th January is the time of supply of the service in this case.**

13. Investigation shows that 150 cartons of ceramic capacitors were despatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment. What is the time of supply of the 150 cartons?

Answer:

Time of supply of goods is the **earlier of the following two dates** in terms of section 12(2):

- A. Date of issue of invoice/last date on which the invoice is required to be issued
- B. Date of receipt of payment

In this case since the invoice has not been issued, the time of supply will be the last date on which the invoice is required to be issued or date of receipt of payment, whichever is earlier.

The invoice for supply of goods must be issued on or before the despatch of goods i.e., on 2nd August. **Since there is no evidence of receipt of payment, time of supply of the goods will be 2nd August, the date when the invoice should have been issued.**

14. An order is placed on Ram & Co. on 18th August for supply of a consignment of customised shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and hands over the payment on the same date, which is entered in the accounts on the next day, 8th December.

What is the time of supply of the shoes?

Answer:

Time of supply of goods is the **earlier of the following two dates** in terms of section 12(2):

- A. Date of issue of invoice/last date on which the invoice is required to be issued
- B. Date of receipt of payment

In this case,

Date of invoice: 2nd December

Date of actual receipt of payment: 7th December.

Date of recording payment in books of account : 8th December.

Therefore, the date of receipt of payment will be 7th December (earlier of two dates namely, date of recording the payment in books of account and date of crediting of payment in bank account).

However, as the invoice date is earlier than date of payment, the time of supply will be 2nd December.

15. Sodexo meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months. What is the date of supply of the coupons?

Answer:

As the coupons can be used for a variety of food items, which are taxed at different rates, the supply **cannot be identified** at the time of purchase of the coupons. **Therefore, the time of supply of the coupons is the date of their redemption in terms of section 12(4).**

16. A firm of lawyers issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company. The dispute drags on and finally payment is made on 3rd November.

Identify the time of supply of the legal services.

Note: Legal services are taxable on reverse charge basis.

Answer:

Time of supply of services that are taxable under reverse charge is **earliest** of the following two dates in terms of section 13(3):

- A. Date of payment [3rd November]
- B. 61st day from the date of issue of invoice [19th April]

The date of payment comes subsequent to the 61st day from the issue of invoice by the supplier of service. Therefore, the 61st day from supplier's invoice has to be taken as the time of supply. **This fixes 19th April as the time of supply.**

17. Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December. What is the method to fix the time of supply of the service?

Answer:

The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, whichever is earlier [Section 13(2)(b)]. In this case, the service is provided on 5th September but not invoiced within the prescribed time limit.

Therefore, the date of provision of service, i.e., 5th September, will be the time of supply.

18. An income-tax and money laundering case against Mr. X, working in a multi-national company, reveals a large volume of undisclosed assets, which he claims as service income. On this basis, the GST authorities investigate the GST liability. Dates of provision of service, whether in the first half or the second half of the financial year being scrutinised by income-tax authorities, are not known. Mr. X voluntarily pays GST during the investigation. What is the time of supply of the services?

Answer:

Where it is not possible to determine the time of supply in terms of date of invoice or date of provision of service or date of receipt of payment or date of receipt of services in the books of account of the recipient, and where periodical return is not to be filed (Mr. X, being an employee in a multi-national company, is not a registered person), **the date of payment of tax is taken as the time of supply** [Section 13(5)(b)].

Therefore, the date when Mr. X pays the GST will be the time of supply.

VALUE OF SUPPLY

Section 15 of the CGST Act provides **common provisions** for determining the value of goods and services. It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration of the supply. ***When value cannot be determined under section 15, the same is determined using Chapter IV: Determination of Value of Supply of CGST Rules.***

VALUE OF SUPPLY [SECTION 15]

1. The value of a supply of goods or services or both **shall be the transaction value**, which is the price **actually paid or payable** for the said supply of goods or services or both **where the supplier and the recipient of the supply are not related and the price is the sole consideration** for the supply.

Example:

Contracted price for 1 MT of cement from X Ltd to Y: Rs 10,000.

Advance payment before despatch: Rs 1000.

Payable after credit period of 30 days: Rs 9,000.

Base taxable value: Rs 10,000. (Additions as further discussed below may also have to be made.) **This would be so even though only Rs 1,000 has been received at the time of payment of GST on the supply.**

2. **The value of supply shall include-**

- (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force **other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act**, if charged separately by the supplier;

GST and GST cess are not part of taxable value, but other taxes/cesses/fees etc. will form part of the value of taxable supply, if separately billed. For instance, if a supplier of goods pays a municipal tax in relation to the goods being supplied and bills the same separately, such tax will form part of the value of taxable supply. In the same situation, if the supplier pays the municipal tax but does not charge the same separately, even then such tax will form part of the value of taxable supply as the supplier would have factored such tax while computing the cost of the goods.

- (b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;**

Example:

Grand Biz contracts with ABC Co. to conduct a dealers' meet. In furtherance of this, Grand Biz contracts with vendors to deliver goods services, like water, soft drinks, audio system, projector, catering, flowers etc. at the venue on the stipulated dates at the stipulated prices. Grand Biz is liable to make these payments as contracted.

The soft drinks supplier wants payment upon delivery; ABC Co. agrees to pay the bill raised by the soft drinks vendor on Grand Biz on receiving the crates of soft drinks. This amount is not billed by Grand Biz to ABC Co. However, it would be added to the value of service provided by Grand Biz to ABC Co. for payment of GST.

- (c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;**

Few examples of such incidental expenses are-

Commission: This may be paid to an agent and recovered from the buyer of the goods / services; this is part of the value of the supply.

Packing, if charged by the supplier to the recipient, is similarly part of the value of the supply.

Inspection or certification charges are another element that may be added to the value, if billed to the recipient of supply.

Installation and testing charges at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply at the time of making the supply.

- (d) interest or late fee or penalty for delayed payment of any consideration for any supply; and**

Example: A supply priced at Rs 2,000 is made, with a credit period of 1 month for payment. Thereafter interest of 12% is charged. The payment is received after the lapse of two months from the date of supply. The amount of 12% p.a. (i.e. 1% per month) on Rs 2,000 for one month after the free credit period is Rs 20. Such interest will be added to the value and thus, the value of taxable supply will work out to be Rs 2,020.

- (e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.**

Explanation

For the purposes of this sub-section, the **amount of subsidy shall be included in the value** of supply of the supplier who receives the subsidy.

Example:

The selling price of a notebook is Rs 50. For notebooks sold to students in Government schools, a company uses its CSR funds to pay the seller Rs 30, so that the students pay only Rs 20 per notebook. The taxable value of the notebook will be Rs 50, as this is a non-government subsidy. If the same subsidy is paid by the Central Government or State Government, the taxable value of the notebook would be Rs 20.

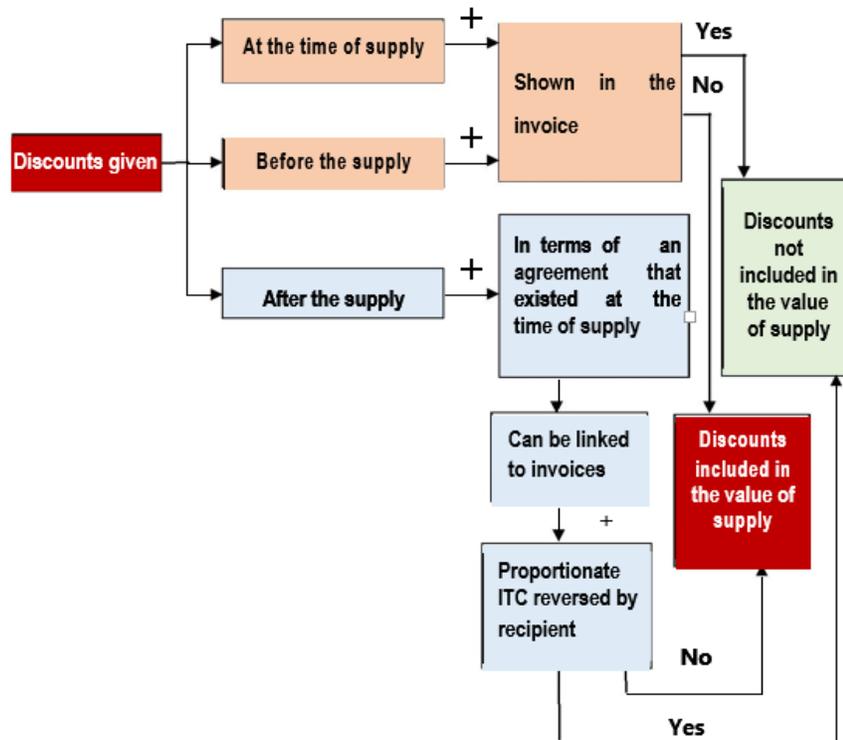
Summary:**Inclusions in transaction value [Section 15(2)]**

Under assessment based on “transaction value”, the taxable value includes certain elements in addition to price. The ingredients of “taxable value” based on transaction value are enumerated and discussed below. **[P / T / T / E / I / S]**

- (a) **Price** actually paid or payable for the supply (“transaction value”)
- (b) Any **taxes**, duties, fees and charges levied under any statute other than the CGST Act or the SGST Act or the UTGST Act and the GST (Compensation to States) Act, if charged separately [Transaction value under IGST will include taxes other than IGST and the compensation cess in terms of third proviso to section 20 of IGST Act]
- (c) Payments to **third** parties Any amount that the supplier is liable to pay but which has been incurred by the recipient of the supply and not already included in the price.
- (d) Incidental **expenses**, such as, commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods/services at the time of, or before delivery of the goods /supply of the services
- (e) **Interest** or late fee or penalty for delayed payment of consideration
- (f) **Subsidies**, provided in any manner, linked to the price, other than subsidies given by the State or Central Governments

3. The value of the supply shall not include any discount which is given

- (a) before or at the time of the supply **if such discount has been duly recorded in the invoice issued in respect of such supply; and**
- (b) **after the supply has been effected, if-**
 - (i) such discount **is established in terms** of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; **and**
 - (ii) **input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.**



Example of discount deductible from value of supply

Royal Biscuit Co. gives a discount of 30% on the list price to its distributors. Thus, for a carton of Spicebisk, in the invoice the list price is mentioned as Rs 200, on which a discount of 30% is given to arrive at the final price of Rs 140. **The taxable value is Rs 140, as the discount is allowed at the time of supply and shown in the invoice.**

Example of discount deductible from value of supply

The agreement of Raju Electrical Appliances with its dealers is that sale of rice cookers over 100 pieces in the Diwali month will entitle them to discount of 5% per cooker sold in the next month. The next month's stock has already been despatched when the sales figures for the Diwali month are worked out. **However, as the agreement was in existence at the time of supply, and the discount can be worked out for each invoice, the taxable value will be billed price minus 5%. The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.**

Example of non-deductible discount

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

4. Where the value of the supply of goods or services or both cannot be determined under sub-section (1), **the same shall be determined in such manner as may be prescribed.** [Chapter IV: Determination of Value of Supply of CGST Rules.]
5. Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council **shall be determined in such manner as may be prescribed.** [Chapter IV: Determination of Value of Supply of CGST Rules.]

Related persons:

Explanation to Section 15, related persons have been defined as follows:

(a) persons shall be deemed to be “related persons” if-

- i. such persons are officers or directors of one another’s businesses;
- ii. such persons are legally recognised partners in business;
- iii. such persons are employer and employee;
- iv. any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- v. one of them directly or indirectly controls the other;
- vi. both of them are directly or indirectly controlled by a third person;
- vii. together they directly or indirectly control a third person; or
- viii. they are members of the **same family**;

(b) the term “person” also includes legal persons;

- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.**

Question

Particulars	Rs
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods	5,000
CGST and SGST chargeable on the goods	10,440
Packing charges (not included in price above)	1,000

Black and White Pvt. Ltd. received Rs 2000 as a subsidy from a NGO on sale of such goods. The price of Rs 50,000 of the goods is after considering such subsidy.

Black and White Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by Black and White Pvt. Ltd.

Answer:**Computation of value of taxable supply**

Particulars	Rs
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	5,000
CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)]	-
Packing charges [Includible in the value as per section 15(2)(c)]	1,000
Subsidy received from a non-Government body [Since subsidy is received from a non-Government body, the same is included in the value in terms of section 15(2)(e)]	2,000
Total	58,000
Less: Discount @ 2% on Rs. 50,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a)]	1,000
Value of taxable supply	57,000

Question

Samriddhi Advertisers conceptualised and designed the advertising campaign for a new product launched by New Moon Pvt Ltd. for a consideration of Rs 5,00,000. Samriddhi Advertisers owed Rs 20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt Ltd. Such liability of Samriddhi Advertisers was discharged by New Moon Pvt Ltd. New Moon Pvt Ltd. delayed the payment of consideration and thus, paid Rs 15,000 as interest.

Determine the value of taxable supply made by Samriddhi Advertisers.

Answer:**Computation of value of taxable supply**

Particulars	Rs
Service charges	5,00,000
Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers [Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15(2)(b)]	20,000
Interest for delay in payment of consideration [Includible in the value in terms of section 15(2)(d)]	15,000
Value of taxable supply	5,35,000

TEST YOUR KNOWLEDGE

1. **Value of supply under section 15 is :**
 - (a) Wholesale price
 - (b) Market value
 - (c) Maximum retail price
 - (d) **Transaction value**

2. **The value of supply should include:**
 - (a) Any non-GST taxes, duties, cesses, fees charged separately by supplier
 - (b) Interest, late fee or penalty for delayed payment of any consideration for any supply
 - (c) Subsidies directly linked to the price except subsidies provided by the Central and State Governments
 - (d) **All of the above**

3. **Which of the following shall not be included in value of supply?**
 - (a) **GST**
 - (b) Interest
 - (c) Late fee
 - (d) Commission

4. **When can the transaction value be rejected for computation of value of supply?**
 - (a) **When the buyer and seller are related and price is not the sole consideration**
 - (b) **When the buyer and seller are related or price is not the sole consideration**
 - (c) It can never be rejected
 - (d) When the goods are sold at very low margins

5. **Which of the following statement(s) is/are correct?**
 - (a) Section 15 of CGST Act prescribes different provisions for valuation of goods and services
 - (b) CGST Act and IGST Act have different provisions for valuation of supply
 - (c) **Section 15 of CGST Act prescribes same set of provisions for valuation of goods and services**
 - (d) (a) and (b)

6. **Discount given after the supply is deducted from the value of taxable supply, if –**
 - (a) such discount is given as per the agreement entered into at/or before the supply
 - (b) such discount is linked to the relevant invoices
 - (c) proportionate input tax credit is reversed by the recipient of supply
 - (d) **all of the above**

7. **AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fees should not form part of the consideration for the sale as it is a separate activity. Is his argument correct in the light of section 15?**

Answer:

Section 15(2) mandates the addition of certain elements to transaction value to arrive at taxable value. Clause (c) of section 15(2) specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services **shall be included in taxable value.**

Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefore will be included in the taxable value. **Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be added to the price to arrive at taxable value of the consignment.**

8. **A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to Rs 3 lakh a year compared to Rs 5 lakh a year for other students.**

What would be the taxable value of the service of coaching and instruction provided by the institution?

Answer:

As per Section 15(2)(e), the Value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not from the Government but is from a philanthropic association. **Therefore, the subsidy is to be added back to the price to arrive at the taxable value, which comes to Rs 5 lakh a year.**

9. **Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.**

The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?

Answer:

This is a supply that is valued as per transaction value under Section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person. The concept of transaction value has been expanded to include certain elements like interest which are actually payable. **Once waived, the interest is not payable and is therefore, not to be added to transaction value.**

10. **Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.**

Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

Answer:

The discounts were not known or agreed at the time of supply of goods **to the dealers**. Therefore, such discounts cannot be reduced from the price on which tax had been paid in terms of Section 15(3).

TAX INVOICE

An invoice is a commercial instrument issued by a supplier of goods/services to a recipient. It identifies both the parties involved, and lists, describes the items sold/services supplied, quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and the delivery and payment terms (in case of supply of goods).

Invoicing is very crucial aspect for ensuring tax compliance under any indirect taxation system.

In order to **ensure transparency**, issuance of invoice for every taxable transaction **is a pre-requisite**. Tax invoice acts as a document evidencing the payment of the value of the goods or services or both **as also the tax portion in the same**. In certain cases, an invoice **serves as a demand for payment** and **becomes a document of title** when paid in full.

Significance of invoices **has enhanced manifolds under GST regime**. The reason behind the same is the **invoice matching mechanism** that has been introduced under GST. For the purpose of claiming the input tax credit, the invoice matching needs to be done. **The inwards supplies of the person claiming the credit (recipient) should match with the outward supplies of the supplier(s)**. Thus, a registered person cannot avail Input Tax Credit **unless he is in possession of a tax invoice or a debit note**.

Under the GST regime, an “Invoice” or “Tax Invoice” means the Tax Invoice referred to in Section 31 of the CGST Act, 2017. This section mandates the issuance of an invoice or a bill of supply for every supply of goods or services. It is not necessary that only a person supplying goods or services needs to issue an invoice. **The GST law mandates that any registered person buying goods or services from an unregistered person also needs to issue a payment voucher as well as a tax invoice.**

The provisions relating to tax invoices, debit and credit notes are contained in **Chapter VI - Tax Invoice, Credit and Debit Notes [Sections 31 to 34] of the CGST Act**.

State GST laws also prescribe identical provisions in relation to Tax Invoice, Credit and Debit Notes.

FEW DEFINITIONS

Credit Note: means a document issued by a registered person under Section 34(1) [**Section 2(37)**].

Debit Note: means a document issued by a registered person under Section 34(3) [**Section 2(38)**].

Continuous Supply of Goods: means [**Section 2(32)**]:

- ✓ a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis
- ✓ under a contract
- ✓ 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 [**Section 2(33)**]:

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

Exempt Supply: means supply of any goods or services or both which attracts **NIL rate of tax** or which may be **wholly exempt from tax under section 11 of CGST Act 2017** , or under **section 6** of the IGST Act, and includes **Non-Taxable Supply** [**Section 2(47)**].

Invoice or Tax Invoice: means the Tax Invoice referred to in Section 31 [**Section 2(66)**].

Quarter: shall mean a period comprising **3 consecutive calendar months**, ending on the last day of March, June, September and December of a calendar year [**Section 2(92)**].

TAX INVOICE [SECTION 31]

(1) A registered person supplying taxable **goods** shall, before or at the time of,-

(a) removal of goods for supply to the recipient, **where the supply involves movement of goods**; or

(b) delivery of goods or making available thereof to the recipient, in any other case

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

The Government may, on the recommendations of the Council, by notification, **specify the categories of goods or supplies** in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

Example: Ritu Manufacturers, Delhi supplies goods to Prakhar Electronics, Haryana. The goods were removed from its factory in Delhi on 23rd September. Ritu Manufacturers needs to issue a tax invoice on or before 23rd September.

(2) A registered person supplying taxable **services** shall issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed, before or after the provision of service but **within 30 days from the date of supply of services [45 days in case of Insurer or Banking Company or Financial Institution including a Non-Banking Financial Company]**

The Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, **specify the categories of services** in respect of which-

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

or

(b) tax invoice may not be issued.

Example: Katyani Security Services Ltd. provides security services to Royal Jewellers for their Jewellery Exhibition to be organized on 5th October. Katyani Security Services Ltd. needs to issue a tax invoice within 30 days of supply of security services, i.e. **on or before 4th November**.

An insurer or a banking company or a financial institution, including NBFC, or a telecom operator, or any other class of supplier of services as may be notified by the Government, making taxable supplies of **services between distinct persons** as specified in section 25 may issue the invoice **before or at the time such supplier records the same in this books of account or before the expiry of the quarter** during which the supply was made.

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

- a) a registered person may, **within 1 month from the date of issuance of certificate** of registration and in such manner as may be prescribed, **issue a revised invoice** against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;
- b) a registered person **may not issue a tax invoice** if the value of the goods or services or both supplied is **less than Rs. 200** subject to such conditions and in such manner as may be prescribed;
- c) a registered person supplying exempted goods or services or both or paying tax under the provisions of Section 10 (Composition Levy) shall issue, **instead of a tax invoice, a Bill of Supply** containing such particulars and in such manner as may be prescribed:

Further, the registered person **may not issue a bill of supply** if the value of the goods or services or both supplied is **less than Rs. 200** subject to such conditions and in such manner as may be prescribed;

- d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, **issue a Receipt Voucher** or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;
- e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, **a Refund Voucher against such payment**;
- f) a registered person who is liable to pay tax under Section 9(3)/9(4) shall **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;
- g) a registered person who is liable to pay tax under Section 9(3)/9(4) shall **issue a Payment Voucher** at the time of **making payment to the supplier**.

- (4) In case of Continuous Supply of Goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued *before or at the time each such statement is issued or, as the case may be, each such payment is received.***

(5) In case of continuous supply of services,-

- (a) where the **due date of payment is ascertainable** from the contract, the invoice shall be issued on or before the due date of payment;
- (b) where the **due date of payment is not ascertainable** from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
- (c) where the **payment is linked to the completion of an event**, the invoice shall be issued on or before the date of completion of that event.

Example: Jhanvi Cinemas entered into an annual maintenance contract with Peer Services Ltd. for one year [April -March] for the Air conditioners fitted in their theaters. As per the contract, payment for said services had to be made on 7th April. However, Jhanvi Services made the payment on 15th April. Since services provided by Peer Services Ltd. to Jhanvi Cinemas is a continuous supply of services and due date of payment is ascertainable from the contract, Peer Services Ltd. had to issue a tax invoice on or before such due date, viz. 7th April.

- (6) In a case where the **Supply of Services** ceases under a contract before the completion of the supply, the **invoice shall be issued at the time when the supply ceases** and such invoice shall be issued ***to the extent of the supply made before such cessation.***
- (7) Notwithstanding anything contained in sub-section (1), where the **goods being sent or taken on approval for sale or return** are removed before the supply takes place, the invoice shall be issued
 - a) before or at the time of supply or
 - b) **6 months** from the date of removal, **whichever is earlier.**

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** (only applicable fields are to be filled):

- (a) Name, Address and GSTIN of the Supplier;
- (b) A Consecutive Serial Number not exceeding 16 characters, in one or multiple series, containing alphabets / numerals / special characters (hyphen or dash and slash), and any combination thereof, unique for a FY;
- (c) Date of issue of Invoice;
- (d) If recipient is registered - Name, Address and GSTIN or UIN of recipient
- (e)

If recipient is unregistered and value of supply is	Particulars of Invoice
Rs 50,000 or more	Name and Address of the recipient and the address of delivery, along with the name of State and its code
less than Rs 50,000	Unregistered recipient may still request the aforesaid details to be recorded in the tax invoice

- (f) HSN Code for Goods or Services;
- (g) Description of Goods or Services;
- (h) Quantity in case of Goods and unit or Unique Quantity Code thereof;
- (i) Total Value of Supply of goods or services or both;
- (j) Taxable Value of supply of goods or services or both taking into account discount or abatement, if any;
- (k) Rate of Tax (Central Tax, State Tax, Integrated Tax, Union Territory Tax or Cess);
- (l) Amount of Tax charged in respect of taxable goods or services;
- (m) Place of Supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) Address of delivery where the same is different from the place of supply;
- (o) Whether the tax is payable on reverse charge basis; and
- (p) Signature or digital signature of the supplier or his authorized representative

Number of HSN digits required on tax invoice and class of registered person not required to mention HSN [Rule 46]

Board may, on the recommendations of the Council, by notification, specify -

- (i) the number of digits of HSN code for goods or services, that a class of registered persons shall be required to mention, for such period as may be specified in the said notification.
- (ii) the class of registered persons that would **not be required to mention the HSN code** for goods or services, for such period as may be specified in the said notification.

In this regard, Notification No. 12/2017 CT dated 28.06.2017 has notified the following:

S. No.	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
1.	AT ≤ Rs 1.5 crores	Nil
2.	Rs 5 crores ≥ AT > Rs 1.5 crores	2
3.	AT > Rs 5 crores	4

Above provisions are also applicable to Bill of Supply.

Manner of issuing the Invoice [Sections 31(1) & (2) read with rule 48]

In case of taxable supply of **Goods** : Invoice shall be prepared in **TRIPLICATE**

- ✓ Original Copy for **Recipient**
- ✓ Duplicate Copy for **Transporter**
- ✓ Triplicate for **Supplier**

In case of taxable supply of **Services** : Invoice shall be prepared in **Duplicate**

- ✓ Original Copy for **Recipient**
- ✓ Duplicate Copy for **Supplier**

Note:

The serial number of invoices issued during a tax period shall be furnished electronically [through the Common Portal – www.gst.gov.in], in **FORM GSTR-1** [Details of outward Supplies of goods or services].

Revised Tax Invoice [Section 31(3)(a) read with rule 53] When issued?

- ✓ This provision is necessary, as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the time period and registration is granted, the effective date of registration is the date on which the person became liable for registration.
- ✓ Thus there would be a time lag between the date of grant of certificate of registration and the effective date of registration. ***For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that ITC can be availed by the recipient on such supplies.***

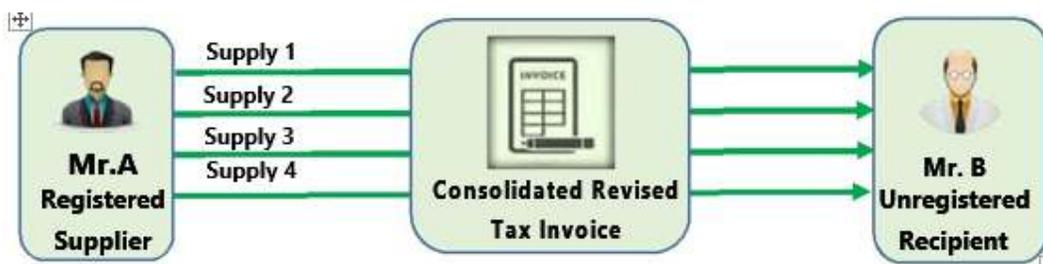
Example:

Sarabhai Private Ltd. commenced business of supply of goods on 1st April in Delhi. Its turnover exceeded Rs 20,00,000 on 3rd September. Thus it became liable to registration on 3rd September. It applied for registration on 29th September and granted registration certificate on 5th October. Since it applied for registration within 30 days of becoming liable to registration, it was granted registration with effect from 3rd September.

Sarabhai Private Ltd. may issue Revised Tax Invoices in respect of taxable supplies effected between 3rd September and 5th October.

Consolidated Revised Tax Invoices in certain cases

A registered person may issue a Consolidated Revised Tax Invoice in respect of **all taxable supplies made to an unregistered recipient during such period.**



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 Rs 2,50,000.**

Particulars of Revised Tax Invoice

- (a) The word “Revised Invoice”, wherever applicable, indicated prominently;
- (b) Name, Address and GSTIN of the Supplier;
- (c) 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;
- (d) Date of issue;
- (e) Name, Address and GSTIN or UIN, if registered, of the recipient
- (f) 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**;
- (g) Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- (h) Value of taxable supply of goods or services, rate of tax and the amount of the tax credited/debited to the recipient
- (i) Signature/digital signature of the supplier/his authorized representative.

Note: Particulars of the Debit and Credit Notes are also same as revised tax invoices.

No Tax Invoice required to be issued if value < Rs 200 – A Consolidated Tax Invoice can be issued [Section 31(3)(b) read with Rule 46]

A registered person may not issue a Tax Invoice if:

- ✓ Value of the goods/services/both supplied < Rs. 200,
- ✓ the recipient is unregistered; **and**
- ✓ the recipient does not require such invoice.

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.

Thus, small taxpayers, like small retailers, doing a large number of small transactions for upto a value of Rs 200 per transaction to unregistered customers need not issue invoice for every such transaction. They can issue one consolidated invoice at the end of each day for all transactions done during the day. However, they should also issue an invoice when the customer demands.

Above provisions are also applicable to Bill of Supply.

Example:

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S.No.	Recipient of supply	Amount
1.	Raghav Traders - a registered retail dealer	190
2.	Dhruv Enterprises – an unregistered trader	358
3.	Gaurav – a Painter [unregistered]	500
4.	Oberoi Orphanage – an unregistered entity	188
5.	Aaradhya – a Student [unregistered]	158

None of the recipients require a tax invoice [Raghav Traders being a composition dealer]. Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

SOLUTION

In the given illustration, Jain & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage [worth Rs 188] and Aaradhya [worth Rs 158] as the value of goods supplied to these recipients is less than Rs 200 **as also these recipients are unregistered and don't require a tax invoice.**

As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than Rs 200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued. Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Gaurav although both of them are unregistered. **The reason for the same is that the value of goods supplied is not less than Rs 200.**

Bill of Supply [Section 31(3)(c) read with Rule 49]

A registered person supplying exempted goods or services or both or paying tax under composition levy **shall issue a bill of supply instead of a tax invoice.**

A registered person opting for the composition levy does not collect tax from the recipient on outward supplies made by him. Similarly, in case of a registered person supplying exempted goods and/or services, no tax implications are there. Recipients should not expect Tax Invoice from such suppliers as they cannot issue tax invoice.

Since no tax is collected from the recipient by a registered person opting for the composition levy as well as registered person supplying exempted goods and/or services, **Bill of Supply issued by such persons does not contain the details pertaining to rate of tax and amount of tax. Further, value to be mentioned in the Bill of Supply is not also taxable value.**

Particulars of Bill of Supply

- (a) Name, Address and GSTIN of the Supplier;
- (b) A consecutive serial number not exceeding 16 characters, in one or more multiple series, containing alphabets or numerals or special characters and any combination thereof, unique for a FY;
- (c) Date of its issue;
- (d) Name, Address and GSTIN or UIN, if registered, of the recipient;
- (e) HSN Code for goods or services;
- (f) Description of goods or services or both;
- (g) **Value** of supply of goods or services or both taking into account discount/ abatement, if any; and
- (h) Signature/Digital Signature of supplier/his authorized representative.

Note:

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.

Example:

Patel & Sons is a manufacturer of goods who has opted for composition levy under section 10. It will issue a Bill of Supply to the buyers of goods and not the tax invoice as it does not collect any tax from the buyers, but amount at the rate specified under section 10.

Receipt Voucher [Section 31(3)(d) read with rule 50]

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.

Particulars of Receipt Voucher

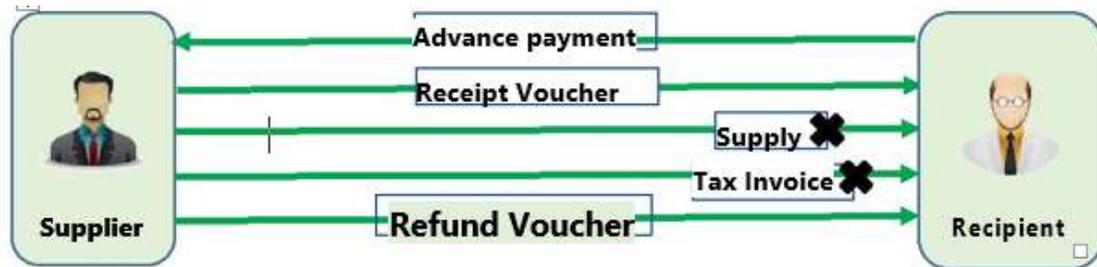
- (a) Name, Address and GSTIN of the Supplier;
- (b) A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters and any combination thereof, unique for a FY
- (c) Date of its issue;
- (d) Name, Address and GSTIN or UIN, if registered, of the recipient;
- (e) Description of goods or services;
- (f) Amount of advance taken;
- (g) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) 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**;
- (j) Whether the tax is payable on reverse charge basis; and
- (k) Signature/digital signature of supplier/his authorized representative

Where at the time of receipt of advance, rate of tax/ nature of supply is not determinable

- (i) Rate of tax is not determinable tax shall be paid **at the rate of 18%**
- (ii) nature of supply is not determinable, same **shall be treated as inter-State supply**

Refund Voucher [Section 31(3)(e) read with rule 51]

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a Refund Voucher against such payment.

**Particulars of Refund Voucher**

- (i) Name, Address and GSTIN of the Supplier;
- (ii) 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 and any combination thereof, unique for a FY;
- (iii) Date of its issue;
- (iv) Name, address and GSTIN or UIN, if registered, of the recipient;
- (v) **Number and date of Receipt Voucher issued**
- (vi) Description of goods/services in respect of which refund is made
- (vii) Amount of refund made
- (viii) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess)
- (ix) Amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess)
- (x) Whether the tax is payable on reverse charge basis; and
- (xi) Signature/digital signature of supplier/his authorized representative

Invoice and Payment Vouchers to be issued by recipient of supply liable to pay tax under reverse charge [Section 31(3)(f) & (g) read with second proviso to rule 46 and rule 52]

Recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes. Such supplies can be received from a registered or an unregistered supplier [Section 9(3)].

Further, recipient [who is registered] is also liable to pay tax where taxable goods/services/both have been received from an unregistered supplier [Section 9(4)].

A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall 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.

Thus, a recipient liable to pay tax by virtue of section 9(3) has to issue invoice only when supplies have been received from an unregistered supplier.

It is important to note here that intra-State supplies of goods and/or services received by a registered person from an unregistered supplier are exempt from tax provided the aggregate value of such supplies received from any/all unregistered suppliers is upto Rs 5,000 in a day [Notification No. 08/2017 CT dated 28.06.2017].

Further, where the aggregate value of such supplies covered under section 9(4) exceeds Rs 5,000 in a day from any/all the unregistered suppliers, ***the registered person may issue a consolidated invoice at the end of the month. This provision also applies to a Bill of Supply.***

Besides, 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

- (a)** Name, Address and GSTIN of the Supplier if registered;
- (b)** 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
- (c)** Date of its issue;
- (d)** Name, Address and GSTIN of the Recipient;
- (e)** Description of Goods or Services;
- (f)** Amount paid;
- (g)** Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h)** Amount of tax payable in respect of taxable goods or services;
- (i)** 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
- (j)** Signature/digital signature of supplier/his authorized representative

Supplier permitted to issue any document other than tax invoice [Section 31(2) and proviso to section 31(1) read with rules 54 and 55]

Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, **specify the categories of services** in respect of which—

- (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- (b) tax invoice may not be issued.

Further, Government may, on the recommendations of the Council, by notification, specify the **categories of goods or supplies** in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

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	Optional information	Mandatory information
Insurer/Banking company/ Financial institution, including NBFC	<ul style="list-style-type: none"> ✓ Serial number ✓ Address of the recipient of taxable service 	<ul style="list-style-type: none"> ✓ Other information as prescribed for a Tax Invoice, under rule 46 ✓ Such document may be issued/made available, physically/electronically
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage		<ul style="list-style-type: none"> ✓ Gross weight of the consignment ✓ Name of the consignor and the consignee ✓ Registration number of goods carriage in which the goods are transported ✓ Details of goods transported ✓ Details of place of origin and destination ✓ GSTIN of the person liable for paying tax whether as consignor, consignee or GTA ✓ Other information as prescribed for a tax invoice, under rule 46

Supplier of passenger transportation service	✓ Serial number ✓ Address of the recipient of taxable service	✓ Other information as prescribed for a tax invoice, under rule 46 ✓ Tax invoice shall include ticket in any form, by whatever name called
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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

- a. Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
- b. Transportation of goods for job work,
- c. Transportation of goods for reasons other than by way of supply, or
- d. Such other supplies as may be notified by the Board

Particulars of Delivery Challan

- a. Date & number of the Delivery Challan
- b. Name, Address and GSTIN of the Supplier if registered;
- c. A consecutive serial number not exceeding 16 characters, in one or multiple series
- d. Name, Address and GSTIN of the Recipient;
- e. HSN Code & Description of Goods;
- f. Quantity (provisional, where the exact quantity being supplied is not known)
- g. Taxable value
- h. 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
- i. Place of supply, in case of inter-state movement
- j. Signature

Note: Delivery challan will be issued at the time of removal of goods for transportation.

A. Delivery challan in Triplicate

The delivery challan shall be prepared in **TRIPLICATE**, in case of supply of goods, in the following manner:

- ✓ **Original Copy** for Consignee
- ✓ **Duplicate Copy** for Transporter
- ✓ **Triplicate** for Consignor

B. Declaration in E-way Bill

Where goods are being transported **on a delivery challan in lieu of invoice**, the same shall be **declared in E-Way Bill**.

C. Tax invoice to be issued after delivery of goods

Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, **the supplier shall issue a tax invoice after delivery of goods**.

D. Goods transported in SKD/CKD condition

- (a) Where the goods are being transported in a semi knocked down or completely knocked down condition, 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**.

CREDIT AND DEBIT NOTES [SECTION 34]

- (1) Where a tax invoice has been issued for supply of any goods or services or both and
- (a) the **taxable value** or **tax charged** in that tax invoice is **found to exceed** the taxable value or tax payable in respect of such supply, or
 - (b) where the **goods supplied are returned** by the recipient, or
 - (c) where goods or services or both supplied **are found to be deficient**,
- the **registered person, who has supplied such goods** or services or both, **may issue to the recipient a credit note** containing such particulars as may be prescribed
- (2) 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 September 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***, and the tax liability shall be adjusted in such manner as may be prescribed.
- However, no reduction in output tax liability of the supplier shall be permitted, **if the incidence of tax and interest on such supply has been passed on to any other person.**
- (3) Where a **tax invoice** has been issued for supply of any goods or services or both and the **taxable value** or **tax charged** in that tax invoice is **found to be less than** the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, **shall issue to the recipient a Debit Note** containing such particulars as may be prescribed.
- (4) 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*** and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation.—For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.

PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]

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.

No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

**AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER DOCUMENTS
[SECTION 33]**

Notwithstanding anything contained in this Act or any other law for the time being in force, 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.

TEST YOUR KNOWLEDGE

1. In case of taxable supply of services, invoice shall be issued within a period of _____ from the date of supply of service.
 - (a) 30 days
 - (b) 45 days
 - (c) 60 days
 - (d) 90 days

2. In case of taxable supply of services by an insurer, invoice shall be issued within a period of _____ from the date of supply of service.
 - (a) 30 days
 - (b) 45 days
 - (c) 60 days
 - (d) 90 days

3. In case of continuous supply of services, where due date of payment is ascertainable from the contract, invoice shall be issued:
 - (a) before or at the time when the supplier of service receives the payment
 - (b) on or before the due date of payment
 - (c) Either (a) or (b)
 - (d) None of the above

4. In case of continuous supply of services, where due date of payment is not ascertainable from the contract, invoice shall be issued:
 - (a) before or at the time when the supplier of service receives the payment
 - (b) on or before the due date of payment
 - (c) Either (a) or (b)
 - (d) None of the above

5. Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued:
 - (a) before/at the time of supply
 - (b) 6 months from the date of removal
 - (c) Earlier of (a) or (b)
 - (d) None of the above

6. Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Sultan Industries Ltd. under GST law.

Answer:

As per the provisions of Section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, **where the supply involves movement of goods**. Accordingly, in the given case, the invoice must be **issued on or before 29th September**.

7. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

Answer:

Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided **continuously or on recurrent basis, under a contract, for a period exceeding 3 months** with the periodic payment obligations.

Therefore, the given situation **is a case of continuous supply of service** as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, **where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.**

Therefore, in the given case, MBM Caretakers should issue quarterly invoices **on or before April 1, July 1, October 1, and January 1.**

8. **The aggregate turnover of Sangri Services Ltd. exceeded Rs. 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advise Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.**

Answer:

As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration.

Since, Sangri Services Ltd.'s turnover exceeded Rs 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, **the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.**

As per section 31 read with CGST Rules, 2017, 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.**

Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) **within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.**

9. **Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.**

Answer:

A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed [Section 31(3)(c) read with CGST Rules, 2017].

Therefore, in the given case, Shyam Fabrics **cannot issue tax invoice. Instead, it shall issue a Bill of Supply.**

10. Discuss the provisions relating to issuance of refund voucher under CGST Act and rules thereunder.
11. Is a registered person liable to pay tax under reverse charge under section 9(3)/9(4) of the CGST Act required to issue an invoice? Discuss the relevant provisions under CGST Act and rules thereunder.
12. Discuss the provisions relating to issuance of credit and debit notes under CGST Act and rules thereunder.
13. What is the time period within which invoice has to be issued for supply of services?
14. What is the time period within which invoice has to be issued in a case involving continuous supply of goods?
15. What is the time period within which invoice has to be issued in a case involving continuous supply of services?
16. What is the time period within which invoice has to be issued where the goods being sent or taken on approval for sale?

PAYMENT OF TAX

The introduction of **E-ledgers** is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are **Statements of Cash** (Electronic Cash Ledger) and **Input Tax Credit** (Electronic Credit Ledger) in respect of each registered taxpayer. In addition, each taxpayer shall also have an Electronic Tax Liability register (**Electronic Liability Ledger**).

Once a taxpayer is registered on common portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an Electronic Tax Liability register will be automatically opened and displayed on his dash board at all times.

Chapter X of the CGST Act prescribes the provisions relating to payment of tax containing **Sections 49 to 53**.

While **Section 49 discusses the 3 ledgers** namely the Electronic Cash Ledger, Electronic Credit Ledger and Electronic Liability Register, **Section 50 discusses** about the interest on delayed payment of tax. **Section 51 lays** down the circumstances in which tax deduction at source (TDS) becomes mandatory. **Section 52 deals** with the circumstances when tax is to be collected at source (TCS) by the Electronic Commerce Operator. Further, the manner of utilization of ITC is **laid down in Section 53**.

Chapter IX of CGST Rules deals with provisions relating to payment of tax.

Provisions of payment of tax under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

FEW 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)].

Authorised Bank shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act [Section 2(14)].

Electronic Cash Ledger means the electronic cash ledger referred to in sub-section (1) of Section 49 [Section 2(43)].

Electronic Credit Ledger means the electronic credit ledger referred to in sub-section (2) of section 49 [Section 2(46)].

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-**

- ✓ the integrated goods and services tax charged on import of goods;
- ✓ the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- ✓ the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
- ✓ 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
- ✓ 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)].

Output Tax in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].

Input Tax Credit means the credit of input tax [Section 2(63)].

Valid Return means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49]

- (1) Every deposit made towards Tax, Interest, Penalty, Fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be **credited to the Electronic Cash Ledger** of such person to be maintained in such manner as may be prescribed.
- (2) The ITC as self-assessed in the return of a registered person shall be **credited to his Electronic Credit Ledger**, in accordance with section 41, to be maintained in such manner as may be prescribed.
- (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 this Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed.
- (4) The amount available in the **Electronic Credit Ledger may be used for making any payment towards output tax (tax only)** under this Act or **under the Integrated Goods and Services Tax Act** in such manner and subject to such conditions and within such time as may be prescribed.
- (5) **The amount of ITC available in the Electronic Credit Ledger of the registered person on account of-**
- (a) **Integrated Tax (IGST) shall first be utilised** towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
 - (b) the **Central Tax (CGST) shall first be utilised** towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
 - (c) the **State Tax (SGST) shall first be utilised** towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
 - (d) the **Union Territory tax (UTGST) shall first be utilised** towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
 - (e) the central tax (CGST) **shall not be** utilised towards payment of State tax or Union territory tax; and
 - (f) the State tax or Union territory tax **shall not be** utilised towards payment of central tax.

- (6) The **balance in the Electronic Cash Ledger or Electronic Credit Ledger** after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder **may be refunded** in accordance with the provisions of section 54.
- (7) All liabilities of a taxable person under this Act shall be **recorded and maintained in an Electronic Liability Register** in such manner as may be prescribed.
- (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made **thereunder in the following order**, namely:-
- (a) self-assessed tax, and other dues related to returns of **previous tax periods**;
 - (b) self-assessed tax, and other dues related to the return of **the current tax period**;
 - (c) any other amount payable under this Act or the rules made thereunder **including the demand determined under Section 73 or Section 74**;
- (9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, **be deemed to have passed on the full incidence of such tax** to the recipient of such goods or services or both.

Explanation:

For the purposes of this Section,-

- (a) the **date of credit to the account of the Government in the authorised bank** shall be deemed to be the date of deposit in the electronic cash ledger;
- (b) the expression,-
- (i) **“Tax Dues” means** the tax payable under this Act and **does not include interest, fee and penalty**; and
 - (ii) **“Other Dues” means** interest, penalty, fee or any other amount payable under this Act or the rules made there under.

Rule 85: Electronic Liability Register [Chapter IX: Payment of Tax of the CGST Rules]

- (1) The Electronic Liability Register specified under Section 49(7) shall be maintained in **FORM GST PMT-01** for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him **shall be debited to the said register**.
- (2) **The Electronic Liability Register of the person shall be debited by:-**
 - (a) the amount payable towards tax, interest, late fee or any other amount payable **as per the return** furnished by the said person;
 - (b) the amount of tax, interest, penalty or any other amount payable **as determined by a proper officer** in pursuance of any proceedings under the Act or as ascertained by the said person;
 - (c) the amount of tax and interest payable **as a result of mismatch** under Section 42 or Section 43 or Section 50; or
 - (d) any **amount of interest** that may accrue from time to time.
- (3) Subject to the provisions of Section 49, payment of every liability by a registered person as per his return shall be made **by debiting the Electronic Credit Ledger** maintained as per Rule 86 or the **Electronic Cash Ledger** maintained as per Rule 87 and the **Electronic Liability Register shall be credited accordingly**.
- (4) The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act **shall be paid by debiting the electronic cash ledger** maintained as per rule 87 and the **electronic liability register shall be credited accordingly**.
- (5) Any **amount of Demand debited** in the Electronic Liability Register **shall stand reduced** to the extent of **relief given by the appellate authority** or Appellate Tribunal or court and the electronic tax liability register **shall be credited** accordingly.
- (6) The amount of penalty imposed or liable to be imposed **shall stand reduced partly or fully**, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the **electronic liability register shall be credited** accordingly.
- (7) A registered person shall, upon **noticing any discrepancy** in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

Rule 87: Electronic Credit Ledger

- (1) The **electronic credit ledger shall be maintained in FORM GST PMT-02** for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be **credited** to the said ledger.
- (2) The electronic credit ledger shall be **debited** to the extent of discharge of any liability in accordance with the provisions of section 49.
- (3) Where a registered person has claimed **refund** of any unutilized amount from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim shall be **debited** in the said ledger.
- (4) If the refund so filed is rejected, either fully or partly, the amount **debited** under sub- rule (3), to the extent of rejection, shall be **re-credited** to the electronic credit ledger by the proper officer by an **order made in FORM GST PMT-03**.
- (5) No entry shall be made directly in the electronic credit ledger under any circumstance.
- (6) A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, **through the common portal in FORM GST PMT-04**.

Explanation:

For the purposes of this rule, it is hereby clarified that a **refund shall be deemed to be rejected**, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

Rule 87 Electronic Cash Ledger

- (1) The **electronic cash ledger** under sub-section (1) of section 49 shall be maintained in **FORM GST PMT-05** for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal **for crediting the amount deposited and debiting the payment therefrom** towards tax, interest, penalty, fee or any other amount.
- (2) Any person, or a person on his behalf, **shall generate a challan in FORM GST PMT-06** on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.
- (3) **The deposit under sub-rule (2) 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 (NEFT) or Real Time Gross Settlement (RTGS) from any bank; or
 - (iv) **Over the Counter payment through authorised banks for deposits up to Rs. 10,000 per challan per tax period, by cash, cheque or demand draft.**

The restriction for deposit up to Rs. 10,000 per challan in case of an Over the Counter payment shall 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:

The **challan in FORM GST PMT-06** generated at the common portal shall be **valid for a period of 15 days**.

Explanation For the purposes of this sub-rule, it is hereby clarified that for making payment of any amount indicated in the **challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.**

- (4) Any payment required to be made by a person who is not registered under the Act, shall be made **on the basis of a Temporary Identification Number generated** through the common portal.

- (5) Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement mode from any bank, **the mandate form shall be generated along with the challan** on the common portal and the **same shall be submitted to the bank** from where the payment is to be made. [The mandate form **shall be valid for a period of 15 days** from the date of generation of challan.]
- (6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a **Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.**
- (7) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be **credited to the electronic cash ledger** of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.
- (8) Where the bank account of the person concerned, or the person making the deposit on his behalf, is **debited** but no Challan Identification Number is generated or **generated but not communicated** to the common portal, the said person may **represent electronically in FORM GST PMT-07** through the common portal to the bank or electronic gateway through which the deposit was initiated.
- (9) Any amount deducted under section 51 or collected under section 52 and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be **credited to his electronic cash ledger** in accordance with the provisions of rule 87.
- (10) Where a person has **claimed refund** of any amount from the electronic cash ledger, the said amount shall be **debited** to the electronic cash ledger.
- (11) If the refund so claimed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, **shall be credited** to the electronic cash ledger by the proper officer by an **order made in FORM GST PMT-03.**
- (12) A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, **through the common portal in FORM GST PMT-04.**

For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

Rule 88: Identification number for each transaction

- (1) A **unique identification number** shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.
- (2) The **unique identification number** relating to discharge of any liability shall be indicated in the **corresponding entry in the electronic liability register**.
- (3) A **unique identification number** shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).

What are 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.**

CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. **CIN is communicated by the authorized bank to taxpayer as well as to GSTN.**

- **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.**

- **Are manual Challans applicable as allowed earlier under the VAT regimes?**

Manual or physical Challans are not allowed under the GST regime. **It is mandatory to generate Challans online on the GST Portal.**

- **How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?**

There is **single Challan** prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

Manner of utilization of amount reflected in Electronic Cash Ledger – Section 49(3)

The amount reflected in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fee, or any other amount under the relevant tax head in the prescribed manner.

In the 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**.

A registered taxpayer can make cash deposits in the recognized Banks through the prescribed modes to the Electronic Cash Ledger using any of the Online or Offline modes permitted by the GST Portal. The Cash deposits can be used for making payment(s) like tax liability, interest, penalties, fee, and others.

🚩 **How can the cash available in the Electronic Cash Ledger be utilised? Can a taxpayer utilise the amount available in any minor head of a major head for any other minor head of the same major head?**

The amount available in the Electronic Cash Ledger can be utilised for payment of any liability for the respective major and minor heads. For example, liability for the tax under SGST/UTGST can be settled only from the available amount of cash under SGST/UTGST Major head.

Example: An amount of Rs 1,000 is available under minor head 'tax' of major head 'SGST/UTGST' and the taxpayer has a liability of Rs 200 for minor head 'interest' under the same major head 'SGST/UTGST'. Since, there is no amount available under minor head 'interest' under major head "SGST/UTGST", therefore, interest payment **cannot be made** from the amount available under 'tax' of the same major head

Is transfer of funds between the major heads permissible for discharging liabilities?

Amount available under one major head (SGST/UTGST, CGST, IGST or CESS) **cannot be utilised** for discharging the liability under any other major head. For example, amount available in SGST/UTGST cannot be utilised for discharging liabilities under CGST, IGST, or CESS and vice versa

Transfer of Input Tax Credit

Section 53 of CGST Act provides simple but important modus operandi in respect of post CGST utilisation towards IGST liability. Under section 49(5)(b),(c) and (d) of the Act, CGST/SGST/UTGST credits can be utilised by a tax payer on priority basis to respective CGST/SGST/UTGST dues first.

Then, in case of CGST, balance, if any, can be used to pay towards IGST. **If used so, there shall be reduction in central tax caused by Central Government and equal credit shall be ensured to IGST in the prescribed manner.**

What happens if the taxable person files the return but does not make payment of tax?

In such cases, the return is **not considered as a valid return**. Section 2(117) defines a valid return to mean a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid **in full**. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient.

In other words, **unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return**, the ITC of the recipient would not be confirmed.

Common Points for Electronic Cash & Credit Ledger

- (1) Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount **shall be debited to the electronic cash or credit ledger**.
- (2) If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, **shall be credited to the electronic cash or credit ledger** by the proper officer by an order made in prescribed form

Chapter IX of CGST Rules provide the following:**(i) 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;
- The amount of tax and interest as a result of mismatch.
- Any interest amount that may accrue from time to time.

(ii) Debit to Electronic Credit/Cash ledger:**Debit to Electronic Credit Ledger and Credit to Electronic Liability Register-**

- ✓ Payment of all the liabilities of a registered person as per his return subject to section 49.

Debit to Electronic Cash Ledger and Credit to Electronic Liability Register

- ✓ Payment of all the liabilities of a registered person as per his return subject to section 49.
- ✓ Payment of TDS deducted under section 51, TCS deducted by ECO 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.

How do the new payment systems benefit the taxpayer and the Commercial Tax Department?

- No more queues and waiting for making payments as payments can be made online 24 X 7.
- Instant online receipts for payments made online.
- Tax Consultants can make payments on behalf of the clients.
- Single Challan form to be created online, replacing the three or four copy Challan.
- Revenue will come earlier into the Government Treasury as compared to the old system.
- Greater transparency.
- Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but **fails to pay** the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, **not exceeding 18%**, as may be notified by the Government on the recommendations of the Council.

[Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum.]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the **day succeeding the day on which such tax was due to be paid**.

(3) A taxable person who makes an **undue or excess claim of ITC** under Section 42(10) or **undue or excess reduction in output tax liability** under Section 43(10), **shall pay interest** on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate **not exceeding 24%**, as may be notified by the Government on the recommendations of the Council.

[Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 24% per annum.]

Other relevant points:

- The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.
- The interest payable under this section shall be debited to the Electronic Liability Register.
- The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger but not with balance in electronic credit ledger.

TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SECTION 19 OF IGST ACT]

Payment of tax based on erroneous determination of 'nature of supply' is **not permitted** to be adjusted.

Remedy lies in refund.

Taxable person who has paid tax in error is entitled to refund by first restoring the discharge of the correct tax due so that the incorrect tax paid reflects on the common portal as 'paid in excess' and

(a) IGST paid in error will be refunded subject to conditions prescribed

(b) IGST payable due to payment of CGST & SGST/UTGST is exempted from payment of interest on IGST due.

TEST YOUR KNOWLEDGE

- (1) Which of these electronic ledgers are maintained online?
- (a) Electronic liability register
 - (b) Electronic credit ledger
 - (c) Electronic cash ledger
 - (d) **All of the above**
- (2) Deposits towards tax, penalty, interest, fee or any other amount are credited into the----- of a taxable person.
- (a) Electronic liability register
 - (b) Electronic credit ledger
 - (c) **Electronic cash ledger**
 - (d) All of the above
- (3) Input tax credit as self-assessed in the return of the registered person shall be credited to which of the following ledger?
- (a) Electronic liability register
 - (b) **Electronic credit ledger**
 - (c) Electronic cash ledger
 - (d) All of the above
- (4) Which of the following items are debited to electronic credit ledger?
- (a) **Output tax**
 - (b) Interest
 - (c) Penalty
 - (d) All of the above
- (5) Balance in electronic credit ledger under SGST can be used against which liability?
- (a) SGST Liability only
 - (b) **SGST and IGST liability**
 - (c) SGST, IGST and CGST liability
 - (d) None of the above
- (6) Which input tax credit cannot be claimed against which output tax liability?
- (a) IGST, SGST
 - (b) CGST, IGST
 - (c) SGST, IGST
 - (d) **CGST, SGST**
- (7) Interest is payable on:-
- (a) Belated payment of tax
 - (b) Undue/excess claim of input tax credit
 - (c) Undue/ excess reduction in output tax liability
 - (d) **All of the above**
- (8) Which of the following liability cannot be adjusted against input tax credit of CGST?
- (a) IGST
 - (b) **SGST/UTGST**
 - (c) All of the above
 - (d) None of the above
- (9) Which of the following shall be discharged first, while discharging liability of a taxable person?
- (a) **All dues related to previous tax period**
 - (b) All dues related to current tax period
 - (c) Demand raised under section 73 and 74
 - (d) No such condition is mandatory
- (10) Interest is calculated:-
- (a) **From the day following the day on which tax becomes due to be paid**
 - (b) From the last day such tax was due to be paid
 - (c) No period is specified
 - (d) None of the above

(11) Which of the following statement is true: Which date is considered as date of deposit of the tax dues

- (a) Date of presentation of cheque or
- (b) Date of payment or
- (c) **Date of credit of amount in the account of Government**

(12) How many types of electronic ledger are there?

Answer:

- (a) Electronic cash ledger
- (b) Electronic credit ledger
- (c) **Electronic liability register**

(13) What are the main features of GST payment process?

(14) Explain the following terms in brief:

- (a) **E-FPB**
- (b) **CPIN**
- (c) **CIN**

(15) Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Answer:

No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.

As per Section 2 (82) of the CGST Act, 2017, output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

(16) Are principles of unjust enrichment applicable for payment made under GST?

Answer:

Yes, as per Section 49 (9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

(17) State the name of output tax under GST, where any of the input tax credit under GST can be availed?

Answer:

IGST.

IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.

(18) ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self assessed tax of Rs. 2,50,000 which was not paid. Explain what are the implications for ABC limited as per relevant provisions?

Answer:

As per section 2(117) of CGST Act, "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

INPUT TAX CREDIT

In earlier indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government was governed **by the CENVAT Credit Rules, 2004**; and the credit mechanism for state-level VAT on sale of goods was governed **by the States** under their respective VAT Acts and Rules.

The VAT legislations allowed ITC of VAT on inputs and capital goods in transactions within the state, **but not on inputs and capital goods coming in the State from outside the state**, on which central sales tax was paid.

CENVAT Credit Rules, 2004 allowed availing and utilization of credit of duty/tax paid on both goods (capital goods and inputs) and services **by the manufacturers and the service providers** across the country.

The credit across goods and services was integrated vide the CENVAT Credit Rules, 2004 in the year 2004 to mitigate the cascading effects of central levies namely, central excise and service tax. **However, the credit chain remained fragmented on account of State -Level VAT as the credit of central taxes could not be set off against a State levy and vice versa.** The chain further got distorted as ITC was not available on inter -State purchases. This resulted in cascading of taxes leading to increase in costs of goods and services.

The GST regime promises seamless credit on goods and services across the entire supply chain with **some exceptions like supplies charged to tax under composition scheme and supply of exempted goods and/or services.**

ITC is considered to be the backbone of the GST regime. In fact, it is the provisions of ITC which essentially make GST a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

Chapter V of the CGST Act [Sections 16 to 21] & Chapter V: Input Tax Credit of the CGST Rules [Rules 36-45] prescribed the provisions relating to ITC. State GST laws also prescribe identical provisions in relation to ITC.

FEW 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)].
- **Inward Supply** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration [Section 2(67)].
- **Taxable Supply** means a supply of goods or services or both which is leviable to tax under CGST Act [Section 2(108)].
- **Zero-Rated Supply** means any of the following supplies of goods or services or both, namely:-
 - ✓ Export of goods or services or both; or
 - ✓ Supply of goods or services or both to a **Special Economic Zone (SEZ) developer** or a **Special Economic Zone unit** [Section 16(1) of IGST Act].

ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [SECTION 16]

1. Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in Section 49, be entitled to take credit of input tax charged on any supply of goods or services or both **to him** which are **used or intended to be used in the course or furtherance of his business** and the said amount shall be credited to the electronic credit ledger of such person.

2. **Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,— [4 Points]**

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed

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

- (i) Invoice issued by a supplier of goods and/or services
- (ii) Invoice issued by recipient (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge)
- (iii) A debit note issued by supplier
- (iv) Bill of entry or similar document prescribed under Customs Act
- (v) Revised invoice
- (vi) Document issued by Input Service Distributor

Note: Section 16 and the CGST Rules do not specify that a particular copy of the invoice alone will form the basis of taking ITC. However, rule 48 of the CGST Rules specifies that the original copy is for the recipient of goods. The original copy may preferably be kept for record to support the credit entry.

(b) he has received the goods or services or both

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods **where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person**, whether acting as an agent or otherwise, before or during movement of goods, **either by way of transfer of documents of title to goods or otherwise;**

“Bill to Ship to” Model also included:

Under this model, the **goods are delivered to a third party on the direction of the registered person who purchases the goods from the supplier.** Receipt of goods u/s 16(2)(b) includes delivery to another person on the direction of the registered person by way of transfer of documents of title to goods or otherwise either before or during the movement of goods. It would be deemed that the registered person has received the goods in such scenario. **So, ITC will be available to the registered person on whose order the goods are delivered to third person.**

Example A is a trader who places an order on B for a consignment of soda ash. A receives a buying order from C for the same quantity of soda ash. A instructs B to deliver the goods to C, and in turn he raises an invoice on C. Though the goods are not physically received at the premises of A, the condition of section 16(2)(b) is satisfied, **and A is entitled to ITC on the consignment.**

- (c) **subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government,** either in cash or through utilisation of input tax credit admissible in respect of the said supply

However, **provisional ITC can be taken initially,** prior to matching in the common portal, and used for payment of self-assessed tax on outward supply.

- (d) **he has furnished the return under section 39**

Note: The details of inward supplies are to be filed in **GSTR-2 by the 15th of the month** succeeding the month in which the supplies were received. **With the furnishing of such details, electronic credit ledger gets credited with the relevant ITC.**

Where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Example:

XYZ makes an advance payment in August and orders 10 MT of a particular chemical which is in short supply. The supplier of the chemical raises a bill for the entire amount in August and collects GST from XYZ on the advance paid. The chemical is delivered in lots over a period of three months and the supply is completed in November. Though XYZ paid some tax in advance as early as August, he can take the ITC only on receipt of last instalment of the chemical in the month of November.

Payment for the invoice to be made within 180 days

Further **where a recipient fails to pay** to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the **value of supply along with tax payable** thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the ITC availed by the recipient **shall be added to his output tax liability, along with interest** thereon, in such manner as may be prescribed:

Further, the recipient shall be **entitled to re-avail of the credit of input tax on payment** made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

- ✓ The registered person must pay 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, the details of such supplies and corresponding credits thereon must be **furnished in the GSTR 2** of the **month immediately following such 180 days**. Such credits availed by the registered person would be added to his output tax liability of the month in which the details are furnished, with interest.
- ✓ Interest will be paid @ 18% from the date of availing credit till the date when amount is added to output tax liability.
- ✓ However, once the payment is made, the recipient will be entitled to avail the credit again **without any time limit**.
- ✓ **In case part payment has been made, proportionate credit would be allowed.**

Exceptions

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

- Supplies on which tax is payable **under reverse charge**
- Deemed supplies **without consideration**

Example:

Due to a quality dispute, PZP Ltd withheld payment on a machine supplied by a vendor till it could be rectified. Over 180 days went by in this dispute. The credit taken by PZP on the invoice got added to the output tax liability of PZP and thus, it had to pay back the credit. Only after the vendor rectified the machine and PZP released the payment, could PZP take the credit again.

3. Where the registered person has claimed depreciation on the tax component of the cost of CGs and P&M under the provisions of the Income-tax Act, 1961, **the ITC on the said tax component shall not be allowed.**

4. A registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both **after the due date of furnishing of the return under section 39 for the month of September** following the end of financial year to which such invoice or invoice relating to such debit note pertains or **furnishing of the relevant annual return, whichever is earlier.**

Time limit for availing ITC: Due date of filing of return for the month of September of succeeding financial year or date of filing of annual return, whichever is earlier [Sec 16(4)]

It may be noted that the return for the month of September is to be filed by 20th October and annual return of a financial year is to be filed by 31st December of the succeeding financial year.

So, the upper time limit for taking ITC is 20th October of the next financial year or the date of filing of annual return, whichever is earlier. The underlying reasoning for this restriction is that no change in return is permitted after September of next financial year. If annual return is filed before the month of September, then no change can be made after filing of annual return.

Exception: The time limit u/s 16(4) does not apply to claim for re-availing of credit that had been reversed earlier.

Hercules Machinery delivered a machine to XYZ in January 2018 under Invoice no. 49 dated 28th January, 2018 for Rs 4,15,000 plus GST, and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for the post delivery activities was covered in a debit note raised in April 2018 for Rs 50,000 plus GST. **Hercules Machinery did not file its annual return till October, 2018.**

Though the debit note was received in the next financial year, **it relates to an invoice received in the financial year ending March 2018.**

Therefore, the time limit for taking ITC available on Rs 50,000 as well as on Rs 4,15,000 is 20th October, 2018; earlier of the date of filing the annual return for 2017-18 or the return for September 2018.

Rule 36: Documentary requirements and conditions for claiming ITC

1. **The ITC shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-**
 - (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
 - (b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
 - (c) a debit note issued by a supplier in accordance with the provisions of section 34;
 - (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
 - (e) an input service distributor invoice or input service distributor credit note or any document issued by an input service distributor.

2. ITC shall be availed by a registered person only if **all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document**, and the relevant information, as contained in the said document, **is furnished in FORM GSTR-2** by such person.

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

Rule 37: Reversal of ITC in the case of non-payment of consideration

(1) A registered person, who has availed of ITC on any inward supply of goods or services or both, **but fails to pay to the supplier thereof the value of such supply along with the tax payable thereon within the time limit specified** in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply, the amount of value not paid and the amount of ITC availed of proportionate to such amount not paid to the supplier **in FORM GSTR-2 for the month immediately following the period of 180 days from the date of the issue of the invoice.**

The value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.

(2) The amount of ITC referred to in sub-rule (1) shall be **added to the output tax liability** of the registered person for the month in which the details are furnished.

(3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.

(4) The time limit specified in sub-section (4) of section 16 **shall not apply to a claim for re-availing of any credit**, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.

APPORTIONMENT OF CREDIT & BLOCKED CREDITS [SECTION 17]

1. Where the goods or services or both are used by the registered person partly for the purpose of any business **and partly for other purposes**, the amount of credit shall be **restricted to so much of the input tax as is attributable to the purposes of his business**.
2. Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act **and partly for effecting exempt supplies** under the said Acts, the amount of **credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies**.
3. The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall **include supplies on which the recipient is liable to pay tax on reverse charge basis**, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
4. A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the **option to either comply with the provisions of sub-section (2)**, or avail of, every month, an amount **equal to fifty per cent of the eligible input tax credit** on inputs, capital goods and input services in that month and the rest shall lapse.

The option once exercised **shall not be withdrawn during the remaining part** of the financial year:

The **restriction of 50% shall not apply** to the tax paid on supplies made by one registered person to another registered person **having the same Permanent Account Number**.

Blocked credits [Section 17(5)]

ITC of tax paid on almost every inputs and input services used for supply of taxable goods or services or both is allowed under GST except a small list of items provided u/s 17(5). The negative list covers mainly items of personal consumption, inputs use of which results into formation of an immovable property (except plant and machinery), telecommunication towers, pipelines laid outside the factory premises, etc. and taxes paid as a result of detection of evasion of taxes. The detailed list is given hereunder:

(a) Motor Vehicles and Conveyances, EXCEPT WHEN USED

- For transportation of goods
- For making the following taxable supplies:
 - Further supply of such vehicles or conveyances; or
 - Transportation of passengers; or
 - Imparting training on driving, flying, navigating such vehicles or conveyances.

Example: A car dealer is allowed ITC on cars purchased for resale; a cab service is allowed ITC on cars purchased for use as cabs; a driving school is allowed ITC on cars purchased for use in teaching driving.

(b) Foods and beverages, Outdoor Catering, Beauty Treatment, Health Services, Cosmetic and Plastic Surgery, EXCEPT WHEN an inward supply of these is used for making an outward taxable supply of the **same category or as an element of a taxable composite or mixed supply.**

Example: A caterer for a wedding gets the sweet dish course supplied by a specialist in desserts. He is allowed ITC of the tax paid by him to the specialist.

(c) Membership of a club, health and fitness centre**(d) Rent-a-cab, life insurance and health insurance, EXCEPT WHERE**

- The Government has made it **obligatory for an employer** to provide any of these services to its employees; or
- Inward supply of these services is used for making an outward taxable supply of the **same category or as an element of a taxable composite or mixed supply.**

(e) Travel benefits to employees on vacation such as LTC or home travel concession

(f) Works contract services for construction of an immovable property**EXCEPT WHEN**

- It is input service for further supply of works contract service
- Immovable property is plant and machinery

(g) Inward supplies received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even when such supplies are used in the course or furtherance of business

Example: A company buys material and hires a contractor to construct an office building to house the plant supervisory staff. The input tax paid on such goods and services is not allowed as credit.

Meaning of construction and plant and machinery

“Construction”, includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

“Plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural supports **but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.**

(h) Inward supplies on which tax has been paid under the composition scheme**(i) Inward supplies received by a non-resident taxable person except goods imported by him****(j) Goods and / or services used for personal consumption****(k) Goods that are lost, stolen, destroyed, written off or disposed of by way of gift or free samples****(l) Tax paid under sections 74, 129 and 130.** (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.)

Rule 38: Claim of credit by a banking company or a financial institution

A banking company or a financial institution, including a nonbanking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, **shall follow the following procedure, namely,-**

(a) the said company or institution shall not avail the credit of,-

- (i) the tax paid on inputs and input services that are used for non-business purposes; and**
- (ii) the credit attributable to the supplies specified in sub-section (5) of section 17, in FORM GSTR-2;**

(b) the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 17 and not covered under clause (a);

(c) 50% of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in FORM GSTR-2;

(d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.

Rule 42 Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- (1) The ITC in respect of **inputs or input services**, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, **shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-**
- a) the total input tax involved on **inputs and input services** in a tax period, be denoted as 'T';
 - b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively **for the purposes other than business**, be denoted as 'T1';
 - c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used **exclusively for effecting exempt supplies**, be denoted as 'T2';
 - d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under Section 17(5), **be denoted as 'T3'**;
 - e) the amount of ITC **credited to the electronic credit ledger** of registered person, be denoted as 'C1' and **calculated as $C1 = T - (T1+T2+T3)$** ;
 - f) the amount of ITC attributable to inputs and input services intended to be used **exclusively for effecting supplies other than exempted but including zero rated supplies**, be denoted as 'T4';
 - g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the **invoice level in FORM GSTR-2**;
 - h) input tax credit left after attribution of input tax credit under clause (g) **shall be called common credit**, be denoted as 'C2' and calculated as $C2 = C1 - T4$;

- i) the amount of **input tax credit attributable towards exempt supplies**, be denoted as 'D1' and **calculated as - $D1 = (E \div F) \times C2$** where, 'E' is the aggregate value of exempt supplies during the tax period, and 'F' is the total turnover in the State of the registered person during the tax period:

Provided that where the **registered person does not have any turnover during the said tax period or the aforesaid information is not available**, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the **last tax period** for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover **shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;**

- j) the amount of credit **attributable to non-business purposes** if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', **and shall be equal to 5% of C2; and**
- k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies **and shall be denoted as 'C3' [$C3 = C2 - (D1+D2)$];**
- l) the amount 'C3' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;
- m) **the amount equal to aggregate of 'D1' and 'D2' shall be added to the output tax liability of the registered person**

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated **at the invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.**

(2) The ITC determined under sub-rule (1) shall be calculated finally for the financial year **before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates**, in the manner specified in the said sub-rule and,-

- (a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' **exceeds** the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess **shall be added to the output tax liability** of the registered person in the month **not later than the month of September** following the end of the financial year to which such credit relates and the said **person shall be liable to pay interest on the said excess amount** at the rate specified in sub-section (1) of section 50 for the period starting from the **first day of April of the succeeding financial year till the date of payment**; or
- (b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' **exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2'**, such excess amount shall be **claimed as credit** by the registered person in his return for a month **not later than the month of September following the end of the financial year to which such credit relates**.

Rule 43 Manner of determination of ITC in respect of capital goods and reversal thereof in certain cases

Subject to the provisions of sub-section (3) of section 16, the ITC in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, **shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-**

- (a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies **shall be indicated in FORM GSTR-2 and shall not be credited to his electronic credit ledger;**
- (b) the amount of input tax in respect of capital goods used or intended to be used **exclusively** for effecting supplies **other than exempted supplies** but including zero-rated supplies shall be indicated in FORM **GSTR-2 and shall be credited to the electronic credit ledger;**
- (c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken **as 5 years** from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be **arrived at by reducing the input tax** at the rate of 5% points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

Explanation: An item of capital goods declared under clause (a) **on its receipt shall not attract the provisions of sub-section (4) of section 18 if it is subsequently covered under this clause.**

- (d) the **aggregate of the amounts of 'A' credited** to the electronic credit ledger under clause (c), to be denoted as 'Tc', **shall be the common credit** in respect of capital goods for a tax period.

Where any capital goods **earlier covered under clause (b) is subsequently covered under clause (c)**, the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'Tc';

- (e) the amount of ITC attributable to a tax period **on common capital goods** during their useful life, be denoted as 'Tm' and calculated as:- $T_m = T_c \div 60$
- (f) the amount of ITC, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, **be denoted as 'Tr' and shall be the aggregate of 'Tm' for all such capital goods.**
- (g) the **amount of common credit attributable towards exempted supplies**, be denoted as 'Te', and calculated as: $T_e = (E \div F) \times T_r$ where, 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover of the registered person during the tax period.

Where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' **of the last tax period** for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated.

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall **exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;**

- (h) the amount 'Te' **along with the applicable interest shall**, during every tax period of the useful life of the concerned capital goods, **be added to the output tax liability** of the person making such claim of credit.

The amount Te shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]**(1) Subject to such conditions and restrictions as may be prescribed-**

- (a) a person who has applied for registration under this Act within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be **entitled to take credit of input tax in respect of inputs** held in stock and inputs contained in semi-finished or finished goods held in stock **on the day immediately preceding the date from which he becomes liable to pay tax** under the provisions of this Act.
- (b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods **held in stock on the day immediately preceding the date of grant of registration;**
- (c) where any registered person **ceases to pay tax under section 10**, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock **and on capital goods** on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

- (d) where an exempt supply of goods or services or both by a registered person **becomes a taxable supply**, such person shall be entitled to take credit of input tax **in respect of inputs** held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply **and on capital goods exclusively used for such exempt supply** on the day immediately preceding the date from which such supply becomes taxable:

Provided that the **credit on capital goods shall be reduced** by such percentage points as may be prescribed.

- (2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him **after the expiry of 1 year from the date of issue of tax invoice relating to such supply.**
- (3) Where there is a **change in the constitution of a registered person** on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person **shall be allowed to transfer the input tax credit** which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

(4) Where any registered person who has availed of ITC ***opts to pay tax under Section 10 or, where the goods or services or both supplied by him become wholly exempt***, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, **equivalent to the credit of input tax** in respect of **inputs** held in stock and inputs contained in semi-finished or finished goods held in stock and **on capital goods**, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the **balance of input tax credit**, if any, lying in his electronic credit ledger **shall lapse**.

(5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in prescribed manner.

(6) In case of **supply of CGs or P&M**, on which input tax credit has been taken, the registered person shall pay an amount

(a) equal to the input tax credit taken on the said capital goods or plant and machinery **reduced by such percentage points as may be prescribed OR**

(b) the tax on the transaction value of such **CGs or P&M** determined under section 15, **whichever is higher**.

However, where **refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap**, the taxable person **may pay tax on the transaction value** of such goods determined under section 15.

Rule 40: Manner of claiming credit in special circumstances

- (1) The ITC claimed in accordance with the provisions of Section 18(1) on the **inputs held in stock** or **inputs contained in semi-finished or finished goods held in stock**, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, **shall be subject to the following conditions, namely –**
- (a) the ITC on capital goods, in terms of Section 18(1)(d), shall be claimed **after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof** from the **date of the invoice** or such other documents on which the capital goods were **received by the taxable person**.
 - (b) the registered person shall **within a period of 30 days** from the date of his becoming eligible to avail the ITC under Section 18(1) shall make a declaration, electronically, on the common portal in **FORM GST ITC-01** to the effect that he is eligible to avail the input tax credit as aforesaid;
 - (c) **the above declaration shall clearly specify the details relating to the Inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods–**
 - (i) on the day **immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act**, in the case of a claim under Section 18(1)(a);
 - (ii) on the day **immediately preceding the date of the grant of registration**, in the case of a claim under Section 18(1)(b);
 - (iii) on the day **immediately preceding the date from which he becomes liable to pay tax under section 9**, in the case of a claim under Section 18(1)(c);
 - (iv) on the day **immediately preceding the date from which the supplies made by the registered person becomes taxable**, in the case of a claim under Section 18(1)(d);
 - (d) the details furnished in the declaration under clause (b) shall be **duly certified by a practicing chartered accountant or a cost accountant** if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax **exceeds Rs. 200,000**;
 - (e) the ITC claimed in accordance with the provisions of clauses (c) and (d) of Section 18(1) shall be verified with the corresponding details furnished **by the corresponding supplier** in **FORM GSTR-1** or as the case may be, in **FORM GSTR- 4**, on the common portal.
- (2) The amount of credit in the case of supply of **capital goods or plant and machinery**, for the purposes of Section 18(6), shall be calculated by reducing the input tax on the said goods **at the rate of 5% points for every quarter or part thereof** from the **date of the issue of the invoice** for such goods.

Rule 41: Transfer of credit on sale, merger, amalgamation, lease or transfer of a business

(1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business **for any reason**, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, **in FORM GST ITC-02**, electronically on the common portal along with a request for transfer of **unutilized input tax credit** lying in his electronic credit ledger **to the transferee**:

In the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

(2) The **transferor** shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done **with a specific provision for the transfer of liabilities**.

(3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, **the un-utilized credit specified in FORM GST ITC-02** shall be credited to his electronic credit ledger.

(4) The **inputs and capital goods so transferred** shall be duly accounted for by the transferee in his books of account.

Rule 44: Manner of reversal of credit under special circumstances

(1) The amount of ITC relating to **inputs** held in stock, inputs contained in semi-finished and finished goods held in stock, and **capital goods** held in stock shall, for the purposes of Section 18(4) or Section 29(5), **be determined in the following manner, namely,-**

(a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the **ITC shall be calculated proportionately** on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;

(b) for capital goods held in stock, **the ITC involved in the remaining useful life in months shall be computed on pro-rata basis**, taking the useful life as 5 years.

(2) The amount, as specified in sub-rule (1) shall be **determined separately** for ITC of central tax, State tax, Union territory tax and integrated tax.

(3) Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) **based on the prevailing market price** of the goods on the effective date of the occurrence of any of the **events specified in Section 18(4) or Section 29(5)**.

The details furnished shall be **duly certified by a practicing chartered accountant or cost accountant**.

(4) The amount determined under sub-rule (1) **shall form part of the output tax liability** of the registered person and the details of the amount shall be furnished in **FORM GST ITC-03**, where such amount relates to any event specified in Section 18(4) and in **FORM GSTR-10**, where such amount relates to the cancellation of registration.

(5) The amount of ITC for the purposes of sub-section (6) of section 18 **relating to capital goods** shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount **shall be determined separately for ITC** of central tax, State tax, Union territory tax and integrated tax.

Where the amount so determined is more than the tax determined on the transaction value of the capital goods, the **amount determined shall form part of the output tax liability and the same shall be furnished in FORM GSTR-1**.

HOW ITC IS AVAILED & UTILISED**Claim of input tax credit and provisional acceptance thereof**

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited **on a provisional basis** to his electronic credit ledger.
- (2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

Section 42: Matching, reversal and reclaim of ITC

- (1) ***The details of every inward supply furnished by a registered person (hereafter in this section referred to as the “recipient”) for a tax period shall, in such manner and within such time as may be prescribed, be matched-***
 - (a) with the corresponding details of outward supply furnished by the corresponding registered person (“supplier”) in his valid return **for the same tax period or any preceding tax period;**
 - (b) with the IGST paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and
 - (c) **for duplication of claims** of ITC.
- (2) The claim of ITC in respect of invoices or debit notes relating to inward supply **that match with the details** of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him **shall be finally accepted and such acceptance shall be communicated**, in such manner as may be prescribed, to the recipient.
- (3) Where the ITC claimed by a recipient in respect of an inward supply **is in excess of the tax declared by the supplier** for the same supply or the outward supply **is not declared** by the supplier in his valid returns, the **discrepancy shall be communicated to both such persons** in such manner as may be prescribed.
- (4) The duplication of claims of input tax credit shall be **communicated to the recipient** in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is **not rectified by the supplier** in his valid return for the month in which discrepancy is communicated **shall be added to the output tax liability of the recipient**, in such manner as may be prescribed, in his return **for the month succeeding the month in which the discrepancy is communicated**.

- (6) The amount claimed as ITC that is found to be in excess on account of duplication of claims **shall be added to the output tax liability** of the recipient in his return for the month in which the duplication is communicated.
- (7) The recipient **shall be eligible to reduce, from his output tax liability**, the amount added under sub-section (5), ***if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.***
- (8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), **shall be liable to pay interest at the rate specified** under sub-section (1) of section 50 on the amount so added ***from the date of availing of credit till the corresponding additions are made under the said sub-sections.***
- (9) Where **any reduction in output tax liability is accepted** under sub-section (7), the interest paid under sub-section (8) **shall be refunded to the recipient** by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed.

The amount of interest to be credited in any case **shall not exceed the amount of interest paid by the supplier.**

- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) **shall be added to the output tax liability** of the recipient in his return for the month in which such contravention takes place and such recipient **shall be liable to pay interest** on the amount so added ***at the rate specified in sub-section (3) of section 50.***

Example:

ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	Items	GST paid (Rs)
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory	25,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note:

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) ABC Co. Ltd. is not eligible for any threshold exemption.

ANSWER

Computation of ITC available with ABC Co. Ltd. for the month of July

S. No.	Items	ITC (Rs)
(i)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [Though ITC on motor vehicles has been specifically disallowed under section 17(5)(a), ITC on motor vehicles used for transportation of goods is allowed under section 17(5)(a)(ii)]	1,00,000
(iii)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
Total ITC		8,20,000

Example:

XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 2018 from the following particulars:-

S. No.	Inward supplies	GST (Rs)	Remarks
(i)	Inputs 'A'	1,00,000	One invoice on which GST payable was Rs 10,000, is missing
(ii)	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October, 2018.
(iii)	Capital goods	1,20,000	XYZ Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(iv)	Input services	2,25,000	One invoice dated 20.01.2018 on which GST payable was Rs 50,000 has been received in October, 2018.

Note:

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) ABC Co. Ltd. is not eligible for any threshold exemption.
- (iii) The annual return for the financial year 2017-18 was filed on 15th September, 2018.

ANSWER

Computation of ITC available with XYZ Ltd. for the month of October, 2018

S.No.	Inward supplies	GST (Rs)
(i)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
(ii)	Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First proviso to section 16(2)]	Nil
(iii)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
(iv)	Input services [As per section 16(4), ITC on an invoice cannot be availed after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the FY 2017-18 has been filed on 15th September, 2018 (prior to due date of filing the return for September, 2018 i.e., 20th October, 2018), ITC on the invoice pertaining to FY 2017-18 cannot be availed after 15th September, 2018.]	1,75,000
Total		2,65,000

Example:

Mr. X, a supplier of goods, pays GST under regular scheme. Mr. X is not eligible for any threshold exemption. He has made the following outward taxable supplies in a tax period:

Particulars	(Rs)
Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	(Rs)
Intra-State purchases of goods	3,00,000
Inter-State purchases of goods	50,000

Mr. X has following ITCs with him at the beginning of the tax period:

Particulars	(Rs)
CGST	30,000
SGST	30,000
IGST	70,000

Note:

- (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
- (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing the ITC have been fulfilled.

Compute the net GST payable by Mr. X during the tax period. Make suitable assumptions as required.

ANSWER

Computation of GST payable by Mr. X on outward supplies

S.No.	Particulars	(Rs)	GST (Rs)
(i)	Intra-State supply of goods		
	CGST @ 9% on Rs 8,00,000	72,000	
	SGST @ 9% on Rs 8,00,000	<u>72,000</u>	1,44,000
(ii)	Inter-State supply of goods		
	IGST @ 18% on Rs 3,00,000		<u>54,000</u>
	Total GST payable		1,98,000

Computation of total ITC

Particulars	CGST @ 9% (Rs)	SGST @ 9% (Rs)	IGST @ 18%(Rs)
Opening ITC	30,000	30,000	70,000
Add: ITC on Intra-State purchases of goods Valuing Rs 3,00,000	27,000	27,000	Nil
Add: ITC on Inter-State purchases of goods Valuing Rs 50,000	Nil	Nil	9,000
Total ITC	57,000	57,000	79,000

Computation of GST payable from cash ledger

Particulars	CGST @ 9% (Rs)	SGST @ 9% (Rs)	IGST @ 18% (Rs)
GST payable	72,000	72,000	54,000
Less: ITC	(57,000)-CGST (15,000)-IGST	(57,000)-SGST (10,000) – IGST	(54,000)-IGST
Net GST payable	Nil	5,000	Nil

Note: ITC of IGST has been used to pay IGST, CGST and SGST in that order.

TEST YOUR KNOWLEDGE

1. **In which of the following situations, taxpayer needs to reverse the credit already taken?**
 - (a) If payment is not made to the supplier within 45 days from the date of invoice
 - (b) If payment is not made to the supplier within 90 days from the date of invoice
 - (c) If payment is not made to the supplier within 180 days from the date of invoice
 - (d) None of the above

2. **What is the time limit for taking ITC?**
 - (a) 180 days
 - (b) 1 year
 - (c) 20th October of the next financial year or the date of filing annual return whichever is earlier
 - (d) No limit

3. **If the goods are received in lots/installment, -----**
 - (a) 50% ITC can be taken on receipt of 1st installment and balance 50% on receipt of last installment.
 - (b) ITC can be availed upon receipt of last installment.
 - (c) 100% ITC can be taken on receipt of 1st installment.
 - (d) Proportionate ITC can be availed on receipt of each lot/installment.

4. **For banking companies using inputs and input services partly for taxable supplies and partly for exempt supplies, which of the statement is true?**
 - (a) ITC shall be compulsorily restricted to credit attributable to taxable supplies including zero rated supplies
 - (b) 50% of eligible ITC on inputs, capital goods, and input service shall be mandatorily taken in a month and the rest shall lapse.
 - (c) Banking company can choose to exercise either option (a) or option (b)
 - (d) None of the above

5. **A supplier takes deduction of depreciation on the GST component of the cost of capital goods as per Income- tax Act, 1961. The supplier can-**
 - (a) avail only 50% of the said tax component as IT
 - (b) not avail ITC on the said tax component
 - (c) avail 100% ITC of the said tax component
 - (d) avail only 25% of the said tax component as ITC

6. **Which of the following inward supplies are not eligible for ITC in case of a company manufacturing shoes?**
 - (a) Food and beverages
 - (b) Outdoor catering
 - (c) Health services
 - (d) All of the above

7. **If there is a mis-match of supplier's outward supply and recipient's claim for ITC on the same transaction (tax paid is claimed to be more by the recipient than the tax shown as payable in the invoice of the supplier)-**
 - (a) The disputed amount shall be added as output tax liability in the return of the recipient
 - (b) The disputed amount shall be reduced from the ITC of the recipient
 - (c) The disputed amount shall be increased in the outward supply of the supplier
 - (d) A demand notice will be issued on the recipient for the disputed amount

8. **Which of the following statement is true for a composition tax payer?**
 - (a) A composition tax payer can avail only 50% of ITC on capital goods.
 - (b) A composition tax payer can avail 100% ITC on inputs.
 - (c) ITC is not available on inward supplies made by a composition tax payer.
 - (d) Composition tax will be available as ITC to the recipient only if the tax is mentioned separately in the invoice raised by the composition tax payer.

9. What is input tax?**Answer:**

Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

10. What are the conditions necessary for obtaining ITC?**Answer:**

Following 4 conditions are to be satisfied by the registered taxable person for obtaining ITC:

- (a) he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
- (b) he has received the goods or services or both;
- (c) the supplier has actually paid the tax charged in respect of the supply to the Government; and
- (d) **he has furnished the return under section 39.**

11. Can a person take ITC without payment of consideration for the supply along with tax to the supplier?**Answer:**

Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

12. What is the time limit for taking ITC and reasons therefore?**Answer:**

“Time limit for availing ITC: **Due date of filing return for the month of September** of succeeding financial year or **date of filing of annual return**, whichever is earlier”

13. What is the ITC entitlement of a newly registered person?**Answer:**

A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day **immediately preceding the date of grant of registration.**

If the person was liable to take registration and he has applied for registration within thirty days from the date on which **he became liable** to registration, then ITC of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day **immediately preceding the date on which he became liable to pay tax** can be taken.

14. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?**Answer:**

In case of Supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery **reduced by 5% per quarter or part thereof** from the date of invoice **or** the tax on the transaction value of such capital goods, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person **can pay tax on the transaction value.**

15. What happens where the details of inward supplies furnished by the recipient do not match with the outward supply details furnished by the supplier in his valid return?

Answer:

In case of mismatch, the communication is made to the **both the parties**. If the mismatch is not rectified, then the amount will be added to the output tax liability of **recipient** in the return for the month **succeeding the month in which discrepancy is communicated**.

16. A flying school imports an aircraft for use in its training activity, and takes ITC of the IGST paid on the import. The departmental audit raises an objection that aircrafts fall within the definition of “conveyance” in section 2(34) of the Act and that ITC is not allowed on conveyances. Offer your comments.

Answer:

Under section 17(5)(a)(i)(C) of the CGST Act, ITC is allowed on aircraft **if they are used to make the taxable supply of imparting training on flying an aircraft**. Therefore, the credit is correctly taken.

17. A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?

Answer:

No. As per section 17(5)(a), ITC on motor vehicles can be availed **only if** the taxable person is

- ✓ in the business of transport of passengers or
- ✓ is providing the services of imparting training on driving/flying/navigating motor vehicles or
- ✓ is in the business of supply of motor vehicles.

18. A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency’s services to the extent attributable to the SEZ supplies. Give your comments.

Answer:

Under section 16(2) of the IGST Act, credit of input tax is allowed to be taken for inward supplies **used to make zero rated supplies**.

Under section 17 of the CGST Act also, ITC is disallowed only to the extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies.

Supplies to SEZ units are zero rated supplies in terms of section 16(1) of IGST Act. **Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ.**

19. A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory.

The turnover of the other products of the factory and exempted uniforms in July is Rs 4 crore and Rs 1 crore respectively, the ITC on thread and lining material procured in July is Rs 5,000 and Rs 15,000 respectively.

Calculate the eligible ITC on thread and lining material.

Answer:

Thread and lining material are inputs which are used for making taxable as well as exempt supplies. **Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in terms of rule 43 of the CGST Rules, 2017.**

Credit attributable to exempt supplies = Common credit x (Exempt turnover/ Total turnover)

Common credit = Rs 15,000 + Rs 5,000 = Rs 20,000

Exempt turnover = Rs 1 crore

Total turnover = Rs 5 crore [Rs 1 crore + Rs 4 crore]

Credit attributable to exempt supplies = (Rs 1 crore /Rs 5 crore) x Rs 20,000 = 4,000.

Ineligible credit of Rs 4,000 will be added to the output tax liability for the month of July.

Credit of Rs 16,000 will be eligible credit for the month of July.

- 20. Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?**

Answer:

Mr. A is eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof **from the date of invoice** [Section 18(1)(c)].

RETURNS

The term “**Return**” ordinarily means **statement of information (facts)** furnished by the taxpayer, to tax administrators, at regular intervals. The information to be furnished in the return generally comprises of the details pertaining to the nature of activities/business operations forming the subject matter of taxation; the measure of taxation such as sale price, turnover, or value; deductions and exemptions; and determination and discharge of tax liability for a given period.

In any tax law, “**filing of returns**” constitutes the **most important compliance procedure which enables the Government/ tax administrator to estimate the tax collection** for a particular period and determine the correctness and completeness of the tax compliance of the taxpayers.

The returns serve the following purposes:

- (a) Mode for transfer of information to tax administration;
- (b) Compliance verification program of tax administration;
- (c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation;
- (d) Providing necessary inputs for taking policy decision;
- (e) Management of audit and anti-evasion programs of tax administration

The taxpayer is generally required to furnish the return in a specific statutory format. These formats are, therefore, designed to take care of all the provisions of the law **that have a bearing on computation of tax liability of a taxpayer**. Hence, a study of various fields contained in the form of return vis-à-vis the relevant corresponding provisions of the tax law, can facilitate overall understanding of the tax law in a better manner.

Under the GST laws, the correct and timely filing of returns is of utmost importance **because of two reasons**. **Firstly**, under GST laws, a taxpayer is required to estimate his tax liability on “self-assessment” basis and deposit the tax amount along with/before the filing of such return. The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been computed by the taxpayer. **Secondly**, under the GST regime, filing of returns not only determines the tax liability of the person filing the same, but it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into taxable activities.

In this Chapter, we will study various provisions concerning filing of returns under the GST laws including types of returns, due dates for filing of returns, particulars contained in the returns, how the returns filed by a taxpayer will be processed by the tax administrators for determining the tax liability of the person filing the return as well as other taxable persons etc.

Chapter IX of the CGST Act [Sections 37 to 48] prescribes the provisions relating to filing of returns as under:

Section 37	:	Furnishing details of outward supplies
Section 38	:	Furnishing details of inward supplies
Section 39	:	Furnishing of Returns
Section 40	:	First Return
Section 41	:	Claim of ITC and provisional acceptance thereof
Section 42	:	Matching, reversal and re-claim of input tax credit
Section 43	:	Matching, reversal and re-claim of reduction in output tax liability
Section 44	:	Annual Return
Section 45	:	Final Return
Section 46	:	Notice to return defaulters
Section 47	:	Levy of late fee
Section 48	:	Goods and Services Tax Practitioners [GSTP]

The provisions relating to form and manner, in which information is to be furnished through returns, are given **under Chapter VIII of the CGST Rules [Rules 59-84]**. State GST laws also prescribe identical provisions in relation to filing of returns.

The basic features of the return mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to ITC from returns of supplier to that of recipient, invoice-level information matching and auto -reversal of ITC in case of mismatch. **The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.**

All the returns under GST laws are to be filed electronically. Taxpayers can file the statements and returns by various modes. Firstly, they can file their statement and returns directly on the GST common portal online. However, this may be tedious and time consuming for taxpayers with large number of invoices. For such taxpayers, **offline utilities have been provided by GSTN** that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the common portal. **GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the common portal.**

FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37]

- (1) Every registered person, **other than an Input Service Distributor, a Non-Resident Taxable Person and a Person paying tax under the provisions of Section 10 or Section 51 or Section 52**, shall furnish, electronically, **the details of outward supplies of goods or services** or both effected during a tax period **[in Form GSTR 1] on or before the 10th day** of the month succeeding the said tax period and such details **shall be communicated to the recipient of the said supplies within such time and in prescribed manner.**

The registered person (Supplier) **shall not be allowed** to furnish the details of outward supplies during the period from the **11th day to the 15th day** of the month succeeding the tax period.

The Commissioner may, for reasons to be recorded in writing, by notification, **extend the time limit** for furnishing such details for such class of taxable persons as may be specified therein.

- (2) Every registered person who has been communicated the details under sub-section (3) of section 38 (details of supplies modified, deleted or included by the recipient in GSTR-2), **shall either accept or reject the details so communicated**, on or before the 17th day, but not before the 15th day, of the month succeeding the tax period and the details furnished by him **in GSTR-1 shall stand amended accordingly.**
- (3) Any registered person, who has furnished the details in GSTR-1 for any tax period and which have **remained unmatched under section 42 or section 43**, shall, upon discovery of any error or omission therein, **rectify such error or omission in such manner as may be prescribed**, and **shall pay the tax and interest**, if any, in case there is a short payment of tax on account of such error or omission, **in the return to be furnished for such tax period.**

No rectification of error or omission shall be allowed after furnishing of the return under section 39 **for the month of September** following the end of the financial year to which such details pertain, or furnishing of the relevant **annual return, whichever is earlier.**

For the purpose of this Section, “Details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

- **Who is required to furnish details of outward supplies?** [Section 37(1) read with Rule 59(1) of CGST Rules]

Answer:

The details of outward supplies (see definition) of both goods and services are required to be furnished by every registered person including casual registered person **except the following**:

- **Input Service Distributor (ISD)**
 - **Non-Resident Taxable Person**
 - **Person paying tax under Composition Scheme (Section 10)**
 - **Person deducting Tax at Source**
 - **Person collecting Tax at Source i.e., e-commerce operator (ECO), not being an agent**
 - **A supplier of online information and database access or retrieval services (OIDAR)**
- **What is the form for submission of details of outward supplies?** [Section 37(1) read with rule 59(1) of CGST Rules]

Answer:

The details of outward supplies are required to be furnished, **electronically, in Form GSTR-1**. Such details can be furnished through the common portal, either directly or from a notified Facilitation Centre.

- **What is the due date of submission of GSTR-1?** [Section 37(1)]

Answer:

GSTR-1 of a month can be filed any time **between 1st and 10th day** of the succeeding month. It cannot be filed during the period **from 11th day to 15th day** of month succeeding the tax period. (A taxpayer **cannot file GSTR-1 before the end** of the current tax period.)

The due date of filing GSTR-1 **may be extended** by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification.

However, following are the exceptions to this rule:

- (a) **Casual Tax Persons**, 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)

➤ **What kind of details of outward supplies are required to be furnished in GSTR-1?**

[Explanation to section 37 read with rule 59(2) of CGST Rules]

The registered person is required to furnish details of **invoices and revised invoices** issued in relation to supplies made by him **to registered and unregistered persons** during a month and **debit notes and credit notes** in GSTR-1 in the following manner:

(a) Invoice-wise details of all

- i. Inter-state & Intra-state supplies **made to registered persons &**
- ii. Inter-state supplies made to unregistered persons **with invoice value exceeding Rs. 250,000**

(b) Consolidated details of all

- i. Intra-State supplies made **to unregistered persons** for **each rate of tax**
- ii. Inter-state supplies made **to unregistered persons** with invoice value upto Rs. 250,000 for **each rate of tax separately for each state**

(c) Debit & Credit notes issued during the month for invoices issued previously.

It can be seen from the above that uploading of invoices depends on whether the supply is B2B or B2C plus whether the supply is intra-State or inter-State.

For B2B supplies, all invoices will have to be uploaded irrespective of whether they are intra-State or inter- State supplies. This is so because the recipient will take ITC and thus, invoice matching is required to be done.

For B2C supplies, uploading in general may not be required as the buyer will not be taking ITC. However, still in order to implement the destination based principle, invoices of value more than Rs 2.5 lakh in inter-State B2C supplies will have to be uploaded. For inter-State invoices below Rs 2.5 lakh, State wise summary will be sufficient and for all intra-State invoices, only consolidated details will have to be given.

Few points:

- ✓ **Invoices can be uploaded at any time during the tax period** and not just at the time of filing.
- ✓ **Invoices can be modified/deleted any number of times** till the submission of GSTR-1 of a tax period. The uploaded invoice details are in a draft version till the GSTR-1 is submitted and can be changed irrespective of due date.
- ✓ **Scanned copies of invoices are not required to be uploaded.** Only certain prescribed fields of information from invoices need to be uploaded e.g., invoice no., date, value, taxable value, rate of tax, amount of tax etc.
- ✓ **In case there is no consideration**, but the activity is a supply by virtue of Schedule 1 of CGST Act, the taxable value will have to be worked out as prescribed and uploaded.
- ✓ **Description of each item in the invoice will not be uploaded.** Only HSN code in respect of supply of goods and accounting code in respect of supply of services will have to be fed.

Communication of details of GSTR-1 to the recipient of supply [Section 37(2)]

The details of outward supplies for a month furnished by the supplier are communicated and made **available electronically (auto populated) to the respective recipient(s) in Part A of Form GSTR-2A / Form GSTR-4A (in case of registered person opting for composition levy)** through the common portal **after the 10th day** of the succeeding month (due date of filing of GSTR-1).

The recipient is provided an opportunity to **add, correct or delete** such details in a two-way communication process. **After such modifications, recipient files the details of inward supplies in Form GSTR-2 by 15th day of that month.**

The details of inward supplies **added, corrected or deleted** by the recipient in Form GSTR-2/Form GSTR-4 (quarterly return for registered person opting for composition levy) **are made available to the supplier electronically in Form GSTR-1A through the common portal.**

The supplier may either **accept or reject** the modifications made by the recipient **between 15th day and 17th day of that month.**

If supplier accepts the modifications made by the recipient, **GSTR-1 furnished earlier by him gets amended accordingly.**

How are the details of outward supply furnished in prior periods amended? [Sec 37(3)]**(a) Scope of amendment/ correction entries**

Tables in GSTR-1 provide for amendments in details of taxable outward supplies furnished in earlier periods (hereinafter referred to as “Amendment Table”). The **supplier** can make amendments in the particulars furnished in GSTR-1 filed by him for the prior periods **if he agrees to the mismatch report communicated to him by the system every month**, after the processing of the return.

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 GSTR-1**.

Ordinarily 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**. However, it may happen that, a supplier altogether forgets to include the entire original invoice while furnishing the GSTR-1 for a particular month.

In such cases also, he would be required to show the details of the said missing invoice which was issued in earlier month **in the Amendment Table only**, as such type of errors would also be regarded as data entry error.

(b) Rectification of errors

Consequent to the **mismatch report communicated to the supplier u/s 42 or 43**, if he discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed, and pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.

Example:

GSTR-1 for the month of August, 2017 was filed on 10th September, 2017 and the consolidated return u/s 39 pertaining to the month of August, 2017 was filed on 20th September, 2017. The said return is processed in the month of October, 2017 and **errors discovered during matching are communicated to the supplier in the mismatch report in the month of October, 2017**.

The supplier has to rectify the said errors in GSTR-1 for the month of October, 2017 (due date of submission of which is 10th November, 2017). **If there is any tax liability because of the said amendment/rectification, it will be automatically calculated in his return u/s 39 for the month of October, 2017.**

(c) Time limit for rectification

Suppose for some reason, supplier could not make correction at the time of filing of GSTR-1 for the month of October, 2017 then he can make such amendments in the subsequent periods.

However, the maximum time limit within which such amendments are permissible is earlier of the following dates:

- ✓ Date of filing of monthly return u/s 39 for the month of September following the end of the financial year to which such details pertain **or**
- ✓ Date of filing of the relevant annual return

Example:

In the above example, the last return in which a supplier can make amendments/ corrections pertaining to financial year 2017-18 will be GSTR-1 for the month of September, 2018 or the annual return for the financial year 2017-18 if the same is filed before 20th October, 2018.

Thus, if the supplier, files his return for September, 2018 on 20th October, 2018 (and annual return for financial year 2017-2018 after 20th October, 2018), he can rectify errors discovered in the month of October, 2017 **in any of the GSTR-1s till the month of September, 2018.**

However, if the supplier files his annual return for the year 2017-18, before filing of GSTR-1 for September 2018, (say on 4th October, 2018), **he cannot make any amendment relating to financial year 2017-18 in his GSTR-1 for the month of September, 2018.**

In other words, once annual return for financial year 2017-18 is filed before the filing of return for the month of September, 2018, no amendments relating to financial year 2017-18 will be permitted thereafter and **in such case, mismatch will become permanent and liability to that extent will be fastened on the receiver.**

Example:

An entity has furnished the annual return for the year 2017-18 on August 15, 2018. An error is discovered in respect of a transaction pertaining to November, 2017. The entity has filed the returns for the month of September, 2018 on October 20, 2018. ***In this case, the rectification of the error pertaining to the transaction in November, 2017 cannot be rectified beyond August 15, 2018.***

IMPORTANT POINTS

- ✚ GSTR 1 needs to be filed **even if there is no business activity** (Nil Return) in the tax period.

- ✚ Filing of GSTR-1 for current month is possible **only when GSTR-1 for the previous month has been filed.**

- ✚ All values like invoice value, taxable value and tax amounts in GSTR-1 are to be declared **up to 2 decimal digits.**

- ✚ **The rounding off of the self-declared tax liability to the nearest rupee will be done in GSTR 3.**

- ✚ Taxpayer opting for voluntary cancellation of GSTIN **will have to file GSTR-1 for active period.**

- ✚ In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR 1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer. **The GSTR 1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.**

FURNISHING DETAILS OF INWARD SUPPLIES [SECTION 38]

- (1) Every registered person, **other than an Input Service Distributor or a Non-Resident Taxable Person or a Person paying tax under the provisions of Section 10, Section 51 or Section 52**, shall **verify, validate, modify or delete**, if required, the details relating to outward supplies and credit or debit notes communicated under Section 37(1) to prepare the details of his inward supplies and credit or debit notes **and** may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies **that have not been declared by the supplier** under Section 37(1).
- (2) Every registered person, **other than an Input Service Distributor or a Non-Resident Taxable Person or a person paying tax under the provisions of Section 10 or Section 51 or Section 52**, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period **after the 10th day but on or before the 15th day of the month** succeeding the tax period in such Form GSTR-2.

The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein.

- (3) The details of supplies **modified, deleted or included by the recipient** and furnished under sub-section (2) shall be **communicated to the supplier** concerned in prescribed manner [GSTR 1A].
- (4) The details of **supplies modified, deleted or included by the recipient** in the return furnished under section 39 shall be **communicated to the supplier** concerned in prescribed manner.
- (5) Any registered person, who has furnished the details under sub-section (2) for any tax period and **which have remained unmatched under section 42 or section 43**, shall, upon discovery of any error or omission therein, **rectify such error or omission** in the tax period during which such error or omission is noticed in such manner as may be prescribed, and **shall pay the tax and interest**, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period.

However, **No rectification of error or omission** shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, **whichever is earlier**.

- **Who is required to furnish details of Inward Supplies? [Section 38(2) read with rule 60(1) of CGST Rules]**

Answer:

The details of inward supplies of both goods and services and credit or debit notes received are required to be furnished **by every registered person except** the following:

- a) ISD
- b) Non-Resident Taxable Person
- c) Composition Taxpayer
- d) Person deducting tax at source
- e) ECO (not being an agent)
- f) Supplier of OIDAR services

Thus, the registered persons who file details of outward supplies are also required to file the details of inward supplies.

- **What is the form for submission of details of inward supplies? [Section 38(2) read with rule 60(1) of CGST Rules]**

Answer:

The details of inward supplies are required to be furnished, electronically, in Form GSTR-2. Such details can be furnished through the Common Portal, either directly or from a notified Facilitation Centre.

- **What is the due date of submission of GSTR-2? [Section 38(2)]**

Answer:

GSTR-2 for a particular month is filed after the 10th day but **on or before the 15th day** of the immediately succeeding month.

Example:

The details of inward supplies pertaining to the month of October will be required to be furnished **between 11th November and 15th November**.

The due date of filing GSTR-2 **may be extended** by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification.

- **What kind of details of inward supplies are required to be furnished in GSTR-2? [Section 38(2) read with rule 60(8) of CGST Rules]**

The details of inward supplies of goods or services or both furnished in GSTR-2 include the -

- (a) **invoice wise details of all inter-State and intra-State supplies** received from registered persons or unregistered persons including inward supplies taxable under reverse charge;
- (b) **import of goods and services made;** and
- (c) **debit and credit notes, if any, received** by the registered person from suppliers in respect of above supplies

- **Communication of details of GSTR-1 to the recipient of supply**

- (a) **Auto-population of details of outward supplies filed by supplier in GSTR-1 as inward supplies of recipient in GSTR-2A [Sub-rules (1) & (4A) of rule 60 of CGST Rules]**

After the supplier files GSTR- 1, the details of outward supply of such supplier are **auto populated in Part A of Form GSTR 2A** of the recipient(s) of said supplies, after 10th day of the month succeeding the month for which the details are being filed.

Example: Details of outward supply of a supplier pertaining to the month of October shall be available to the recipients after 10th November. Thus, all the entries which are appearing in GSTR- 1 of the said supplier against GSTIN of a particular recipient, will be made available to him in an **auto-populated manner in Part A of GSTR-2A.**

The **details of invoices furnished by a non-resident taxable person in Form GSTR-5** are also made available to the recipient in auto populated manner in Part A of GSTR-2A. **Thus, various fields in GSTR-2A are auto-populated from GSTR-1 & GSTR – 5 filed by the suppliers.**

- (b) **Verification/ validation/ modification/ deletion of details by recipient in GSTR-2A [Section 38(1) read with rule 60(1)]**

The recipient then **verifies, validates, modifies** or if required, **deletes the details** relating to outward supplies, debit and credit notes communicated to him in GSTR 2A, and prepares details of his inward supplies, credit notes, debit notes (including therein even those details which have not been declared by the supplier in his GSTR-1) **in GSTR-2. In fact, the auto-populated particulars mentioned in GSTR-2A to the extent they are accepted/modified automatically become part of GSTR-2. GSTR-2 also contains various Tables.**

Can a recipient feed information in his GSTR-2 which has been missed by the supplier?

Yes, the recipient can himself feed the invoices not uploaded by his supplier. The credit on such invoices will also be given provisionally but will be subject to matching. On matching, if the invoice is not uploaded by the supplier, both of them will be intimated. If the mismatch is rectified, provisional credit will be confirmed. ***But if the mismatch continues, the amount will be added to the output tax liability of the recipient in the returns for the month subsequent to the month in which such discrepancy was communicated.***

(c) Acceptance/rejection of modifications made by recipient by supplier in GSTR-1A [Sub-sections (3) & (4) of section 38]

The details of supplies modified, deleted or included by recipient in his GSTR-2 **are auto populated in Form GSTR-1A of the supplier** concerned through common portal and the supplier may accept the modifications made by the recipient **between the 15th day and 17th day** of the month succeeding the relevant month. In such case, details furnished by him in GSTR-1 earlier get amended accordingly.

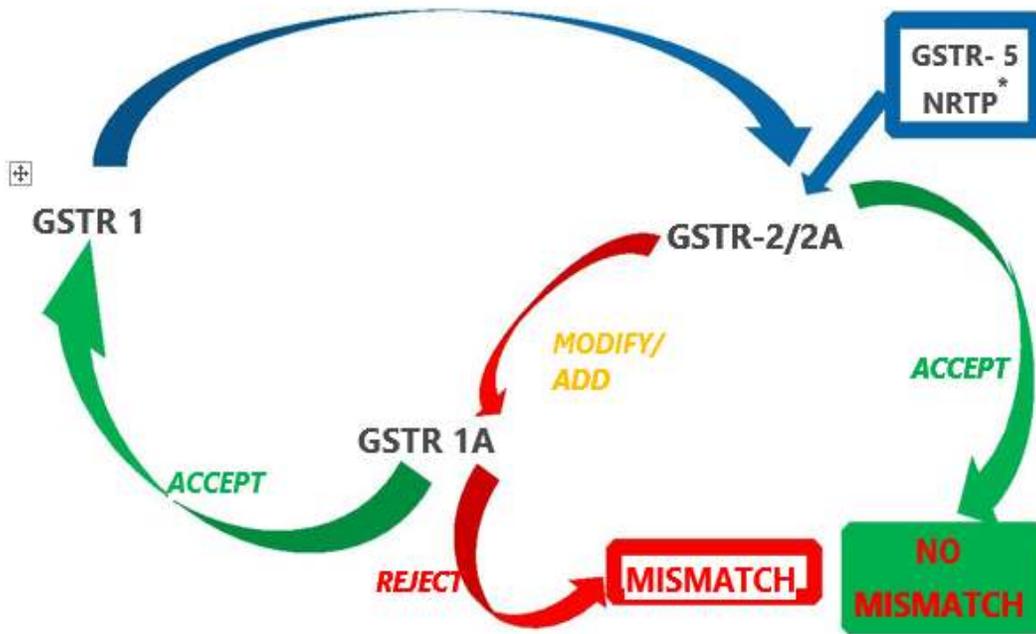
A recipient paying tax under composition scheme modifies, deletes or includes a supply in his GSTR-4 and such changes **are auto populated in GSTR-1A** of the supplier concerned.

A supplier is required to file GSTR-1 of a month (say November) by 10th of next month i.e., by 10th December. The details of GSTR-1 are then made available to recipient in GSTR-2A. The recipient can then accept, reject or modify or add details of such inward supplies which are not reflected in GSTR-2A **and file return of inward supplies for the month of November in GSTR-2 by 15th December.**

Thereafter, details of inward supplies added, corrected, or deleted by the recipient are made available to supplier in GSTR-1A. If such additional / modified/deleted information is accepted by the supplier **between 15th December and 17th December, then GSTR-1 filed by him for the month of November gets amended accordingly,** and GSTR-3 for the month of November is **generated based on amended information.**

All entries added by the recipient which are **not accepted by the supplier in GSTR-1A remain in mismatched category and are reflected in mismatch report.**

Monthly Returns : Data Flow



Furnishing of Returns [Section 39]

- (1) Every registered person, **other than an Input Service Distributor or a Non-Resident Taxable Person or a Person paying tax under the provisions of Section 10, Section 51 or Section 52** shall, for **every calendar month** or part thereof, furnish a **Return (Form GSTR-3)**, electronically, **of inward and outward supplies of goods or services or both**, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, **on or before the 20th day of the month** succeeding such calendar month or part thereof. **[Section 39(1)]**
- (2) **Composition Scheme Supplier**: A registered person paying tax under the provisions of section 10 shall, **for each quarter** or part thereof, furnish a **return (Form GSTR-4)**, electronically, of **turnover in the State or Union territory**, inward supplies of goods or services or both, tax payable and tax paid **within 18 days after the end of such quarter**. **[Section 39(2)]**
- (3) Every registered **Non-Resident Taxable Person** shall, for every calendar month or part thereof, furnish a return **(Form GSTR-5)**, electronically, **within 20 days** after the end of a calendar month or **within 7 days after the last day of the period of registration** specified under sub-section (1) of section 27, **whichever is earlier**. **[Section 39(5)]**
- (4) The Commissioner may, for reasons to be recorded in writing, by notification, **extend the time limit for furnishing the returns** under this section for such class of registered persons as may be specified therein:
- Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner. **[Section 39(6)]**
- (5) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (5), **shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return**.
- (6) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) **shall furnish a return for every tax period** whether or not any supplies of goods or services or both have been made during such tax period.
- (7) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return discovers any omission or incorrect particulars therein, **other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities**, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars **are noticed**, subject to payment of interest under this Act.

However, **no such rectification of any omission or incorrect** particulars shall be allowed **after the due date** for furnishing of return for the month of **September or Second quarter** following the end of the financial year, **or** the actual date of furnishing of relevant annual return, **whichever is earlier**.

(8) A registered person shall not be allowed to furnish a return for a tax **period if the return for any of the previous tax periods has not been furnished by him.**

Due date for payment of tax [Section 39(7)]

Due dates for payment of tax in respect of the persons required to file GSTR-3, GSTR-4 and GSTR-5 **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.

Example: In respect of taxpayers filing GSTR-3, due date of payment of tax for the month of October is 20th November. Similarly, for composition taxpayers, due date for payment of tax for the quarter ended September is 18th October.

However, NRTPs or CTPs are required to make advance deposit of tax of an amount equivalent to the estimated tax liability of such person for a period for which **registration is sought or extension of registration is sought** in terms of section 27(2).

[GSTR-3 filed without payment of self-assessed tax disclosed therein, is not be regarded as a Valid Return in terms of Section 2(117).]

Rectification of Errors/Omissions [Section 39(9)]

In GST since the returns are **built from details of individual transactions**, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. **Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended.** They can be amended in any of the future GSTR- 1/2 in the tables specifically provided for the purposes of amending previously declared details.

Omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter **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.** The rectification of errors/omissions is carried out by entering appropriate particulars in “Amendment Tables” contained in GSTR-1 and GSTR-2.

Exception

It is important to note that 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, assessee may not be able to pass on the ITC to the receiver in respect of tax payments made by him in pursuance of account of any of the aforementioned situations.

Time limit for making rectification

The maximum time limit within which the rectification of errors/omissions is permissible is **earlier of the following dates:**

- ✓ **Due date of filing of return** for the month of September/ quarter ending September following the end of the financial year [i.e., 20th October of next financial year] or
- ✓ **Actual date of filing** of the relevant annual return

The last date of filing of annual return is 31st December of next financial year. Hence, if annual return for the year 2017-18 is filed before 20th October 2018, then no rectification of errors/omissions in returns pertaining to FY 2017-18 would be permitted thereafter.

[GSTR-3 is generated only when GSTR-1 and GSTR- 2 for the same tax period is filed. Electronic liability register, electronic cash ledger and electronic credit ledger are updated on generation of GSTR-3.]

GSTR-3B [Sub rules (5) and (6) of rule 61 of CGST Rules]

FORM GSTR-3B is **notified as the form for return** by the Commissioner **when the due dates for furnishing GSTR-1 and GSTR-2 get extended.**

GSTR-3B is a simple return **containing summary** of outward and inward supplies liable to reverse charge, eligible ITC, payment of tax etc.

GSTR-3B can be submitted electronically through the common portal, either directly or through a notified Facilitation Centre.

Steps for Return Filing

Step 1: Filing of GSTR-1

The taxpayer will **upload the final GSTR-1** either directly through data entry at the common portal or by uploading the file containing the details through an offline utility/tool or through third party applications or software **by 10th day of the month** succeeding the month during which the supplies have been made.

The increase / decrease in supply invoices would be allowed **from 15th day to the 17th day** of the month **only on the basis of the details uploaded by the counter-party purchaser** in GSTR-2. ***In other words, the supplier would not be allowed to include any missing invoices on his own after 10th day of the month.***

Invoices should be uploaded periodically (may be daily, weekly etc.) to minimize last minute load.

Key Benefits of Offline Tool

- The GSTR 1 Excel worksheet can be used to prepare data for GSTR 1 without connecting to Internet in offline mode.
- Taxpayer can upload invoices in GSTR 1, more than once, at any time during the day/week/month.
- Offline tool also performs certain computations and validation to minimize errors in return preparation.
- Can fill in invoices data up to 19,000 line items using excel utility in offline mode.

Step 2: Auto-population of GSTR-2A

GST common portal will **auto-populate GSTR-2A of taxpayer** based on the invoice details reported by the counter- party taxpayers (suppliers) on a near real -time basis. While every taxpayer will be able to see the invoices uploaded by their suppliers, **they will be able to finalise their GSTR-2 only after the last date of filing GSTR-1**. After filing of GSTR-1, the taxpayers will be able to view/download their GSTR-2A for further steps.

Step 3: Finalization and filing of GSTR-2

The **invoices auto-populated in GSTR-2A** will be **accepted/rejected/modified** by the purchasing taxpayers in GSTR-2. Purchasing taxpayer **will also be able to add additional purchase invoice** details in his GSTR -2 which have not been uploaded by counter-party taxpayer (supplier) as described above, **provided he is in possession of valid invoice issued by counter-party taxpayer and he has actually received such supplies.**

The taxpayer would, **indicate the eligibility/ partial eligibility** for ITC in those cases where either he is not entitled or he is entitled for partial ITC. The taxpayers can then file their GSTR-2 either online or through offline utility or through third party applications or software between 10th and 15th day of the month succeeding the month during which the supplies have been received.

Step 4: Reconciliation of outward and inward supplies

Taxpayers will have the option to reconcile their inward supplies with their counter-party taxpayers (suppliers) for any missing supply invoices in the GSTR-1 of the counter-party taxpayers during the period of 7 days from filing of GSTR- 1. The purchasing taxpayers can prompt the counter-party taxpayers to accept the inward supplies as uploaded by them. The counter-party taxpayers can accept/reject the modifications made by the purchasing taxpayer between 15th day and the 17th day.

Where a purchasing taxpayer has added an invoice and the corresponding supplying taxpayer accepts the addition, it will amend his GSTR-1 accordingly.

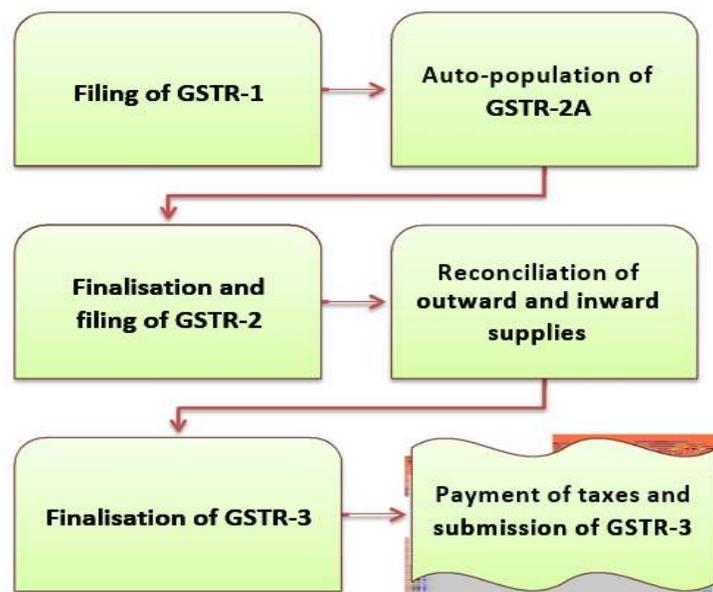
Step 5: Finalisation of GSTR-3

Finalisation of GSTR- 1 and GSTR-2 would enable taxpayers in finalizing their GSTR-3. The GST common portal **would auto-generate Part A of GSTR-3 for the taxpayer.**

GSTR-3 would show the amount that will be credited/debited to the ITC ledger of the taxpayer. The taxpayer will fill in the details of ITC that he intends to utilise for payment of taxes. Any balance amount will have to be paid by the taxpayer as cash. **The return would also show the late fee and interest payable, if any.**

Step 6: Payment of taxes and submission of GSTR-3

Any payment made through challan gets credited to the electronic cash ledger **and does not automatically get offset against any tax liability.** Payment of taxes has to be done by debiting the electronic cash ledger and the taxpayer can opt to debit the electronic cash ledger while submitting the return. The taxpayer will submit the return with the payment of the amount of cash payable as per the return.



What are the precautions that a taxpayer is required to take for a hassle free compliance under GST?

One of the most important things under GST is the **timely uploading of the details of outward supplies** in GSTR-1 by 10th of next month. How best this can be ensured will depend on the number of B2B invoices that the taxpayer issues. If the number is small, the taxpayer can upload all the information in one go. **However, if the number of invoices is large, the invoices (or debit/ credit notes) should be uploaded on a regular basis.**

GST common portal allows regular uploading of invoices **even on a real time basis**. Till the statement is actually submitted, the system also **allows the taxpayer to modify the uploaded invoices**. Therefore, it would always be beneficial for the taxpayers to regularly upload the invoices. Last minute rush makes uploading difficult and comes with higher risk of possible failure and default.

The second thing would be to ensure that taxpayers follow up on uploading the invoices of their inward supplies by their suppliers. This would be helpful in ensuring that the ITC is available without any hassle and delay. Recipients can also encourage their suppliers to upload their invoices on a regular basis instead of doing it on or close to the due date. **The system would allow recipients to see if their suppliers have uploaded invoices pertaining to them.**

Filing of returns by Composition Supplier [Section 39(2) read with rule 62 of CGST Rules]**a) Person eligible to file return, periodicity and form of return**

Every registered person paying tax under section 10 i.e., composition supplier will file a **quarterly return in FORM GSTR-4** electronically through the common portal either directly or through a notified Facilitation Centre.

b) Due date for filing GSTR-4

GSTR-4 should be furnished **by 18th of the month succeeding** the relevant quarter.

c) Auto-population of inward supplies

The inward supplies of a composition supplier received from registered persons filing GSTR-1 **will be auto populated in FORM GSTR-4A.**

The composition supplier can view the auto-populated details of inward supplies in GSTR-4A **and, where required, after adding, correcting or deleting the details, furnish GSTR-4.**

d) Consolidated details of outward supplies

Composition taxpayers are neither entitled for any ITC nor entitled to pass on any credit of composition levy to its customers (registered / unregistered). **Therefore, composition taxpayers are required to provide consolidated details of outward supplies in GSTR-4 and not invoice-wise details of outward supplies.**

e) Details of only intra-state outward supplies

As per Section 10, any person who makes **inter- State** outward supply of goods or any person who is engaged in supply of service (except supply of food articles) is **not eligible** for composition scheme. Therefore, outward supplies details required to be furnished in the return are only pertaining to intra-state.

The composition amount payable on 'outward supply' will therefore, comprise of CGST and SGST and can never consists of IGST amount.

f) No matching of outward composition supplies

It may also be noted that in GSTR-2, **there is no need for a registered person to report inward supplies received from composition supplier, whether invoice-wise or supplier-wise.** There is, thus, no mechanism for matching, outward supplies made by the composition taxpayer.

g) Auto population of inward supplies received from a registered person

The details of inward supplies received by the composition taxpayer get auto-populated from various returns (GSTR-1 and GSTR -5) filed by taxable persons supplying goods/services to such composition taxpayer.

There is, thus, adequate mechanism for matching outward supplies made by any registered person to composition taxpayer.

h) Auto population of inward reverse charge supplies received from a registered person

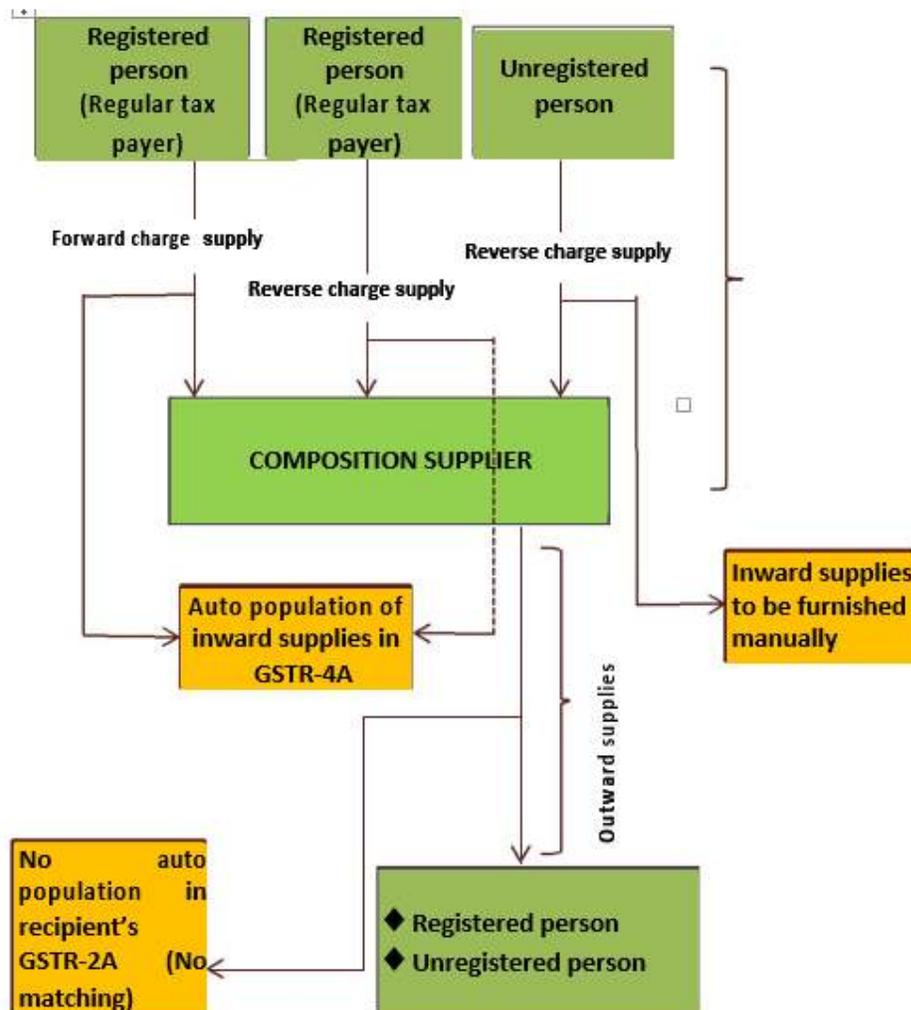
Composition taxpayer is also required to report cases of inward supplies where, he is liable to pay tax under reverse charge mechanism. This will include inward supplies received from registered persons as well as un-registered persons.

This is because, composition taxpayer is required to pay tax under reverse charge mechanism at normal rate in respect of inward supplies received from un-registered persons.

There is a process of matching outward supplies declared by taxable person in his GSTR-1 as reverse charge supplies against the composition taxpayer, with the details furnished by composition taxpayer in GSTR-4. In other words, such supplies get auto-populated in GSTR- 4. **However, as the supplies received from un-registered persons do not get auto-populated, such details are required to be furnished manually.**

The tax payable by a composition taxpayer under reverse charge mechanism can either comprise of CGST and SGST (in case of intra-state inward supply) **or it can consists of IGST in case of (inter-state inward supply).**

The auto population of inward supplies received by a composition supplier from various persons and outward supplies made by a composition supplier to various persons is depicted by way of the following diagram:



i) Tax liability

The tax liability of the composition supplier is broadly divided into 2 parts, namely tax payable for previous tax periods and tax payable as per current tax period. ***Tax payable under the previous tax period is on account of amendment tables (in case of outward supplies) or mismatch errors in cases involving reverse charge mechanism.***

Since a composition supplier is not eligible to take ITC, he will discharge his liability **only by debiting electronic cash ledger**. The form also provides for furnishing details like TDS credit received, tax paid and refund claimed.

j) Statements/returns for the period prior to opting for composition scheme

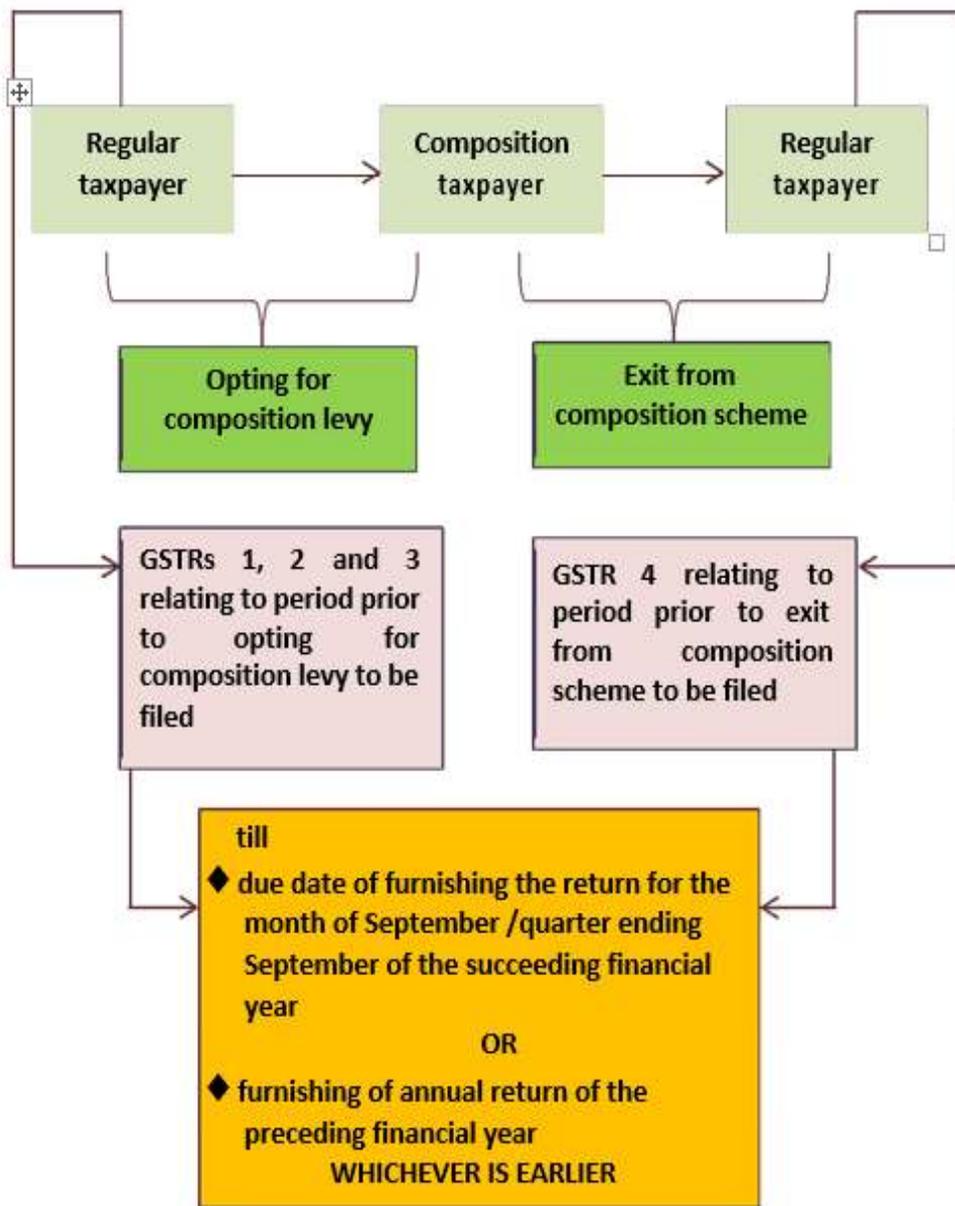
If a registered person opts for composition scheme from the beginning of a financial year, he will, where required, furnish GSTRs 1, 2 and 3 relating to the period prior to opting for composition levy till the

- due date of furnishing the return for the month of September of the succeeding financial year, or
 - furnishing of annual return of the preceding financial year,
- whichever is earlier.**

k) GSTR-4 for the period prior to exiting from composition scheme

A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer will, where required, furnish GSTR-4 **relating to the period prior to his exiting from composition levy till the**

- due date of furnishing the return for the quarter ending September of the succeeding financial year, or
- furnishing of annual return of the preceding financial year, **whichever is earlier.**



Filing of Returns by Non-Resident Taxable Persons [Section 39(5) read with rule 63 of CGST Rules]

Non-Resident Taxable Persons (NRTPs) are those suppliers **who do not have a business establishment in India** and have come for **a short period** to make supplies in India. They would **normally import their products** into India and make local supplies.

A. Monthly Return: A registered NRTP is not required to file separately the Statement of Outward Supplies, Statement of Inward Supplies and Return. In place of the same, **a simplified monthly tax return has been prescribed in Form GSTR-5 for a NRTP for every calendar month or part thereof.**

NRTP shall incorporate the details of outward supplies and inward supplies in GSTR-5.

B. Last date of filing return: The details in GSTR-5 should be furnished within 20 days after the end of the calendar month **or within 7 days after the last day of validity period of the registration, whichever is earlier.**

C. Payment of interest, penalty, fees or any other amount payable:

NRTP shall pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or the provisions of the Returns Chapter under CGST Rules, 2017 till the last date of filing return.

D. A NRTP is not required to file Annual Return.

Details of inward supplies of persons having UIN [Rule 82 of CGST Rules, 2017]

Such person shall furnish the details of those 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.

FIRST RETURN [SECTION 40]

Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted **shall declare the same in the first return furnished by him after grant of registration. [Section 40]**

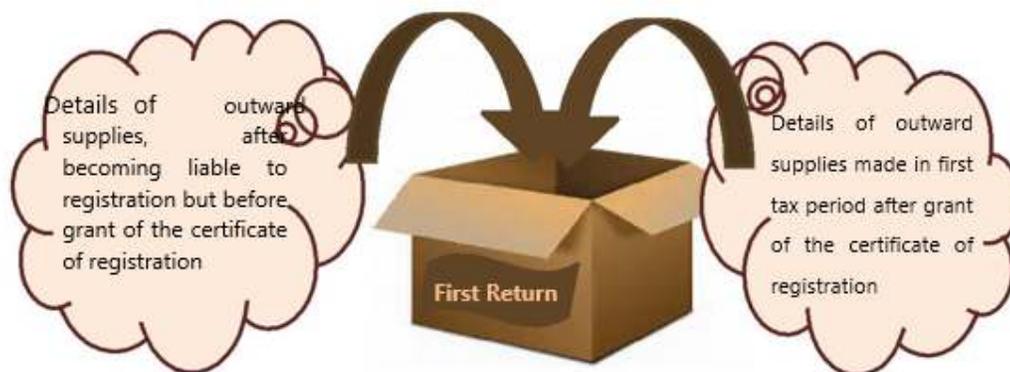
ANALYSIS

When a person becomes liable to registration after his turnover crossing the threshold limit of Rs 20 lakh (Rs 10 lakh in case of Special Category States), 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 the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.

Now, in order to enable such registered person to declare the taxable supplies made by him for the period between the date on which he became liable to registration till the date on which registration has been granted so that ITC can be availed by the recipient on such supplies, **firstly**, the registered person may issue Revised Tax Invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration [Section 31(3)].

Further, Section 40 provides that registered person shall declare his out ward 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.**



ANNUAL RETURN [SECTION 44]

- (1) Every registered person, **other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person**, shall furnish **an annual return for every financial year** electronically in such form and manner as may be prescribed **on or before the 31st day of December** following the end of such financial year.
- (2) Every registered person who is required to get his accounts audited as per section 35(5) shall furnish, electronically, the annual return under sub-section (1) **along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return** furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

ANALYSIS

- **Who are required to furnish Annual Return and what is the due date? [Section 44(1) read with rule 80]**

Answer:

All taxpayers filing return in GSTR-1 to GSTR-3, are required to file an annual return. However, following persons are not required to file annual return:

- (i) Casual Taxable Persons.
- (ii) Non- resident taxable person
- (iii) Input Service Distributors and
- (iv) Persons authorized to deduct/collect tax at source under section 51/52.

This return needs to be filed by 31st December of the next Financial Year.

- **What is the prescribed form for Annual Return? [Section 44(1) read with rule 80(1)]**

Answer:

Annual Return is to be filed **electronically in Form GSTR-9** through the common portal. A person paying tax under composition scheme is required to file the **Annual Return in Form GSTR-9A**.

- **Who is required to furnish a Reconciliation Statement? [Section 44(2) read with section 35(5)]**

Answer:

Section 35 contains the provisions relating to Accounts and Records. Sub-section (5) of section 35 read alongwith section 44(2) and rule 80 of the CGST Rules, 2017 stipulates as follows:

- (i) Every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant **if his aggregate turnover during a FY exceeds Rs. 2 crores.**
- (ii) **Such registered person is required to furnish electronically through the common portal alongwith Annual Return a copy of**
- Audited annual accounts
 - **A Reconciliation Statement, duly certified, in prescribed form**
Reconciliation Statement **will reconcile the value** of supplies declared in the return furnished for the financial year **with the audited annual financial statement** and such other particulars, as may be prescribed

FINAL RETURN [SECTION 45]

Every registered person **who is required to furnish a return under sub-section (1) of section 39 and whose registration has been cancelled** shall furnish a **final return within 3 months** of the date of cancellation or date of order of cancellation, **whichever is later**, in such form and manner as may be prescribed.

- (i) **Who are required to furnish Final Return? [Section 45 read with rule 81]**

Every registered person who is required to furnish return u/s 39(1) **and whose registration has been surrendered or cancelled** shall file a Final Return electronically in **Form GSTR-10** through the common portal.

- (ii) **What is the time-limit for furnishing Final Return? [Section 45]**

Final Return has to be filed within 3 months of the:

(a) date of cancellation

or

(b) date of order of cancellation

whichever is later.

DEFAULT IN FURNISHING RETURN [SECTIONS 46 & 47]

- (1) Where a registered person fails to furnish a return under **Section 39 (Normal Return)** or **Section 44 (Annual Return)** or **Section 45 (Final Return)**, a notice **shall be issued** requiring him to furnish such return **within 15 days** in such form and manner as may be prescribed. **[Section 46]**
- (2) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date **shall pay a late fee of Rs. 100 for every day** during which such failure continues subject to a maximum amount of Rs. 5,000. **[Section 47]**
- (3) Any registered person who fails to furnish the return required under **Section 44** by the due date shall be liable to pay a **late fee of Rs. 100** for every day during which such failure continues subject to a maximum of an amount calculated at a **0.25% of his turnover** in the State or Union territory. **[Section 47]**

GOODS AND SERVICES TAX PRACTITIONERS [Section 48]

Section 48 provides for the authorisation of an eligible person to act as approved Goods and Services Tax Practitioner (**GSTP**).

A **registered person may authorise an approved GSTP** to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed. **[Section 48]**

The **responsibility for correctness of any particulars** furnished in the return or other details filed by the **GSTPs shall continue to rest with the registered person** on whose behalf such return and details are furnished. **[Section 48]**

The manner of approval of GSTPs, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning have been **prescribed in the rules**.

GSTN will provide **separate user ID and Password** to GSTP to enable him to work on behalf of his clients without asking for their user ID and passwords. They can do all the work on behalf of taxpayers as allowed under GST Law. **A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.**

Standardised formats have been prescribed for making application for enrolment as GSTP, certificate of enrolment, show cause notice for disqualification, order of rejection of application of enrolment, list of approved GSTPs, authorisation letter and withdrawal of authorisation.

A GSTP enrolled in any State or Union Territory shall be treated as enrolled in the other States/Union territories.

➤ **What is the eligibility criteria for GSTP?**

Following are the persons who can act and file as GST practitioner. A person who:

- a. is a citizen of India;
- b. is a person of sound mind;
- c. is not adjudicated as insolvent;
- d. has not been convicted by a competent court,

➤ **Following are the conditions to be satisfied (any one) before applying as goods and services tax practitioner:**

(a) Retired Officer

he is a retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post **not lower in rank than that of a Group-B gazetted officer for a period of not less than two years**; or

(b) Enrolled as a sales tax practitioner or tax return preparer

he has been enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of **not less than five years**;

(c) Academic qualification: He must have passed:

- a 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; or
- a degree examination of any Foreign University **recognized by any Indian University** as equivalent to the degree examination mentioned in sub-clause (i); or
- any other examination notified by the Government, on the recommendation of the Council, for this purpose; or
- **has passed any of the following examinations, namely**
 - a) final examination of the Institute of Chartered Accountants of India; or
 - b) final examination of the Institute of Cost Accountants of India; or
 - c) final examination of the Institute of Company Secretaries of India

➤ **What are the activities which can be undertaken by a GSTP?**

Answer:

A GST practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to:

- furnish the details of outward and inward supplies;
- furnish monthly, quarterly, annual or final return;
- make deposit for credit into the electronic cash ledger;
- file a claim for refund; and
- file an application for amendment or cancellation of registration.

GSTP is also allowed to appear as authorised representative before any officer of department, Appellate authority or appellate tribunal on behalf of such a registered person.

➤ **Furnishing returns through GSTP:**

When a registered person opts to furnish his return through GSTP, such registered person gives his consent in prescribed form to any GSTP to prepare and furnish his return. Before confirming submission of any statement prepared by GSTP, ensure that the facts mentioned in the return are true and correct

Thus, the responsibility for correctness of any particulars furnished in the return or other details filed by the GST practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished. The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation shall be treated as deemed confirmation.

➤ **What is the procedure for enrolment as GSTP?**

Answer:

- (a) An **application in prescribed form** may be made electronically through the common portal for enrolment as GSTP
- (b) The application shall be scrutinized and **GST practitioner certificate** shall be granted in the prescribed form
- (c) In case the application is rejected, **proper reasons** shall have to be given
- (d) The enrolment once done remain **valid till it is cancelled**
- (e) No person enrolled as a GSTP shall be eligible to remain enrolled **unless he passes such examination conducted at such periods** and by such authority as may be notified by the commissioner on the recommendations of the council.

(f) 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 law **shall remain enrolled only for a period of 1 year from the appointed day** unless he passes the said examination within the said period of 1 year.

➤ **Other points**

- ✓ Any registered person may give consent and authorise a GST practitioner in the prescribed form by listing the authorised activities in which he intends to authorise the GST practitioner.
- ✓ The registered person authorising a GSTP shall have to authorise in the prescribed form and the GST practitioner will have to accept the authorisation.
- ✓ The GST practitioner shall be allowed to undertake only such tasks as indicated in the prescribed form. The registered person may, at any time, withdraw such authorisation in the prescribed form.
- ✓ Any statement furnished by the GST practitioner shall be made available to the registered person on the GST Common Portal. For every statement furnished by the GST practitioner, a confirmation shall be sought from the registered person over email or SMS.
- ✓ The GST practitioner shall prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials.
- ✓ If the GST practitioner is found guilty of misconduct, his enrolment will be liable to be cancelled. A show cause notice would be issued to him in the prescribed form.

CLAIM OF ITC AND PROVISIONAL ACCEPTANCE THEREOF [SECTION 41]

Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of **eligible input tax, as self-assessed**, in his return and such amount shall be **credited on a provisional basis** to his electronic credit ledger.

The credit shall be **utilised only for payment of self-assessed output tax** as per the return referred to in the said sub-section. **[Section 41]**

ANALYSIS

- Every registered person is entitled to take credit of the input taxes self-assessed in his Return. ITC shall be credited provisionally in the Electronic Credit Ledger of the registered person.
- One of the conditions for taking ITC by the recipient of the supply is that “the tax charged in respect of such supply **has actually been paid to the Government**, either in cash or through utilization of ITC admissible in respect of the said supply” [Section 16(2)(c)].
- For this reason, the statute provides that the ITC will **first be taken provisionally** in the electronic credit ledger, **then after filing of GSTR 3, ITC be matched with the available information of tax payment in respect of that supply.**
- ITC taken on provisional basis can be utilised for payment of self-assessed output tax declared in his return. **Therefore, even before the ITC claim of the taxpayer is matched and finally allowed, it can be availed for payment of taxes in the return.**

However, the taxpayer **cannot utilize such** provisional credit for payment of any other liability like demand created as a result of audit, payment of interest, penalties etc.

Section 42: Matching, reversal and reclaim of ITC

(1) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the “recipient”) for a tax period shall, in such manner and within such time as may be prescribed, be matched-

- (a) with the corresponding details of outward supply furnished by the corresponding registered person (“supplier”) in his valid return **for the same tax period or any preceding tax period;**
- (b) with the IGST paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and
- (c) **for duplication of claims** of ITC.

Details to be matched:

- (a) *GSTIN of the Supplier*
- (b) *GSTIN of the Recipient*
- (c) *Invoice/Debit note number*
- (d) *Invoice/Debit Note Date*
- (e) *Tax Amount*

(2) The claim of ITC in respect of *invoices or debit notes* relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him **shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient (Form GST MIS-1).**

[If the claim of ITC is less than or equal to the tax amount declared by the corresponding supplier, the ITC claim will be finally accepted]

**(3) [2 cases] Where the ITC claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons. (on/before the last date of the month in which the matching has been carried out)
[Recipient – Form GST MIS-1 & Supplier – Form GST MIS-2]**

(4) The duplication of claims of input tax credit (wrong claimed ITC more than once) shall be communicated to the recipient [in Form GST MIS-1].

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is **not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient in his return (Form**

GSTR 3) for the month succeeding the month in which the discrepancy is communicated.

[Interest is payable on amount so added @18%p.a.]

- ✓ *Supplier may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.*
 - ✓ *Supplier shall pay tax & interest on such rectification of error/omission, if any, in case there is a short payment of tax on account of such error/omission*
- (6) The amount claimed as ITC that is found to be in excess on account of duplication of claims **shall be added to the output tax liability** of the recipient in **his return** [GSTR-3] for the month in which the duplication is communicated. [Interest is payable on amount so added @18%p.a.]
- (7) The recipient **shall be eligible to reduce, from his output tax liability**, the amount added under sub-section (5), **if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.**
- (8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), **shall be liable to pay interest at the rate specified** under sub-section (1) of section 50 on the amount so added **from the date of availing of credit till the corresponding additions are made under the said sub-sections.**

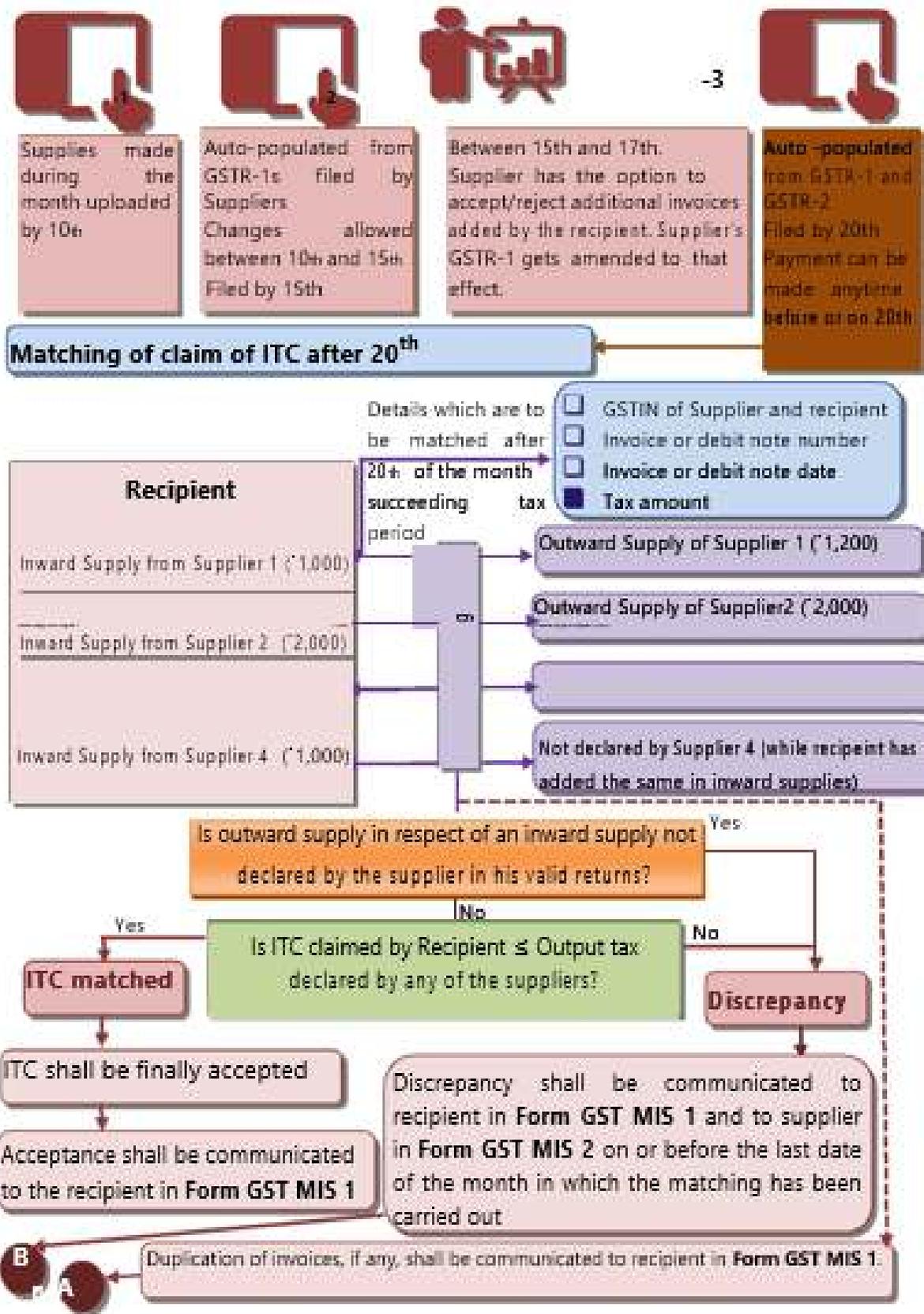
*[Note: In case of **non-rectification of discrepancy of ITC claim**, interest is payable by recipient for a **minimum period** of approximately 2 months **while in case of duplication of claims**, interest is payable for a **minimum period** of approximately 1 month by the recipient]*

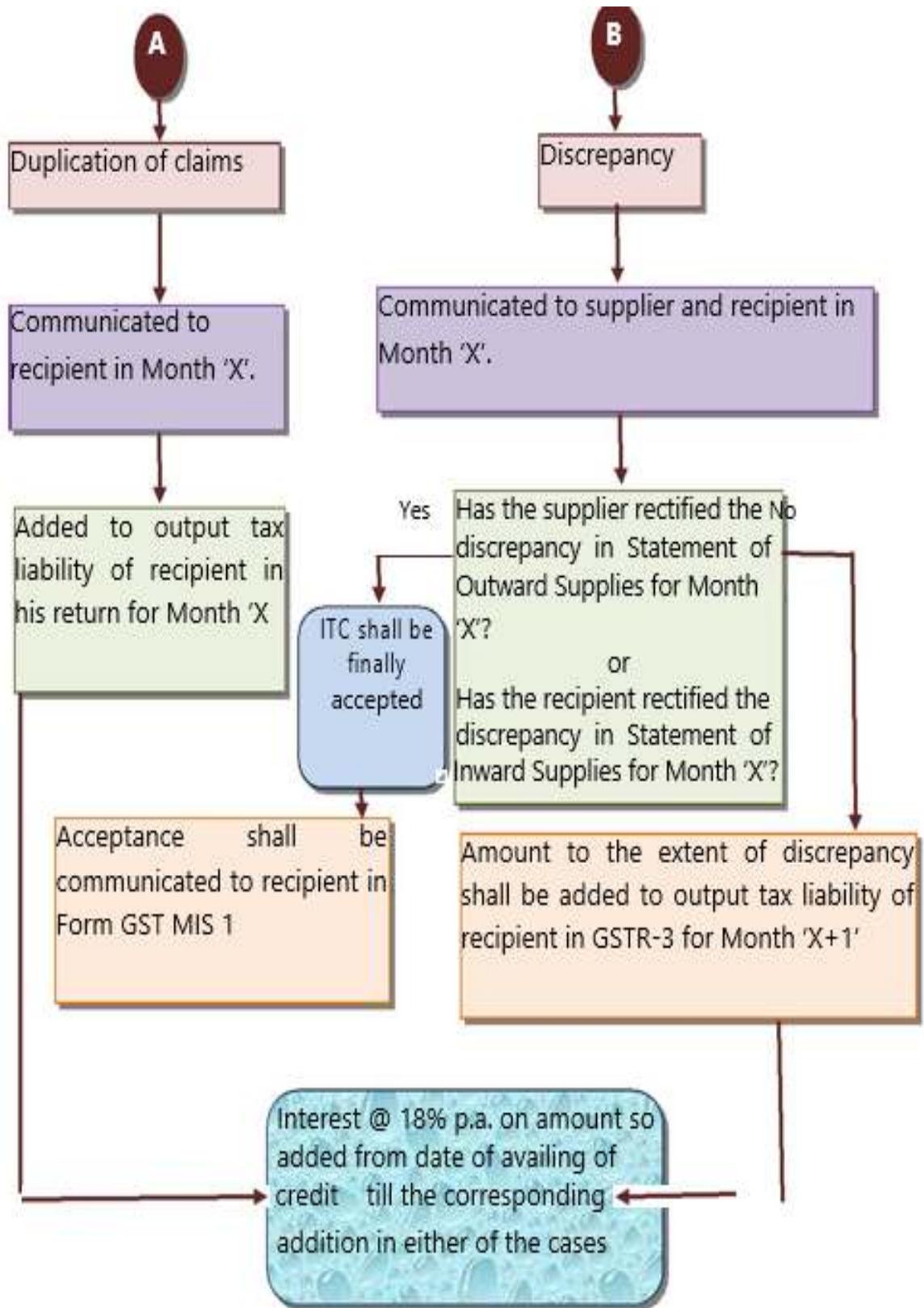
- (9) Where **any reduction in output tax liability is accepted** under sub-section (7), the interest paid under sub-section (8) **shall be refunded to the recipient** by crediting the amount in the corresponding head of **his electronic cash ledger**.

The amount of interest to be credited in any case **shall not exceed the amount of interest paid by the supplier**.

[The interest to be so refunded shall be claimed by the recipient in his return in Form GSTR-3]

- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) **shall be added to the output tax liability** of the recipient in his return for the month in which such contravention takes place and such recipient **shall be liable to pay interest** on the amount so added **at the rate specified in sub-section (3) of section 50** i.e. 24%.





MATCHING, REVERSAL AND RECLAIM OF REDUCTION IN OUTPUT TAX LIABILITY [SECTION 43]

(1) The details of **every credit note** relating to outward supply furnished by a registered person (hereafter in this section referred to as the “supplier”) **for a tax period shall, in such manner and within such time as may be prescribed, be matched—**

(a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the “recipient”) **in his valid return for the same tax period or any subsequent tax period; and**

(b) **for duplication of claims for reduction in output tax liability**

Details to be matched:

(a) *GSTIN of the Supplier*

(b) *GSTIN of the Recipient*

(c) *Credit note number*

(d) *Credit Note Date*

(e) *Tax Amount*

(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient **shall be finally accepted and communicated, in Form GST MIS-1, to the supplier.**

When the claim for reduction in output tax liability be considered as matched?

✓ *Credit Notes in Form GSTR-1 were accepted by the corresponding recipient in Form GSTR-2 without any amendment & valid GSTR-3 is filed by recipient.*

✓ *The amount of output tax liability after taking into account the reduction claimed is more than the ITC claimed after taking into account the reduction admitted & discharged on such credit note by the corresponding recipient on his valid return.*

(3) **[2 cases]** Where the reduction of output tax liability in respect of outward supplies **exceeds** the corresponding reduction in the claim for input tax credit **or** the corresponding credit note **is not declared** by the recipient in his valid returns, **the discrepancy shall be communicated to both such persons [(to Recipient in Form GST MIS-2 & to Supplier in Form GST MIS-1) on or before the last date of the month in which the matching has been carried out.]**

- (4) The **duplication of claims for reduction in output tax liability** shall be communicated to the supplier in Form GST MIS-1.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated **shall be added to the output tax liability of the supplier (debited to Electronic Liability register)**, in such manner as may be prescribed, in his return (GSTR-3) **for the month succeeding the month** in which the discrepancy is communicated.
- (6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims **shall be added to the output tax liability** of the supplier in his return for the month in which such duplication is communicated.
- (7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) **if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.**
- (8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), **shall be liable to pay interest at the rate specified under sub-section (1) of section 50 [18% p.a.]** in respect of the amount so added ***from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.***
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) **shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger** in such manner as may be prescribed.

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

- (10) The amount reduced from output tax liability in contravention of the provisions of sub-section (7) **shall be added to the output tax liability** of the supplier in his return for the month in which such contravention takes place and **such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50 [24% p.a.]**.

TEST YOUR KNOWLEDGE

1. **Who is required to furnish details of outward supplies in Form GSTR-1?**
 - (a) Person paying tax under composition scheme
 - (b) Non-resident taxable person
 - (c) Both (a) & (b)
 - (d) **None of the above**

2. **What does N stand for in HSN?**
 - (a) Network
 - (b) Nationalization
 - (c) **Nomenclature**
 - (d) Nomination

3. **Which form is furnished for submission of details of outward supplies u/s 37?**
 - (a) **GSTR-1**
 - (b) GSTR-2
 - (c) GSTR-3
 - (d) GSTR-5

4. **What is the due date for submission of monthly GSTR-1?**
 - (a) **on or before 10th day of the immediately succeeding month**
 - (b) on or before 15th day of the immediately succeeding month
 - (c) on or before 17th day of the immediately succeeding month
 - (d) on or before 20th day of the immediately succeeding month

5. **Form GSTR-2 contains the details of _____**
 - (a) outward supplies
 - (b) **inward supplies**
 - (c) consolidated supplies
 - (d) tax payable

6. **The due date of filing of GSTR-2 is _____?**
 - (a) on or before 10th day of the next month
 - (b) **after 10th day but on or before 15th day of the next month**
 - (c) on or before 17th day of the next month
 - (d) on or before 20th day of the next month

7. **Composition tax payer is required to file return in Form no. _____.**
 - (a) GSTR-2
 - (b) GSTR-3
 - (c) **GSTR-4**
 - (d) GSTR-5

8. **The due date for filing GSTR-3 is _____.**
 - (a) on 10th day of the next month
 - (b) on 15th day of the next month
 - (c) on 17th day of the next month
 - (d) **on or before 20th day of the next month**

9. **Which of the following are not required to file the Annual Return?**
 - (a) Input Service Distributor
 - (b) Casual Taxable Person
 - (c) Non-resident Taxpayer
 - (d) **All of the above**

10. **The maximum amount of late fee payable by any registered person on failure to furnish GSTR-3 by the due date is Rs ____.**
 - (a) 1,000
 - (b) **5,000**
 - (c) 10,000
 - (d) 25,000

11. The due date of filing Final Return is _____.?

- (a) 20th of the next month
- (b) 18th of the month succeeding the quarter
- (c) **Within three months of the date of cancellation or date of order of cancellation, whichever is later**
- (d) 31st December of next financial year

12. What are the key features of return mechanism in GST?

Answer:

The basic features of the return mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to ITC from returns of supplier to that of recipient, invoice-level information matching and auto-reversal of ITC in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

13. What kind of inward supplies are required to be furnished in GSTR-2?

Answer:

The details of inward supplies of goods or services or both furnished in GSTR-2 include the -

- (a) invoice wise details of all inter-State and intra-State supplies received from registered persons including supplies taxable under reverse charge;
- (b) import of goods and services made; and
- (c) debit and credit notes, if any, received by the registered person from suppliers in respect of above supplies

14. Can a recipient feed information in his GSTR-2 which has been missed by the supplier?

Answer:

Yes, **the recipient can himself feed the invoices not uploaded by his supplier**. The credit on such invoices will also be given provisionally but will be subject to matching. On matching, if the invoice is not uploaded by the supplier, both of them will be intimated. If the mismatch is rectified, provisional credit will be confirmed. But if the mismatch continues, the amount will be added to the output tax liability of the recipient in the returns for the month **subsequent to the month** in which such discrepancy was communicated.

15. Mr. X, a composition tax payer, did not render any taxable supply during the quarter July-September. Is he required to file any goods and service tax return?

Answer:

Composition tax payer is required to furnish return u/s 39 for **every quarter** even if no supplies have been effected during such period. In other words, filing of Nil return is also mandatory.

Therefore, Mr. X is required to file quarterly return even if he did not render any taxable supply during the quarter July-September.

16. If a return has been filed, how can it be revised if some changes are required to be made?

Answer:

In GST since the returns are built from details of individual transactions, **there is no requirement for having a revised return**. Any need to revise a return may arise due to the need to change a set of invoices or debit/credit notes. Instead of revising the return already submitted, **the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended**. They can be amended in any of the future GSTR- 1/2 in the tables specifically provided for the purposes of amending previously declared details.

As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter 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.

The rectification of errors/omissions is carried out by entering appropriate particulars in “Amendment Tables” contained in GSTR-1 and GSTR-2.

17. Mr. A, a regular taxpayer, files his GSTR-1, GSTR-2 and GSTR-3 for the month of August, 2017 by the respective due dates. Mr. A receives a communication from the GST common portal on 28th September, 2017 that ITC of Rs 15,000 claimed by him is in excess of the tax declared by Mr. B (supplier concerned) in his valid tax return. Mr. B has filed his Annual Return for financial year 2017-18 on 10th November, 2018.

Answer the following questions:

When is Mr. B required to rectify the discrepancy? Is there any maximum time limit beyond which the discrepancy cannot be rectified?

What will happen if Mr. B does not rectify the discrepancy?

Answer:

- (i) Mr. B can rectify the discrepancy in valid GSTR-3 **for the month of September, 2017 in terms of section 42(5).**

As per section 39(9), the maximum time limit for the rectification of the discrepancy is the earlier of the following two dates:

Due date of filing of return for the month of September following the end of the financial year 2017-18 [i.e., 20th October, 2018]

or

Actual date of filing of the relevant annual return i.e., 10th November, 2018.

Thus, Mr. B cannot rectify the discrepancy beyond 20th October, 2018.

- (ii) If Mr. B does not rectify the discrepancy **in his valid return for September, 2017**, the excess ITC claimed by Mr. A will be added in the output tax liability of Mr. A in his GSTR-3 **for the month of October, 2017.**

If Mr. B does not rectify the discrepancy by 20th October, 2018, Mr. A will never be able to reclaim ITC of Rs 15,000.

18. Mr. Y, a registered person, has filed its GSTR-3 for the month of September on 19th November. Determine the amount of late fee payable, if any, by Mr. Y.

Answer:

As per section 47, any registered person who fails to furnish, inter alia, the returns required under section 39 by the due date is required to **pay a late fee of Rs 100 for every day** during which such failure continues subject to a maximum amount Rs 5,000.

Due date of filing GSTR-3 for a month is 20th day of the succeeding month. Thus, there is a delay of 30 days [11 + 19] by Mr. Y in filing of GSTR-3 for the month of September. **Hence, late fee of Rs 3,000 (Rs 100 x 30) will be payable by Mr. Y.**

EXEMPTIONS FROM GST

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST. **However, for determining the liability to pay the tax, one needs to further check whether such supply of goods and/or services are exempt from tax.**

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**.

Power to grant exemption from GST has been **granted vide section 11 of the CGST Act** and vide **section 6 of the IGST Act**. State GST laws also contain identical provisions granting power to exempt SGST.

Essential goods/services, i.e. public consumption products/services, have been exempted. Items such as unbranded atta/maida/besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST. Further, essential services like health care services, education services, etc. have also been exempted.



FEW DEFINITIONS

- **Advertisement:** means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means **but does not include any presentation made in person.**

- **Agricultural produce:** means any produce out of cultivation of plants and rearing of all life forms of animals, **except the rearing of horses**, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer **which does not alter its essential characteristics but makes it marketable for primary market.**

- **Approved vocational education course: means, -**
 - ✓ a course run by an **industrial training institute or an industrial training centre** affiliated to the **National Council** for Vocational Training or **State Council** for Vocational Training offering courses in **designated trades notified under the Apprentices Act, 1961** or
 - ✓ a **Modular Employable Skill Course**, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;

- **Authorised medical practitioner:** means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in **any recognised system of medicines** in India as per any law for the time being in force.

- **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.

- **Business entity:** means any person carrying out business.

➤ **Charitable activities:** means activities relating to -

(i) **public health by way of,-**

(A) **care or counseling of**

- ✓ terminally ill persons or persons with severe physical or mental disability;
- ✓ persons afflicted with HIV or AIDS;
- ✓ persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) **public awareness of preventive health, family planning or prevention of HIV infection;**

(ii) **advancement of religion, spirituality or yoga;**

(iii) **advancement of educational programmes or skill development relating to,-**

(A) **abandoned, orphaned or homeless children;**

(B) **physically or mentally abused and traumatized persons;**

(C) **prisoners; or**

(D) **persons over the age of 65 years residing in a rural area;**

(iv) **preservation of environment including watershed, forests and wildlife;**

➤ **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.

➤ **Contract carriage:** has the same meaning as assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988.

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

(i) a maxicab; and

(ii) a motor cab notwithstanding that separate fares are charged for its passengers

[Section 2(7) of Motor Vehicles Act, 1988].

- **Educational institution:** means an institution providing services by way of,-
 - ✓ pre-school education and education up to higher secondary school or equivalent;
 - ✓ education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
 - ✓ education as a part of an approved vocational education course.

- **Goods carriage:** has the same meaning as assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988. **Goods carriage means** any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods [Section 2(14) of the Motor Vehicles Act, 1988].

- **Goods transport agency:** means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

- **Governmental authority:** means an authority or a board or any other body—
 - ✓ set up by an Act of Parliament or a State Legislature; or
 - ✓ 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

- **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.

- **Incubatee:** means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech and innovative products.

- **Interest:** means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) **but does not include any service fee or other charge** in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.
- **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.**
- **Online information and database access or retrieval services:** means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology **and includes electronic services such as,—**
- (i) advertising on the internet;
 - (ii) providing cloud services;
 - (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
 - (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
 - (v) online supplies of digital content (movies, television shows, music and the like);
 - (vi) digital data storage; and
 - (vii) online gaming
- **Original works:** means- **all new constructions;**
- ✓ all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
 - ✓ erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise.
- **Print media: means**
- ✓ **'book'** as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, **but does not include business directories, yellow pages and trade catalogues** which are primarily meant for commercial purposes;
 - ✓ **'newspaper'** as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867.

- **Recognised sporting event:** means any sporting event,-
- (I) organised by a recognised sports body where the participating team or individual represent any district, State, zone or country;
 - (II) **organised -**
 - (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;
 - (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 Central Civil Services Cultural and Sports Board;
 - (d) as part of national games, by Indian Olympic Association; or
 - (e) under Panchayat YuvaKreeda Aur Khel Abhiyaan (PYKKA) Scheme;
- **Specified organisation: shall mean,-**
- (a) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or
 - (b) 'Committee' or 'State Committee' as defined in section 2 of the Haj Committee Act, 2002.
- **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**
- **Tour operator:** means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, **and includes any person engaged in the business of operating tours.**

POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST 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/order, 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.**

Goods imported by unit/developer in SEZ exempt from IGST

All goods imported by a unit/developer in the Special Economic Zone (SEZ) for authorised operations are **exempt from the whole** of the integrated tax leviable thereon under section 3(7) of the Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017 [**Notification No. 64/2017 Cus dated 05.07.2017**].

LIST OF SERVICES EXEMPT FROM TAX**1. Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities.**

In order to claim exemption under this head, following **two conditions** must be satisfied:-

- (i) The **entity is registered** with income tax authorities under section 12AA of the Income tax Act, 1961, and
- (ii) The entity **carries out one or more of the specified charitable activities.**

It implies that **tax is payable** on any service **other than by way of charitable activities** to any other person [subject to fulfillment of other conditions of taxability] provided by an entity registered under section 12AA of the Income tax Act, 1961.

2. Services by way of transfer of a going concern, as a whole or an independent part thereof.**3. Pure services provided TO Government:**

- Pure services (excluding works contract service or other composite supplies involving supply of any goods) **provided to the Central Government, State Government or Union territory or local authority or a Governmental authority**
- **by way of any activity:**
 - (i) in relation to any function entrusted **to a Panchayat** under article 243G of the Constitution or
 - (ii) in relation to any function entrusted **to a Municipality** under article 243W of the Constitution

4. Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W 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. Services by the Central Government, State Government, Union territory or local authority excluding the following services-

- (a) services by the Department of Posts by way of **speed post, express parcel post, life insurance, and agency services provided to a person** other than the Central Government, State Government, Union territory;
- (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (c) transport of goods or passengers; or
- (d) any service, other than services covered under entries (a) to (c) above, **provided to business entities.**

7. Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to Rs 20 lakh (Rs 10 lakh in case of a Special Category States) in the preceding FY.

Explanation - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:-

- (i) Clauses (a), (b) and (c) of Entry 6 above.
- (ii) **services by way of renting of immovable property.**

8. Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.

However, nothing contained in this entry shall apply to services referred in clauses (a), (b) and (c) of Entry 6 above.

9. Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed Rs 5,000.

However, nothing contained in this entry shall apply to services referred in Clause (a), (b) and (c) of Entry 6 above

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 Rs 5,000 in a FY.**

- 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.**
- 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.**
- 12. Services by way of renting of residential dwelling for use as residence.**
- 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 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 Rs 1,000 or more per day;
 - (ii) renting of premises, community halls, kalyanmandapam or open area, and the like** where charges are **Rs 10,000 or more per day;**
 - (iii) renting of shops or other spaces for business or commerce** **where charges are Rs 10,000 or more per month.**
- 14. Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below Rs 1,000 per day or equivalent.**
- 15. Transport of passengers, with or without accompanied belongings, by –**
- (a) air, 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;**
 - (b) non-air conditioned contract carriage** other than radio taxi, for transportation of passengers, **excluding tourism, conducted tour, charter or hire; or**
 - (c) stage carriage other than air- conditioned stage carriage.**

16. 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:**

However, nothing contained in this entry shall apply **on or after the expiry of a period of 1 year from the date of commencement of operations** of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

17. Service of transportation of passengers, with or without accompanied belongings, by—

(a) railways in a class other than—

- (i) first class; or**
- (ii) an air-conditioned coach;**

(b) metro, monorail or tramway;

(c) inland waterways;

(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and

(e) metered cabs or auto rickshaws (including e-rickshaws).

18. Services by way of transportation of goods-

(a) by road except the services of—

- (i) a goods transportation agency;**
- (ii) a courier agency;**

(b) by inland waterways.

19. Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.

20. Services by way of transportation by rail or a vessel from one place in India to another of the following goods –

- (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- (b) defence or military equipments;
- (c) newspaper or magazines registered with the Registrar of Newspapers;
- (d) railway equipments or materials;
- (e) agricultural produce;
- (f) milk, salt and food grain including flours, pulses and rice; and
- (g) organic manure.

21. Services provided by a goods transport agency, by way of transport in a goods carriage of –

- (a) agricultural produce;
- (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs1,500;
- (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs 750;
- (d) milk, salt and food grain including flour, pulses and rice;
- (e) organic manure;
- (f) newspaper or magazines registered with the Registrar of Newspapers;
- (f) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- (g) defence or military equipments.

22. Services by way of giving on hire –

- (a) to a state transport undertaking, a motor vehicle meant to **carry more than 12 passengers**; or
- (b) to a **goods transport agency**, a means of transportation of goods.

23. Service by way of access to a road or a bridge on payment of toll charges.

- 24.** Services by way of **loading, unloading, packing, storage or warehousing of rice.**
- 25.** Transmission or distribution of electricity by an electricity transmission or distribution **utility.**
- 26.** Services by **the Reserve Bank of India.**
- 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.
- 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.
- 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.
- 32.** Services provided by the **Insurance Regulatory and Development Authority** of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999.
- 33.** Services provided by the **Securities and Exchange Board of India** by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
- 34. Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees 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.

35. Services of general insurance business provided under following schemes –

- (a) Hut Insurance Scheme;
- (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
- (c) Scheme for Insurance of Tribals;
- (d) Janata Personal Accident Policy and Gramin Accident Policy;
- (e) Group Personal Accident Policy for Self-Employed Women;
- (f) Agricultural Pumpset and Failed Well Insurance;
- (g) premia collected on export credit insurance;
- (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;
- (i) Jan Arogya Bima Policy;
- (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);
- (k) Pilot Scheme on Seed Crop Insurance;
- (l) Central Sector Scheme on Cattle Insurance;
- (m) Universal Health Insurance Scheme;
- (n) Rashtriya Swasthya Bima Yojana;
- (o) Coconut Palm Insurance Scheme;
- (p) Pradhan Mantri Suraksha Bima Yojna;
- (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.

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 fifty thousand rupees;
- (d) Varishtha Pension Bima Yojana;
- (e) Pradhan Mantri Jeevan Jyoti Bima Yojana;
- (f) Pradhan Mantri Jan Dhan Yojana;

(g) Pradhan Mantri Vaya Vandan Yojana.

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.**
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.
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.**
41. **One time upfront amount** (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (30 years, or more) lease of industrial plots, **provided by the State Government Industrial Development Corporations or Undertakings to industrial units.**
42. Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period **prior to the 1st April, 2016**, on payment of licence fee or spectrum user charges, as the case may be.
43. Services of **leasing of assets** (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation **to Indian Railways.**
44. **Services provided by an incubatee up to a total turnover of Rs 50 lakh in a financial year subject to the following conditions, namely:-**
- (a) the total turnover **had not exceeded Rs 50 lakh** during the preceding financial year; and
 - (b) a period of **three years has not elapsed from the date of entering** into an agreement as an incubatee.

45. Services provided by-**(a) an arbitral tribunal to –**

- (i) any person other than a business entity; or
- (ii) a business entity with an aggregate turnover up to Rs 20 lakh (Rs10 lakh in the case of Special Category States) **in the preceding financial year;**

(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-

- (i) an advocate or partnership firm of advocates providing legal services;
- (ii) any person other than a business entity; or
- (iii) a business entity with an aggregate turnover up to Rs 20 lakh (Rs10 lakh in the case of Special Category States) in the preceding financial year;

(c) a senior advocate by way of legal services to-

- (i) any person other than a business entity; or
- (ii) a business entity with an aggregate turnover up to Rs 20 lakh (Rs10 lakh in the case of Special Category States) in the preceding financial year.

46. Services by a veterinary clinic in relation to health care of animals or birds.**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.

48. Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or **bio- incubators recognized by the Biotechnology Industry Research Assistance Council**, under the Department of Biotechnology, Government of India.**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.

51. Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.

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

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

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;
- (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;
- (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- (e) loading, unloading, packing, storage or warehousing of agricultural produce;
- (f) agricultural extension services;
- (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

- 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.
- 56.** Services by way of slaughtering of animals.
- 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.
- 60.** Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement.
- 61.** Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
- 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.
- 64.** Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016:
However, the exemption shall apply only to tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource.
- 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.

66. Services provided -

(a) by an educational institution to its students, faculty and staff;

(b) 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; upto higher secondary:

However, nothing contained in entry (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.**

67. Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: -

- (a) 2 year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;
- (b) fellow programme in Management;
- (c) 5 year integrated programme in Management.

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.

69. Any services provided by, _

- (a) the National Skill Development Corporation set up by the Government of India;
- (b) a Sector Skill Council approved by the National Skill Development Corporation;
- (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council,

in relation to-

- (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or
- (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
- (iii) any other Scheme implemented by the National Skill Development Corporation.

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 Training.

72. Services provided to the Central Government, State Government, Union territory administration under **any training programme for which total expenditure is borne by the Central Government**, State Government, Union territory administration.

73. Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.

74. Services by way of-

- (a) **health care services** by a clinical establishment, an authorised medical practitioner or para-medics;
- (b) services provided **by way of transportation of a patient in an ambulance**, other than those specified in (a) above.

75. Services provided by **operators of the common bio-medical waste treatment facility** to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.

76. Services by way of **public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.**

77. Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution –

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or
- (c) **up to an amount of Rs 5,000 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.

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 Rs 1,50,000. However, the exemption shall not apply to service provided by such artist as a brand ambassador.

79. Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.

80. Services by way of training or coaching in recreational activities relating to-

- (a) arts or culture, or
- (b) sports by charitable entities registered under section 12AA of the Income-tax Act.

81. Services by way of right to admission to-

- (a) circus, dance, or theatrical performance including drama or ballet;
- (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
- (c) **recognised sporting event,**

where the consideration for admission is not more than Rs. 250 per person as referred to in (a), (b) and (c) above.

Above services have been exempted from both CGST and IGST by virtue of notifications issued under respective Acts.

Apart from this, list of services exempt from IGST by Notification No. 9/2017 IT (R) dated 28.06.2017 also include following three services.

Description of services

1. Services received from a provider of service located in a non-taxable territory by –

- (a) the Central Government, State Government, Union territory, a local authority, a governmental authority **or an individual** in relation to any purpose **other than commerce, industry or any other business or profession**;
- (b) an entity registered under section 12AA of the Income-tax Act, 1961 **for the purposes of providing charitable activities**; or
- (c) a person located in a non-taxable territory.

However, the exemption shall not apply to –

- (i) **online information and database access or retrieval services received by persons** specified in entry (a) or entry (b); or
- (ii) services by way of **transportation of goods by a vessel** from a place outside India up to the customs station of clearance in India received by persons specified in the entry.

2. Services received by the RBI, from outside India in relation to management of foreign exchange reserves.

3. Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.

OTHER EXEMPTIONS**1. Intra-State supplies received by a registered person from any unregistered supplier exempt from CGST**

Intra-State supplies of goods or services or both received by a registered person **from any unregistered supplier, are exempt from the whole of the central tax** leviable thereon under section 9(4).

However, the said exemption **shall not be applicable** where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the suppliers, who is or are not registered, **exceeds Rs 5,000 in a day** [Notification No.8/2017 CT (R) dated 28.06.2017].

2. Intra-State supplies received by a TDS deductor from any unregistered supplier exempt from CGST

Intra-State supplies of goods or services or both **received by a deductor under section 51, from any unregistered supplier**, is exempt from the whole of the central tax leviable thereon under section 9(4), **subject to the condition that the deductor is not liable to be registered otherwise than under section 24(vi)** [Notification No.9/2017 CT (R) dated 28.06.2017].

3. Services imported by unit/developer in SEZ exempt from IGST

All services imported by a unit/developer in the Special Economic Zone (SEZ) for authorised operations **are exempt from the whole of the integrated tax leviable** thereon under section 3(7) of the Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017 [Notification No. 18/2017 IT (R) dated 05.07.2017].

TEST YOUR KNOWLEDGE

1. **Transportation of passengers by are exempt from GST.**
 - (a) Railway in first class
 - (b) Railway in an air-conditioned coach
 - (c) **Metro**
 - (d) All of the above
2. **Transportation of by a GTA in a goods carriage is exempt from GST.**
 - (a) Agricultural produce
 - (b) Organic manure
 - (c) Milk
 - (d) **All of the above**
3. **What of the following service provided to an educational institution – Debo PublicSchool- are exempt from GST?**
 - (a) Transportation of staff of school
 - (b) Cleaning of School
 - (c) Services relating to conduct of higher secondary exams
 - (d) **All of the above**
4. **Transportation of passengers by are exempt from GST.**
 - (a) air conditioned stage carriage
 - (b) radio taxi
 - (c) **air, terminating in Nagaland airport**
 - (d) All of the above
5. **Which of the following services provided by Department of Posts are exempt from GST?**
 - (a) Speed posts
 - (b) Life Insurance
 - (c) Express parcel posts
 - (d) **None of the above**
6. **An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST?**

Answer:

Services provided to a recognized sports body by an individual inter alia as a referee in a sporting event organized by a recognized sports body is exempt from GST.

Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt.

However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

7. **RXL Pvt. Ltd. manufactures beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth Rs 1,20,000 will be donated to a charitable organization. Whether Ms. Ahana Kapoor will be required to pay any GST?**

Answer:

Services by an artist by way of a performance in folk or classical art forms of music, or (ii) dance, or (iii) theatre are exempt from GST, if the consideration charged for such performance is not more than Rs 1,50,000.

However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

8. Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons:

Particular	Amount
Fees charged charitable trust for yoga camp conducted by a charitable trust	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

Answer:**Computation of value of taxable supply**

Particulars	(Rs)
Fees charged for yoga camp conducted by a charitable trust [Note-1]	Nil
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	Nil
Amount charged by cord blood bank for preservation of stem cells [Note-3]	Nil
Service provided by commentator to a recognized sports body [Note-4]	5,20,000

Notes:

- Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
- Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
- Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from GST.
- Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by commentators are liable to GST.**

9. Examine whether GST is exempted on the following independent supplies of services:

- Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school.
- Services provided by way of vehicle parking to general public in a shopping mall.

Answer:

- (i) Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.
- (ii) No service provide by way of vehicle parking to general public are not Exempted from GST Therefore, GST is payable on the same.

10. Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:

<u>Customer</u>	<u>Nature of services provided</u>	<u>Amount charged</u>
A	Transportation of milk	Rs 20,000
B	Transportation of books on a consignment transported in a single goods carriage	Rs. 3,000
C	Transportation of chairs for a single consignee in the goods carriage	Rs. 600

Answer:

Customer	Nature of services provided	Amount charged	Taxability
A	Transportation of milk	₹ 20,000	Exempt. Transportation of milk by goods transport agency is exempt.
B	Transportation of books on a consignment transported in a single goods carriage	₹ 3,000	GST is payable. Exemption is available for transportation of goods only where the consideration for transportation of goods on a consignment transported in a single goods carriage does not exceed ₹ 1,500.
C	Transportation of chairs for a single consignee in the goods carriage	₹ 600	Exempt. Transportation of goods where consideration for transportation of all goods for a single consignee does not exceed ₹ 750 is exempt.

11. When exemption from whole of tax collected on goods or services or both has been granted absolutely, can a person pay tax?

Answer:

No, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.