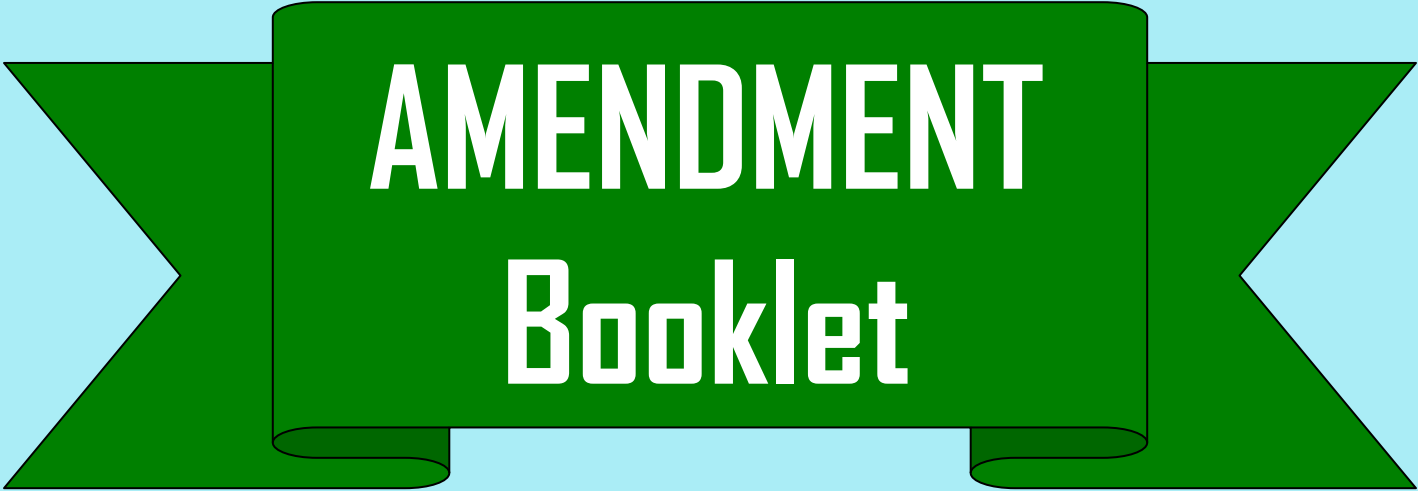


CA/CMA/CS FINAL



AMENDMENT
Booklet

For MAY, 2023 Exams

Amendments from 1/05/2022 to 31 /10/2022

CA RAJ KUMAR

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About CA RAJ KUMAR

CA Raj Kumar is a dynamic & qualified Chartered Accountant. As a brilliant student and a position holder at Graduation & Post Graduation level, during his **15 years of glorious teaching experience** in the field of **Indirect Taxation** he has taught **over 1,55,000 students**.

He is a favorite amongst CA Students for the astute & insightful academic inputs provided by him and for his pleasing & endearing personality and **lucid art of teaching**.

He firmly believes in **blending studies with fun** and this is quite evident in his classes wherein he goes beyond theoretical reading of the subject, makes students **solve practical problems**, gives them practical **real life examples** and pushes them to achieve their goals with full precision.

In the subject Indirect Tax Laws, his students have continued to score **All India Highest Marks for 11 times till now**. He has also been entrusted by Government agencies to **show the ropes to IRS Officers** in training, which is a **testament to his caliber** as a subject matter expert.

He is famous for **concepts linkage** from the very beginning till the end which helps in understanding the topic, acing the exams and in post CA life as well. **His unique use of GST portal during the class** to link theory with Practical makes him stand apart from the crowd. His **classes are practical, conceptual and concise**. He is also the author of bestselling titles 'GST Compact Book'.

PART 1

GST

Chapter 2

Supply

Q.1 Whether various prerequisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

Ans. [Schedule III](#) to the [CGST Act](#) provides that “services by employee to the employer in the course of or in relation to his employment” will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment.

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

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

Q.2 Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST

Ans. As per [Schedule III](#) ‘sale of land’ is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.

Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by [Schedule III](#) and accordingly does not attract GST.

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

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

1. In certain cases/instances, questions have been raised regarding taxability of an activity or transaction as the supply of service of agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act.

Applicability of GST on payments in the nature of liquidated damage, compensation, penalty, cancellation charges, late payment surcharge etc. arising out of breach of contract or otherwise and scope of the entry at [para 5\(e\) of Schedule II of Central Goods and Services Tax Act, 2017](#), in this context has been examined in the following paragraphs.

2. “*Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act*” has been specifically declared to be a supply of service in [para 5 \(e\) of Schedule II of CGST Act](#) if the same constitutes a “supply” within the meaning of the Act. The said expression has following three limbs:—

(a) **Agreeing to the obligation to refrain from an act-**

Example of activities that would be covered by this part of the expression would include non-compete agreements, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.

Another example of such activities would be a builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or an industrial unit refraining from manufacturing activity during certain hours against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.

(b) **Agreeing to the obligation to tolerate an act or a situation-**

This would include activities such a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker, or an RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

(c) **Agreeing to the obligation to do an act-**

This would include the case where an industrial unit agrees to install equipment for zero emission/discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.

3. The description “*agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act*” was intended to cover services such as described above. However, over the years doubts have persisted regarding various transactions being classified under the said description.

Some of the important examples of such cases are Service Tax/GST demands on –

- (i) Liquidated damages paid for **breach of contract**;
- (ii) **Compensation given to previous allottees** of coal blocks for cancellation of their licenses pursuant to Supreme Court Order;
- (iii) Cheque dishonour fine/penalty charged by a power distribution company from the customers;
- (iv) Penalty paid by a mining company to State Government for unaccounted stock of river bed material;
- (v) **Bond amount recovered** from an employee leaving the employment before the agreed period;
- (vi) Late payment charges collected by any **service provider for late payment of bills**;
- (vii) Fixed charges collected by a power generating company from State Electricity Boards (SEBs) or by SEBs/ DISCOMs from individual customer for supply of electricity;
- (viii) **Cancellation charges recovered by railways for cancellation of tickets, etc.**

Chapter 4

Taxable Person

Step: 3 If you don't fall under above both steps, then check here-

(a) Aggregate Turnover	\leq	Applicable Limit (10L/20L/40L)	= Registration not required
(b) Aggregate Turnover (All outward supplies)	$>$	Applicable Limit (10L/20L/40L)	= Registration required in all those States/UTs, from where you are making TAXABLE supply.

*Taxable
 *Exempted
 *Zero Rated

- Nil Rated supply
- 100% E/N Supply
- Non-Taxable supply

If you are making **taxable** supplies from any of the 4 specified states-

*Manipur,
 *Mizoram,
 *Nagaland,
 *Tripura

↓
Applicable Limit = 10 lakhs

If you are making **taxable** supplies from any of the 6 specified states-

*Arunachal Pradesh,
 *Uttarakhand,
 *Meghalaya,
 *Sikkim,
 *Telangana,
 *Puducherry

↓
Applicable Limit = 20 lakhs

If you are making **taxable** supplies from any other States/UTs & deals in-

Only Goods	Only Services	Goods & Services
↓	↓	↓
Limit= 40 lakh (Note 1)	Limit= 20 lakh (Note 2)	Limit= 20 lakh (Note 3)

Note-1= For tobacco / Ice cream /Pan Masala, **Fly ash bricks/ aggregates with 90 per cent. or more fly ash content / blocks**

(Limit= 20Lakhs)

Note 2= For all services, **limit=20lakhs.**

Note-3= If service is Interest on loans/deposits/ advances, then **Limit = 40lakhs.**

Chapter 5

Exemptions

Education

**Prospective
and Ex-
Students**

Q. Applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions.

Ans. it is clarified that the amount or fee charged from prospective students for entrance or admission, or for issuance of eligibility certificate to them in the process of their entrance/admission as well as the fee charged for issuance of migration certificates by educational institutions to the leaving or ex-students is covered by exemption. **[Circular No. 177/09/2022]**

Health

(73)
Cord Blood
Bank

~~Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.~~

Analysis:



**CRYO BANK
INTERNATIONAL**

~~SERVICE: (Exempted)~~

~~What about : Collection Charges = (Exempted)~~

(74)
Health Care
SERVICE

Services by way of—

(a) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;

However following will be taxable -

- the services provided by a clinical establishment

- by way of providing room
- [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)]
- having room charges exceeding ₹ 5000 per day to a person receiving health care services.

(b) Services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

Q. Whether GST is applicable on services by way of Assisted Reproductive Technology (ART) procedures such as In vitro fertilization (IVF).

Ans. Health care services provided by a clinical establishment, an authorized medical practitioner or para-medics are exempt.

The abnormality/disease/ailment of infertility is treated using ART procedure such as IVF. It is clarified that services by way of IVF are also covered under the definition of health care services for the purpose of above exemption notification. **[Circular No. 177/09/2022]**

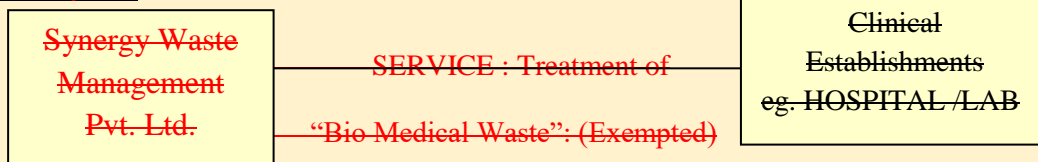
Health care services means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, but hair transplant or cosmetic or plastic surgery will be health care if it is for cure.

(75)
Bio Medical
Waste

~~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~~



Analysis:



—————What about collection charges; Exempted

Government

SN:(3)/(3A) (4)
/ (5)
Government
services

(3) Pure services ie only having service element

- provided to the Central Government, State Government or Union territory or local authority
- by way of any activity in relation to article 243G/243W.

(3A) Composite supply of goods and services:

- in which the value of supply of goods constitutes maximum 25% of the value of the said composite supply
- provided to the Central Government, State Government or Union territory or local authority
- by way of any activity in relation to article 243G/243W.

(4) Services by

- A Governmental authority
- by way of any activity in relation to article 243W.

(5) Services by

- A Governmental authority
- by way of any activity in relation to article 243G.

Analysis



Services fall under Article no. 243 G/W: Land Reform, Land Consolidation, Urban Town Planning, Public Health, Cattle Pond, Street light, Parking lots, Bus stop, Road and bridges, water supply, Fire services etc

*Pure Services (100%) Article: 243 G/ W GIVEN TO...	Exempted	CG/SG/LA/UT	Services under Article: 243 G/W Given by..	Not a supply
*Composite service (At least 75% Service) GIVEN TO...				
*Pure Services (100%) Article: 243 G/ W GIVEN TO...	TAXABLE	Governmental Authority/ Government Entity	Services under Article: 243 G/W Given by..	Exempted
*Composite service (At least 75% Service) GIVEN TO...				

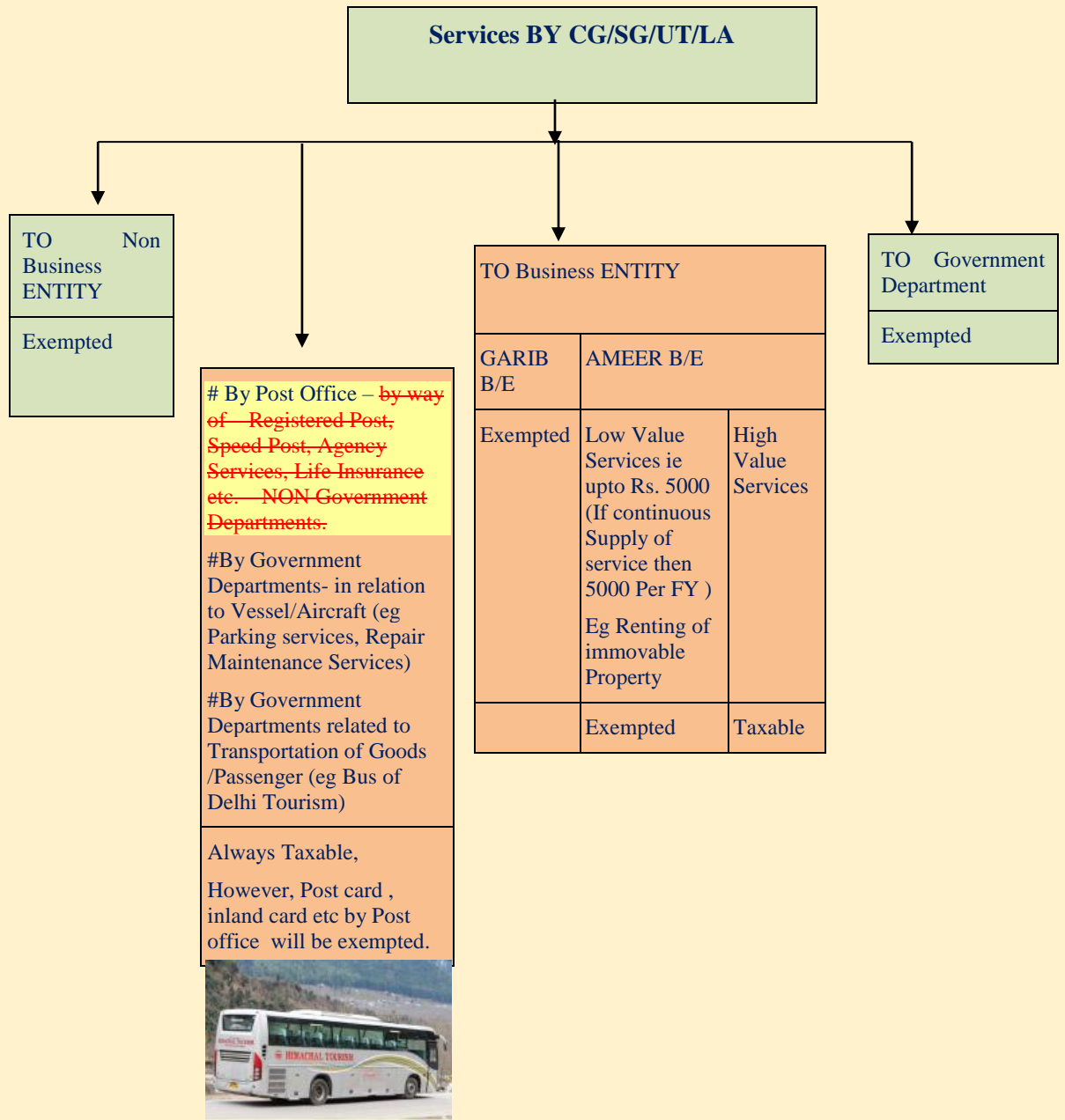
Q. Taxability of sanitation and conservancy services supplied to Army and other Central and State Government departments.

Ans. It is clarified that if such services are procured by Indian Army or any other Government Ministry/Department which does not perform any functions listed in the Article 243G/W in the manner **as a local authority does for the general public**, the same are not eligible for exemption.

[Circular No. 177/09/2022]

<p>6. Govt. Service (PVT)</p>	<p>Services by the Central Government, State Government, Union territory or local authority.[to NON Business Entity] But following government services liable to GST (to maintain parity with private players)</p>	
<p>[P] Post Office</p>	<p>Services by the Department of Posts by way of</p> <ul style="list-style-type: none"> *—speed post, *—express parcel post, *—life insurance, and *—agency services <p>Provided to NON GOVERNMENT.</p> <p>However, Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) will be exempted.</p>	
<p>[V] Vessel Aircraft Related</p>	<p>Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p>	
<p>[T]Transportation of Goods /Passenger</p>	<p>Transport of goods or passengers; or</p>	
<p>Any other to business Entity</p>	<p>Any service, other than services covered above, provided to business entities. [Business Entity: Means any person carrying out business.]</p>	

Analysis:



7. GARIB Business Entity

Services provided by

- the Central Government, State Government, Union territory or local authority
- to a business entity with an **aggregate turnover of up to** such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017.

Note: - Following services shall remain be liable to tax...

(a) Services,-

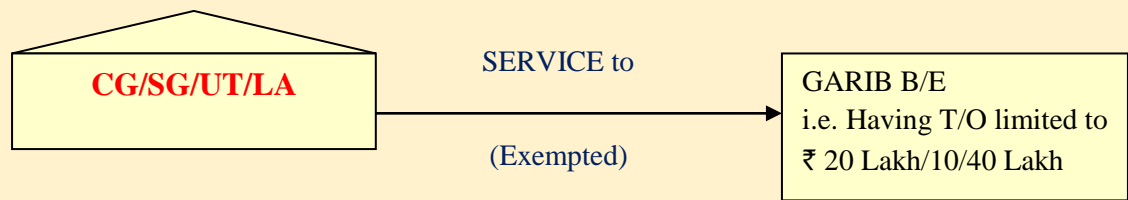
(i) by the Department of Posts ~~by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the~~ Central Government, State Government, Union territory;

(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) of transport of goods or passengers; and

(b) Services by way of renting of immovable property. [Link with RCM CHAPTER]

Analysis

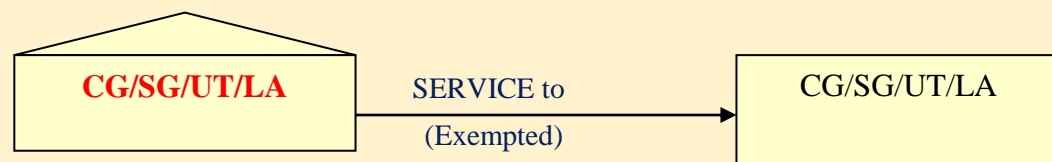


* WHAT about 'PVT' SERVICE : ALWAYS TAXABLE

8.
Government to
Government

Service	Any Service
By	The Central Government, State Government, Union territory or local authority
TO	Another Central Government, State Government, Union territory or local authority:
Exception ie liable to GST	<p>(i) 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;</p> <p>(ii) In relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) Of transport of goods or passengers.</p>

Analysis



* WHAT about 'PVT' SERVICE : TAXABLE (ALWAYS)

9.
Govt. Service
upto ₹ 5000

Services provided by

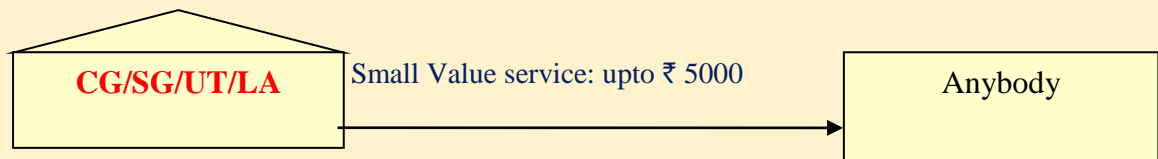
- Central Government, State Government, Union territory or a local authority
- where the consideration for such services does not exceed ₹ 5000.

Note 1 - Following services shall remain be liable to tax...

- (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 the Central Government, State Government, Union territory;~~
- (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:

Note 2 In case where continuous supply of service, the exemption shall apply only where the consideration charged for such **service does not exceed ₹ 5000 in a financial year.**

Analysis:



* WHAT about 'PVT': Always taxable

* What to do in case of Continuous supply of Service: How to club/compute Amount of ₹ 5000 @ per financial year wise.

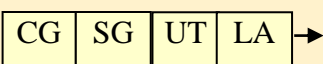
(47, 47A)
GOVT.
SERVICES

(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.

~~(47A) Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.~~

Analysis:





SERVICES BY WAY of Registration, Testing, Safety Check ; (Exempted)



<p>(51) GST Portal</p>	<p>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.</p> <p>Analysis:</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>GSTN (GST Portal) -Co. Registered U/S 8 of Co. Act, 2013</p> </div> <div style="text-align: center;">  </div> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>GOVT</p> </div> </div> <p style="text-align: center;">(Exempted)</p>
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Agriculture

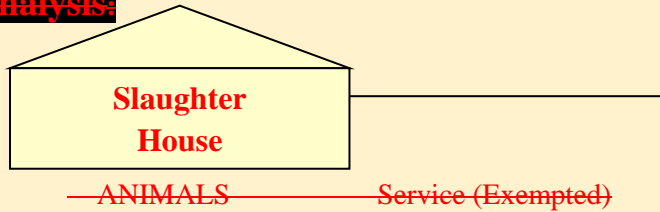
<p>24B Warehousing</p>	<p>Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.</p> <p>Q. Representations have been received regarding applicability of GST exemption on the service of storage or warehousing of cotton in baled or ginned form.</p> <p>Ans. Accordingly, it is clarified that service by way of storage or warehousing of cotton in ginned and or baled form is taxable WEF 18/07/2022. [Circular No. 177/09/2022]</p>
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<p>(53A), (54) Agriculture</p>	<p>(53A) Services by way of fumigation in a warehouse of agricultural produce.</p> <p>(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—</p> <ol style="list-style-type: none"> (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. <div style="display: flex; justify-content: space-around; align-items: center;">   </div> <p>(h) Services by way of fumigation in a warehouse of agricultural produce.</p>
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(56)
Slaughtering

Services by way of slaughtering of animals.

Analysis:



Entertainment/Entry Fees

(80)
A-C-S

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/AB of the Income tax Act.

Services by way of training or coaching in-

(a) Recreational activities relating to arts or culture, by an individual, or

(b) Sports by charitable entities registered under Section 12AA /AB of the Income Tax Act.

Analysis:

- Saroj Khan Dance Academy
- VirendraSehwag Cricket Academy
- Drama School
- Hobby Classes
- etc.

Services:
(Exempted)



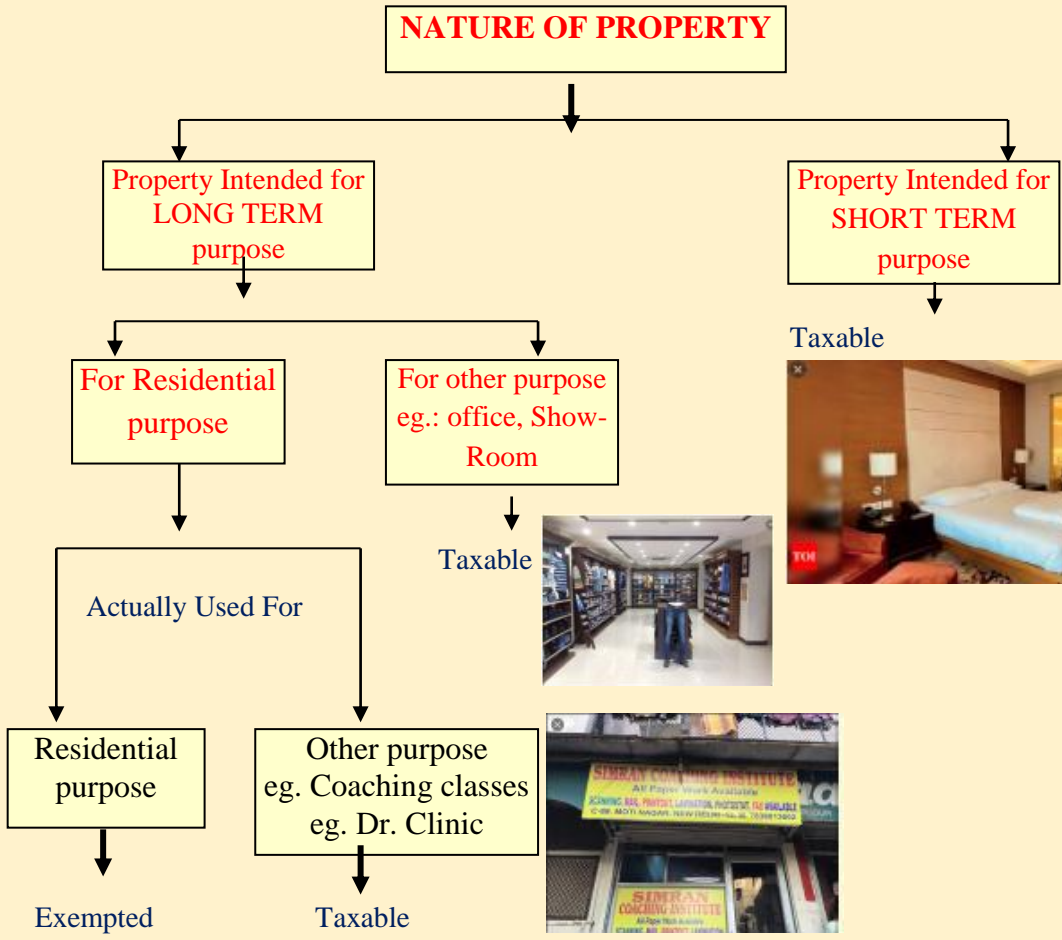
Accommodation, Renting and Immovable Property

(12) & (14):
Renting/
Accommo-
dations

(12) Services by way of Renting of Residential Dwelling [intended for Longterm use] for use as residence **except where the residential dwelling is rented to a registered person.**

(14) ~~Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having VALUE OF SUPPLY declared tariff of a unit of accommodation below or equal to ₹1000 per day.~~

Analysis:



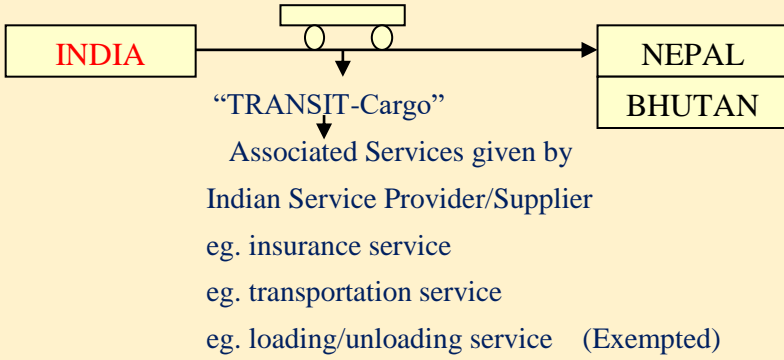

41B.Real Estate Related

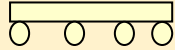

Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, 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.

Q. Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or upfront amount charged for long term lease of land and are eligible for the same tax treatment.

Ans. it is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption.

Transportation of Goods

<p>(9B) Nepal/ Bhutan</p>	<p>Supply of services associated with transit cargo to Nepal and Bhutan.</p> <p>Analysis:</p> <div style="text-align: center;">  </div>  <p>Q. Whether the exemption covers services associated with transit cargo both to and from Nepal and Bhutan</p> <p>Ans. Representations have been received regarding applicability of GST on transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo, to India.</p> <p>it is clarified that the exemption covers services associated with transit cargo both to and from Nepal and Bhutan. [Circular No. 177/09/2022]</p>
<p>(18) & (19) (19A) & (19B) Transportation of goods</p>	<p>(18) Services by way of transportation of goods-</p> <p>(a) By ROAD [But service of goods transportation agency, courier agency will be taxable]</p> <p>(b) By Inland waterways.</p> <p>(19) Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.</p> <p>(19A) Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India. But this exemption is upto 30th day of September, 2022</p> <p>(19B) Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India. But this exemption is upto 30th day of September, 2022.</p> <p>(19C) Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.</p>

(20) & (21) Transportation of Goods	Particulars	Domestic Journey	Domestic / International Journey
		SN : 20 By RAIL  BY Vessel	SN : 21 GTA” 
	* Milk, Salt,	X	X
	* Flour, Pulses, Rice	X	X
	* Agriculture Produce	X	X
	* News Paper / Magazines	X	X
	* Relief Material	X	X
	* Defence Material	X	X
	*Railway Equipment	X	✓
	*Special Exemption	-NO-	I-Chance: ₹ 1500/- total truck load freight based II-Chance: ₹ 750/- consignee based.

Transportation of Passenger

(15),(16) &(17) Transportation of Passenger	(15) Transport of passengers, with or without accompanied belongings, by –	
	(a) Air in economy class , embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal.	
	(b) Non-air-conditioned contract carriage other than radio taxi , for transportation of passengers, excluding tourism, conducted tour, charter or hire;	However no exemption shall be allowed if the services supplied through an electronic commerce operator, and notified under Section 9(5) of the CGST ACT.
	(c) Stage carriage other than air-conditioned stage carriage .	However no exemption shall be allowed if the services supplied through an electronic commerce operator, and notified under Section 9(5) of the CGST ACT.

Q. Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt under transport of passengers by non-air conditioned contract carriage.

Ans. It is clarified that 'charter or hire' excluded from the above exemption entry is charter or hire of a motor vehicle for a period of time, where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations. Therefore, it will be taxable.

Q. Whether GST would be applicable on private ferry tickets. It has been stated that these private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands.

Ans. It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.

Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc ie it will be taxable. **[Circular No. 177/09/2022]**

TOUR OPERATOR SERVICES

Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India will be exempted.

How to find out proportion: Value of the tour operator service performed outside India shall be

- Such proportion of the total consideration charged for the entire tour which is equal to the proportion which the number of days for which the tour is performed outside India has to the total number of days comprising the tour, or
- 50% of the total consideration charged for the entire tour,
- whichever is less.

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

Foreign Tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non- immigrant purposes.

Illustrations:

A tour operator provides a tour operator service to a foreign tourist as follows:—

(a) 3 days in India, 2 days in Nepal; Consideration Charged for the entire tour: ₹1, 00, 000/-

Exemption: ₹40, 000/- (= ₹1, 00, 000/- x 2/5) or, ₹50, 000/- (= 50% of ₹1, 00, 000/-) whichever is less, i.e., ₹40, 000/- (i.e., Taxable value: ₹60, 000/-);

(b) 2 days in India, 3 nights in Nepal; Consideration Charged for the entire tour: ₹1, 00, 000/-

Exemption: ₹60, 000 (= ₹1, 00, 000/- x 3/5) or, ₹50, 000/- (= 50% of ₹1, 00, 000/-) whichever is less, i.e., ₹50, 000/- (i.e., Taxable value: ₹50, 000/-);

(c) 2.5 days in India, 3 days in Nepal; Consideration charged for the entire tour: ₹1, 00, 000/-

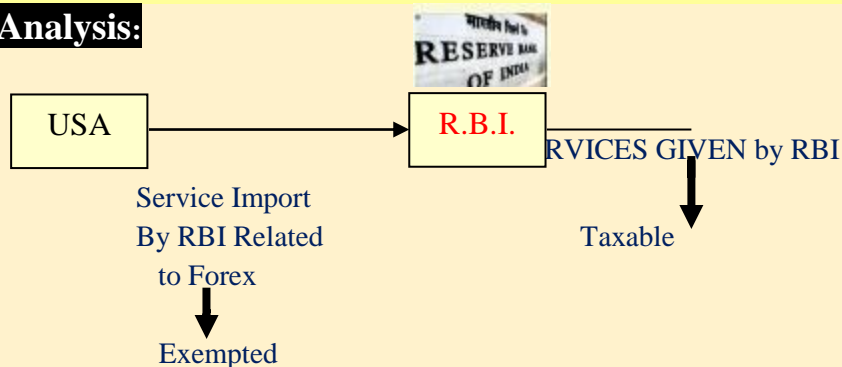
Exemption: ₹54,545 (= ₹1, 00, 000/- x 3/5.5) or, ₹50, 000/- (= 50% of ₹1, 00, 000/-) whichever is less, i.e., ₹50, 000/- (i.e., Taxable value: ₹50, 000/-)

Banking

(26)
RBI

Services by the Reserve Bank of India.

Analysis:



Insurance AND Pension

(30) (31)
(32) (33)

(30) Services by the Employees' State Insurance Corporation.

(31) Services provided by the Employees Provident Fund Organisation.

(31A) Services by Coal Mines Provident Fund Organisation.

(31B) Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.

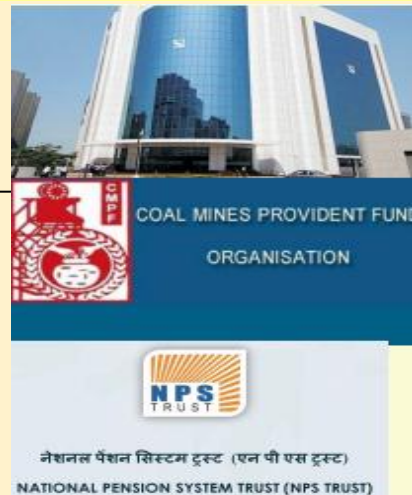
(32) Services provided by the Insurance Regulatory and Development Authority of India to insurers under IRDA-

(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.

Analysis

ESIC
EPFO
CMPFO
NPS

SERVICES
↓
Exempted)



Business Related

(23) & (23 A)
TOLL

(23) Service by way of access to a road or a bridge on payment of toll charges.

(23A) Service by way of access to a road or a bridge on payment of annuity.

Analysis:



NHAI

Express Way / Bridge

TOLL Charges: Exempted



WHAT ABOUT ANNUITY = Exempted



Q. Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST?

Ans. It is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges. **[Circular No. 177/09/2022]**

GST ON OVERLOADING CHARGES AT TOLL PLAZA: Representations have been received seeking clarification regarding applicability of GST on Overloading charges collected at Toll Plazas.

Entry 23 of notification No. 12/2017, exempts Service by way of access to a road or a bridge on

payment of toll charges.

Vide notification dated 25th Sep. 2018, issued by Ministry of Road Transport And Highways, overloaded vehicles were allowed to ply on the national highways after payment of fees with multiplying factor of 2/4/6/8/10 times the base rate of toll. Therefore, in essence overloading fees are effectively higher toll charges.

As recommended by the GST Council, it is clarified that overloading charges at toll plazas would get the same treatment as given to toll charges.

Latest Circulars/Clarifications by Board

Q. Applicability of GST on honorarium paid to Guest Anchors. Sansad TV and other TV channels invite guest anchors for participating in their shows and pays remuneration to them in the form of honorarium. Some of the guest anchors have requested payment of GST @ 18% on the honorarium paid to them for such appearances.

Ans. It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors whose aggregate turnover in a financial year does not exceed ₹ 20 lakhs (₹ 10 lakhs in case of special category states) shall not be liable to take registration and pay GST. **[Circular No. 177/09/2022.]**

Chapter 6

Computation of GST

Composition scheme

Other conditions of eligibility of Composition scheme

For Goods Focused Composition Scheme; Section 10 (1) (2)

Who is not eligible for composition Scheme - SIX categories of persons [to be checked in CFY]

- (1) Person making inter-state supply of goods/Services [eg. one state to another, export of goods]
- (2) Supplier of any service OTHER than
 - (a) Restaurant services
 - (b) Interest received on extending deposit loan and advances shall be ignored completely.**
 - (c) Limited value services along with main business. [Maximum value: 10 % of turnover within the state/UT or ₹5,00,000 whichever is higher] ie if value of these services exceed the maximum limit then the person not eligible for the scheme
- (3) Supplier of non- taxable good /services.
- (4) The person who supply goods/services through E commerce operator.
- (5) Manufacturer of specified goods...

Pan masala, tobacco, ice cream, Aerated Water

Fly ash bricks/ aggregates with 90 per cent. or more fly ash content / blocks

Bricks of Fossil meals or similar siliceous earths

Building bricks

Earthen or roofing tiles

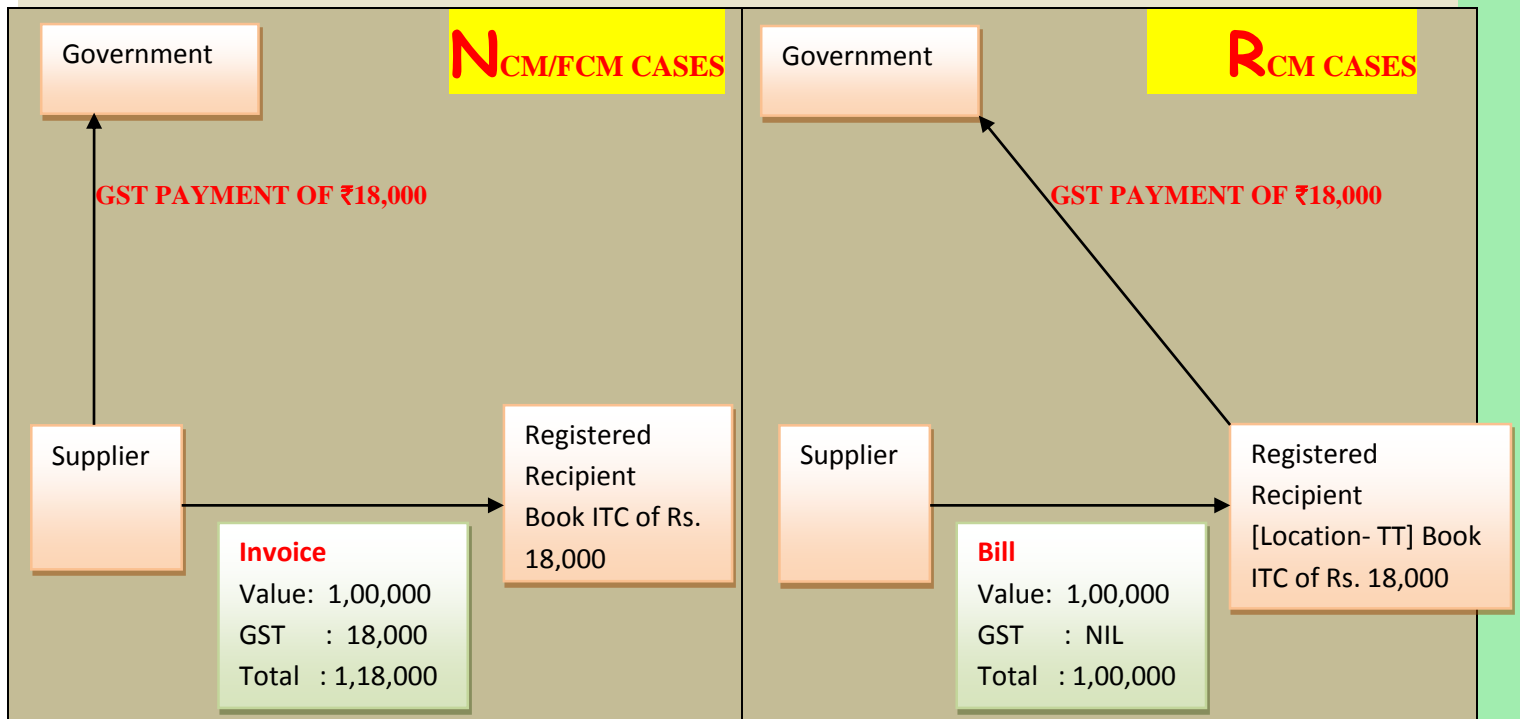
- (6) Casual taxable person and NR. (Banjaare)





Chapter 7

Reverse Charge Mechanism




BASIS	NCM/FCM	RCM
Net Revenue To Supplier	$[1,18,000 - 18,000 \text{ GST}] = 1,00,000$	1,00,000
Cost To Recipient	$[1,18,000 - 18,000 \text{ ITC}] 1,00,000$	$[1,00,000 + \text{GST } 18,000 - \text{ITC}] = 1,00,000$
Revenue To Government	18,000	18,000

Crux: In Both The Cases Financial Position Remains Same, Then Why RCM—

1. Where Government Has No Control Over The Supplier (Eg Import Of Service)
2. Where Government Has No Trust Over The Supplier (Eg Goods Transport Agency)
3. Where Supplier Belongs To Un-Organised Sector Eg. Insurance Agent Service.

N/No. 13/2017- Central Tax (Rate): Specified Services under Reverse Charge@ intra state supplies

S N	Category of Supply of Services	Supplier of service	Recipient of Service
1	<p>Supply of Services by a Goods Transport Agency (GTA) in respect of transportation of goods by road.</p> <p><i>GST Rate 5% and no ITC to supplier</i> <i>[RCM or NCM as the case may be]</i></p>  <p>Note:1 No RCM will be applicable where recipient is</p> <p>(a) Govt. Department (b) Local authority; or (c) Governmental agencies, which has taken registration only for the purpose of deducting TDS and not for making a taxable supply of goods or services</p> <p>Note:2 No RCM will be applicable where</p> <p>i.) The supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and</p> <p>ii.) The supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration to pay Tax.</p>	<p>Goods Transport Agency (GTA)</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.</p> <p>(c) Any co-operative society established by or under any law; or</p> <p>(d) GSTIN holder</p> <p>(e) Anybody - 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; located in the taxable territory.</p>

S N	Category of Supply of Services	Supplier of service	Recipient of Service
5	<p>Services supplied by the Central Government, State Government, Union territory or local authority TO a business entity excluding,—</p> <p>(1) Renting of immovable property, and</p> <p>(2) Services specified below—</p> <p>(i) Services by the Department of Posts 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;</p> <p>(ii) Services in relation to an aircraft or a Vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) Transport of goods or passengers.</p>	<p>Central Government, State Government, Union territory or local authority</p>	Any Business Entity located in the taxable territory.
5A	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the <u>Central Goods and Services Tax Act, 2017</u> .	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017.
5AA	Service by way of renting of residential dwelling	Any person	GSTIN Holder

Renting Of Immovable Property

Sn	Property	Supplier	Recipient	GST	Charge [NCM/RCM]
1	Residential	Aunty	Un Registered	GST	
2	Residential	Aunty	Registered	GST	
3	Residential	Government	Un Registered	GST	
4	Residential	Government	Registered	GST	
5	Commercial	Aunty	Un Registered	GST	
6	Commercial	Aunty	Registered	GST	
7	Commercial	Government	Un Registered	GST	
8	Commercial	Government	Registered	GST	

Chapter 8

Invoice

Section 35: Debit and Credit Note

Basis	Debit Note / Supplementary Invoice.	Credit Note
When to issue [Sec 34]	Where one or more tax invoice has been issued and the taxable value or tax charged in that tax invoice is found less than the supplier shall issue to the recipient one or more debit notes .	Where- one or more tax invoice has been issued and the taxable value or tax charged in excess , or sale return or under supply then the supplier , may issue a CREDIT NOTE .
What to do after issue [Sec 34]	Any registered person who issues a debit note shall declare the details of such debit note in the upcoming return and the tax liability shall be adjusted .	Supplier shall declare the details of such one or more credit notes in the upcoming return but max to max by 30th November of next Financial Year or the Actual date of filing of annual return, whichever is earlier, and the tax liability shall be adjusted .

Concept of E-INVOICE [Relevant extract from Rule 48]

The invoice shall be prepared by such class of registered persons

- whose aggregate turnover in a financial year exceeds Rs.10 crore
- by including such particulars contained in **FORM GST INV-01**
- after obtaining an Invoice Reference Number
- by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.
- However, Commissioner may, exempt a person or a class of registered persons from issuance of invoice for a specified period.

CGST RULES, 2017**Rule 46: Tax invoice: content**

Subject to Rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,—

(s) a declaration , that invoice is not required to be issued in the manner specified under Rule 48(4), in all cases where an invoice is issued, other than in the manner so specified under Rule 48(4), by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified under Rule 48(4).

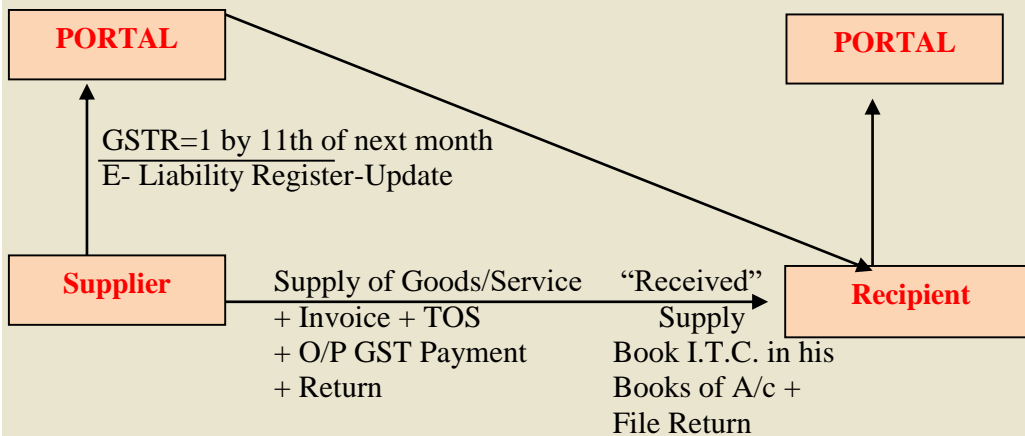
“I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under Rule 48(4), we are not required to prepare an invoice in terms of the provisions of the said sub-rule.



Chapter 10

Input Tax Credit

Analysis of Section 16: CONDITIONS FOR Claiming I.T.C.



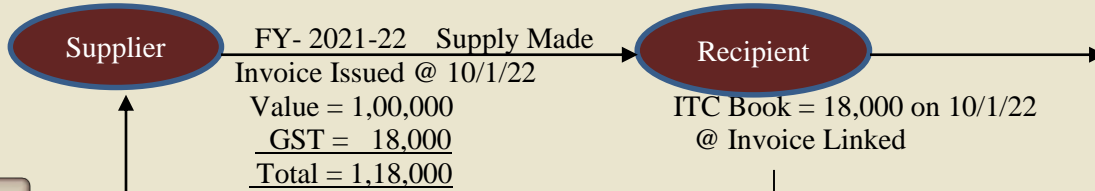
- Section 16 – ITC book @ Generally (12 conditions)
- Section 17 - * (1) (2)(3)(4): Mix / Common Credit
*(5) (6): Blocked credited (i.e. No means no)
- Section 18- ITC book @ Special circumstances
- Section 19- ITC book @ Job work
- Section 20 & 21 – ITC book @ in case of Input Service Distributor

Sn	12 conditions to Book ITC
1	Recipient should have Invoice issued by Supplier/SELF, Invoice/Debit NOTE/ISD Invoice/Bill of ENTRY
2	Goods/Service-Received by Recipient himself or Received by III Party on Behalf of Recipient. Note: If Goods Received in Installment then deemed to be received on Receipt of last LOT. And The details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted.

3	Recipient Need to file – Valid GSTR=3/3B on time.
4	Supplier Need to file – Valid GSTR-3/3B on time.
5	<p>Bill Payment by “Recipient to supplier: should be made within 180 Days from invoice date. (For NCM supplies only) * IF NOT made: then on 181st day, ITC Reversal.</p> <p>A registered person,</p> <ul style="list-style-type: none"> ▪ Who has availed of input tax credit on any inward supply (other than RCM inward supplies) ▪ but fails to pay to the supplier thereof, the amount towards the value of such supply along with the tax payable thereon, within the time limit of 180 days ▪ shall pay an amount equal to the input tax credit availed in respect of such supply along with interest payable thereon under section 50, ▪ while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of 180 days from the date of the issue of the invoice: <p>* What if made After 180 Days: Book (Re-Avail) ITC on Payment Basis (i.e. proportionately) *WHAT About ‘FOC’ supplies: (RBI Ki Agency) then the bill Amount shall be deemed to have been paid. *What about Suppliers obligation paid by Recipient: it shall be deemed to have been paid for the purposes of condition of 180 days.</p>
6	INWARD Supply: USE/intended to be used for Business or Furtherance of business.
7	<p>Recipient’s output Supply should be Non-Exempted. * What about MIX USE: make it Proportionate and restricted it to non-exempted and business purpose.</p>
8	<p>Keep in mind Last date to Book ITC – Last date: 30th November of NEXT Year OR Annual Return filing date: whichever is Earlier [But this condition is only for original Booking of ITC ie not for Re-availment.</p>
9	Either ITC or Depreciation Under Income tax Act.
10	CAPITAL Goods – Use for whole life, IF partly used then: Make it proportionate as per prescribed method.
11	No ITC shall be allowed of the TAX arise on Re-Assessment/ Fraud etc.
12	Received supply should not be a NEGATIVE listed supply as defined in Sec: 17(5)

Condition Of 180 days

Crux: -
 ITC originally book = Invoice Based
 ITC Re-avail = Payment Based



Stage -1

ITC to Recipient
 On invoice based

Stage -2

If payment not made
 Within 180days, then
 Reversal of ITC
 i.e. add in Output
 GST liability

* Recipient need to pay bill amount of ₹ 1,18,000 within 180 days of invoice
 * Otherwise 181th day -> ITC reverse i.e. Add in Output tax liability ₹ 18,000 with interest w.e.f 10/1/22, Till the date of addition i.e. add in E-liability register.

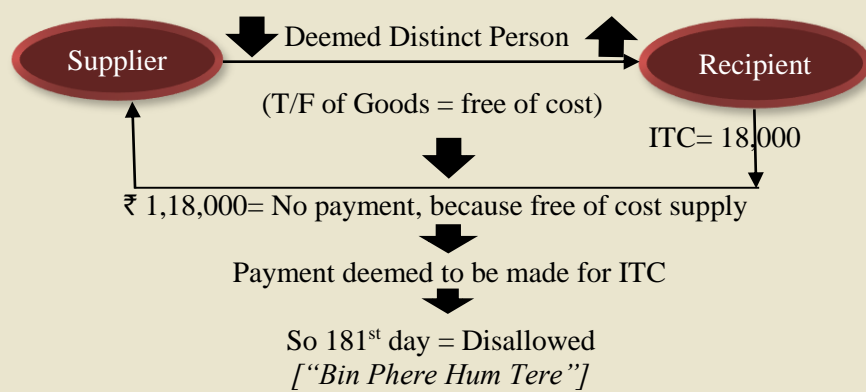
Recipient to Supplier Payment

Stage -3

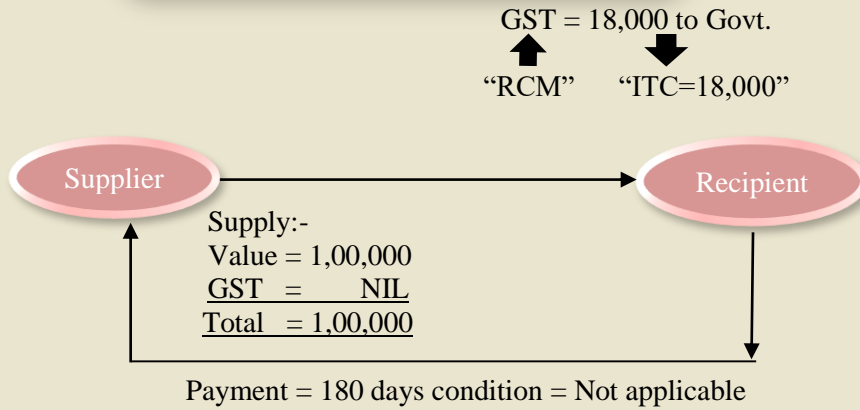
ITC Re-availment on
 Payment basis

But Later On:	Payment Made	Re-avail ITC
On 200 th day	10%	₹ 1,800
On 250 th day	20%	₹ 3,600
On 1,000 th day	30%	₹ 5,400
	Bad Debts @ 40%	--
		<u>Total = 10,800</u>

Note: Maximum time limit
 To book ITC not applicable
 On Re-availment of ITC

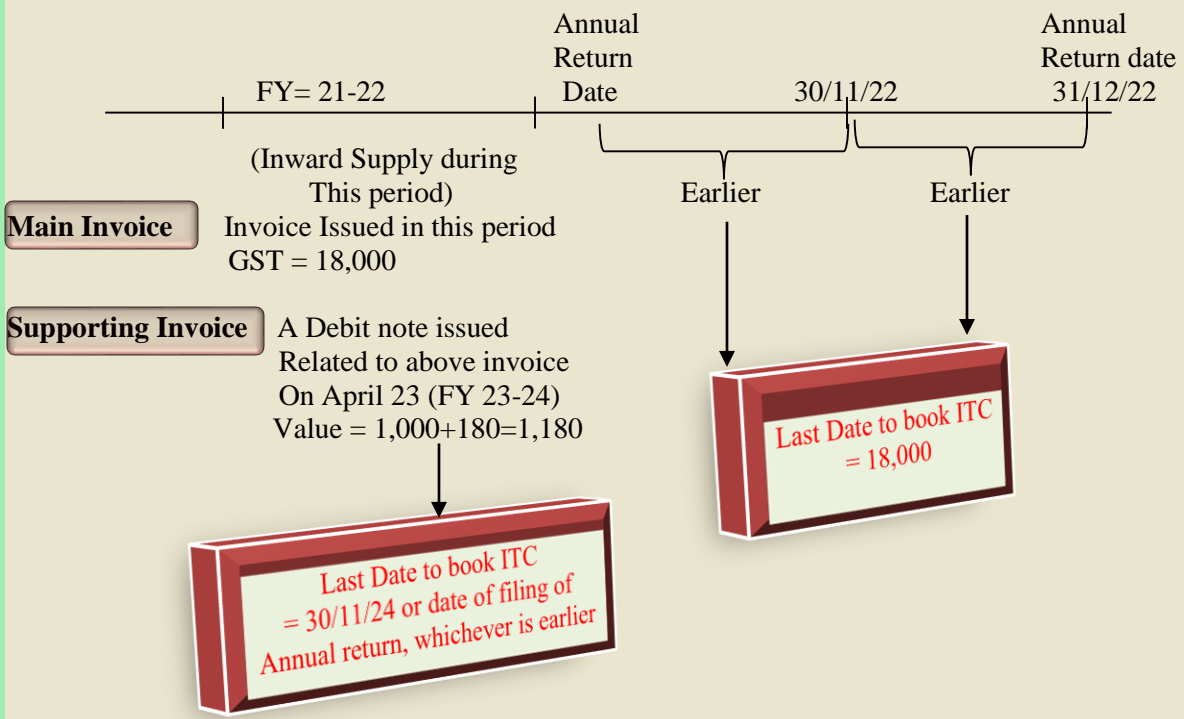


CRUX
 Condition of 180 days shall not be applicable on free of cost transactions



CRUX
 Condition of 180 days shall not be applicable on RCM Supplies

Last Date for ITC Booking:



Section 16: Eligibility and conditions for taking input tax credit

<p>Who is eligible to book ITC</p>	<p>(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 <u>used or intended to be used in the course or furtherance of his business</u> and the said amount shall be credited to the electronic credit ledger of such person.</p>
<p>Conditions to book ITC</p>	<p>(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,—</p> <p>INVOICE (ITC on invoice basis): (a) he is in possession of a tax invoice or debit note [Not receipt voucher] issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;</p> <p>Reflection in GSTR 2B: (aa) the details of the invoice or debit note referred to in clause (a)</p> <ul style="list-style-type: none"> ▪ has been furnished by the supplier in the GSTR 1 /IFF [Statement of outward supplies] AND ▪ such details have been communicated to the recipient [GSTR 2B] of such invoice or debit note ▪ in the manner specified under section 37. <p>RECEIVED GOODS/SERVICES (b) he has received the goods or services or both.</p> <p>Deemed Received (Bill to ship to model): For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—</p> <p>(i) Where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, [whether acting as an agent or otherwise,] before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</p> <p>(ii) Where the services are provided by the supplier to any person on the direction of and on account of such registered person.</p> <p>Last Lot: <i>Provided that 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:</i></p> <p>No Restriction: (ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted.</p> <p>TAX PAYMENT TO GOVT.: (c) 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; and</p>

	<p>FILE PERIODIC RETURN (d) He has furnished the return under section 39:</p> <p><u>Addition of output liability if payment not made with in 180 days:</u> Provided further that where a recipient fails to pay to the supplier of goods or services or both, [<i>other than the supplies on which tax is payable on reverse charge basis,</i>] 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 input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:</p> <p><u>Now Book ITC on payment basis:</u> Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.</p>
<p>Either Depreciation or ITC</p>	<p>(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.</p>
<p>Last date to book ITC</p>	<p>(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the 30th November the date of furnishing of the return under section 39 (Periodic) for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p>

CGST RULES, 2017

<p>Rule 36 : Documentary requirements and conditions for claiming input tax credit</p>	<p>(1) Documents: The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,—</p> <ul style="list-style-type: none"> (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 in accordance with the provisions of sub-rule (1) of rule 54. <p>(2) ITC subject to GSTR-2: Input tax credit 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.</p>
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Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.

(3) No ITC where tax paid against order (fraud): No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

(4) No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under section 37(1) unless,-

(a) The details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in **FORM GSTR-1 or using the invoice furnishing facility;** and

(b) The details of input tax credit in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B.

Rule 37 Reversal of input tax credit in the case of non-payment of consideration

~~**(1) Furnish Detail of Non Payment in GSTR-2:** A registered person, who has availed of input tax credit 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 section 16(2), shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in **FORM GSTR-2** for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice:~~

~~Provided that 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 section 16(2).~~

~~Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of section 15(2) shall be deemed to have been paid for the purposes of the second proviso to section 16(2).~~

~~**(2) Increase output Tax Liability:** The amount of input tax credit 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) Interest:** The registered person shall be liable to pay interest at the rate notified under section 50(1) 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.~~

(1) A registered person,

- Who has availed of input tax credit on any inward supply (other than RCM inward supplies)
- but fails to pay to the supplier thereof, the amount towards the value of such supply along with the tax payable thereon, within the time limit of 180 days

- shall pay an amount equal to the input tax credit availed in respect of such supply along with interest payable thereon under section 50,
- while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of 180 days from the date of the issue of the invoice:

Provided that: 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 condition of 180 days.

Provided further that: The value of supplies on account of any amount added in accordance with the provisions of section 15(2)(b) [supplier's obligation paid by Recipient] shall be deemed to have been paid for the purposes of condition of 180 days.

(2) Where the said registered person subsequently makes the payment of the amount towards the value of such supply along with tax payable thereon to the supplier thereof, he shall be entitled to re-avail the input tax credit referred to in sub-rule (1).

(4) Time limit not applicable for re-availment: The time limit specified in section 16(4) 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.

Analysis SECTION : 17 (1)(2)(3)(4)(5)(6)

SECTION: 17 (5) &(6) : Negative list of Input Tax Credit : ie. No ITC shall be allowed to Recipient: As per section 17(5) Credit of following inward supplies shall not be available to the recipient subject to some exceptions.

Note: It is clarified that “leasing” refers to leasing of motor vehicles, vessels and aircrafts **only and not to leasing of any other items**. Accordingly, ITC shall be allowed in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.

Note: What is exempted and what is non -exempted supplies for the purpose of Rule 42 and Rule 43.

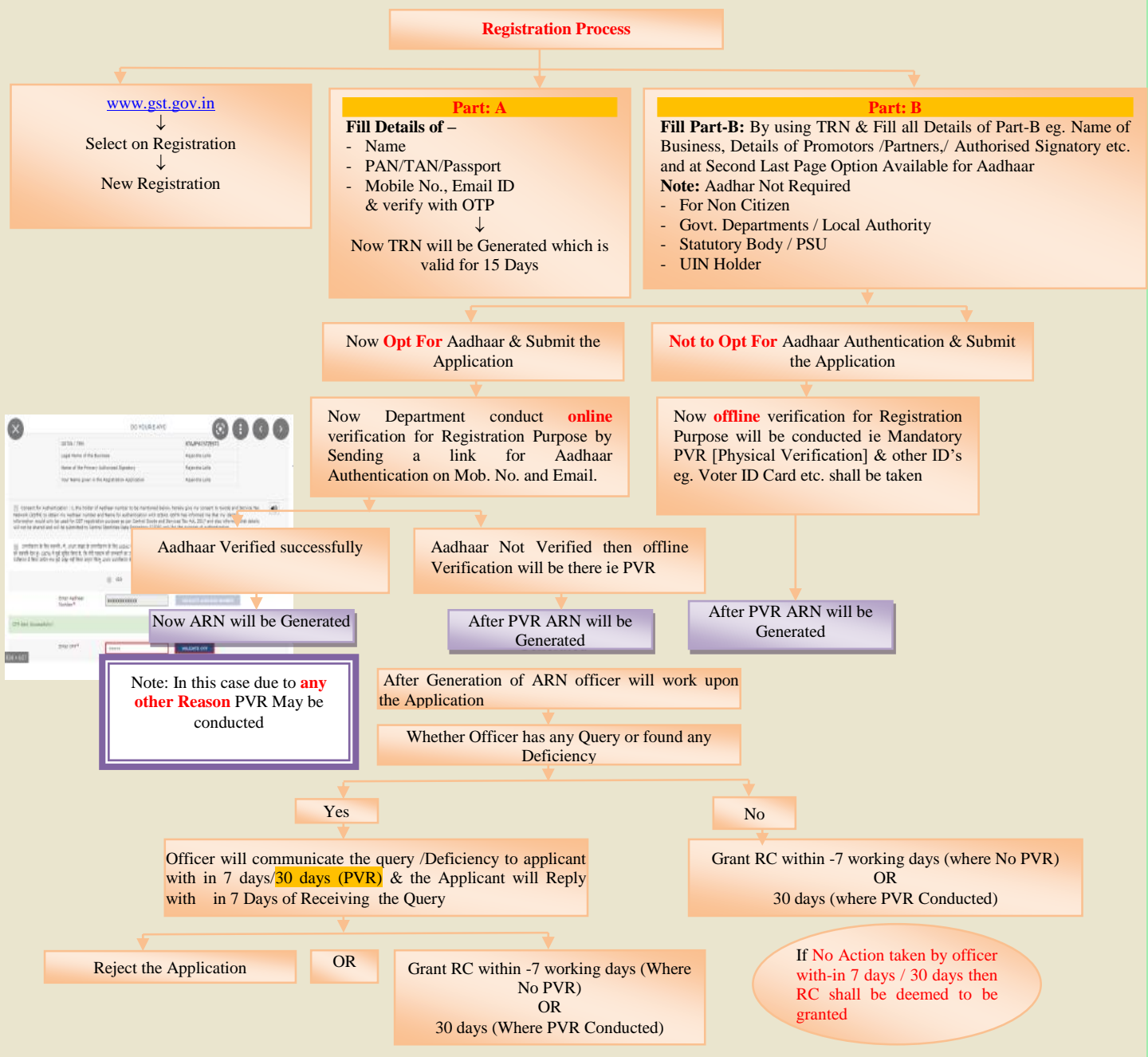
What is exempted supplies	What is not exempted supplies
1. Supplies attracting 100 % E/N	1. Supplies where consideration received in form of interest and discount (except Banking co. financial institution, NBFC)
2. NIL rated supplies	2. Transportation of goods by vessel from India to outside India.
3. Non- taxable supplies	3. The value of duty credit Scrip
4. Supplies taxable under RCM	
5. Securities trading @1%	
6. Sale of land and completed building @ circle rate	



Chapter 11

Registration

HOW TO OBTAINED GST REGISTRATION



Note: In this case due to **any other Reason** PVR May be conducted

CANCELLATION OF REGISTRATION

Reasons of Cancellation

On Application

1. PAN CHANGE
Eg. Transfer of Business
Eg. Amalgamation / Demerger/etc.
Eg. Constitution change (eg. Firm to Company)
2. CLOSURE of Business
3. REGISTRATION –No Longer Required eg. Now All Exempted Supplies.
4. Taken voluntarily Registration- Now opt out
5. TDS Deductor /TCS collector –Now No longer Required to Deduct or collect

By officer

1. Registration Taken By means of Frauds
2. DOES NOT conduct Business from Declared Place of business.
3. Have voluntarily Registration But unable to START Business in 6 Months.
4. NOT to file Return for ..
‡ Composite Dealer: **the FY and 3 month from due date expired**
‡ Regular Scheme: 6 Months [**QRMP Scheme 2 Tax Period**]
6. Contravene the Provisions of ACT / Rules (eg. Issue Bogus Invoice)
7. Wrongly Availied ITC
8. Show liability in GSTR-1 & NOT to show in GSTR -3B
9. Violate Provision of Rule: 86B (1% Concept)
10. ANAMOLY in ITC claimed & output GST liability

Grounds of Divorce Received By Wife Only

EFFECT OF SUSPENSION

- * Shall not make any taxable Supply (can do Business but can't collect GST).
- * Not to Furnish Return
- * No Refund shall be granted to him by Department.

Application Given For cancellation Due to Above Reason then RC Shall be deemed to be suspended from the--

- * Application submission date OR
 - * Desired Date of cancellation (whichever is later)
- Till

The RC cancellation Proceedings Gong On

If the proper officer has Reason to believe that the Person falls in above – He may suspend the Registration WEF the Date as he deem FIT

Till

The RC Cancellation proceedings Going on

- * Now Officer shall issue a SCN [Shaw Cause Notice] with- in 7 Working days
- * Reply made By the Person

Reply was Not Satisfactory then the officer will issue a Cancellation order with 30 days to cancel RC-(Prospective /Retrospective) by Notifying him to Pay final Dues

Reply was Satisfactory then officer shall Drop the proceedings & suspension order shall be with drown.

Note: Where Suspension order issued because of Non submission of Returns then the person instead of Replying of SCN–file All Pending Returns and make payment of all Dues Then the officer shall Drop the proceedings and suspension order shall be withdrawn.

Now the proper officer shall issue a Cancellation order to cancel RC WEF the date on which he deem fit (May Be Prospective / Retrospective)
By Notifying him to Pay Final Liability

Now Check

Business is Closed

Business is continued by other Person

PAY of Final Dues

- Now:**
- *No Business
 - *No Tax Collection
 - *No Invoice to be raised
 - *No Return

No Need to Pay Final Dues

- *New owner will take Fresh Registration
- *All Assets (Including Input/Capital Goods / ITC) shall be Transferable to new ownership
- *All liabilities shall be transferred to new ownership

New Owner will do the Business and liable to pay GST on Output supplies.

- * Now the Person may issue Revised Invoice u/s=31 with in one month of suspension Revoke order.
- * Return for Suspension Period file u/s=40 [& Pay GST to Govt.] ie suspension period is like PRE-RC period

Now Continue Your Business as Earlier

REVOCATION/RESTORATION OF REGISTRATION

Apply for Revocation of Cancellation within 30 +30 +30 Days = Max.90 days

Officer will take Action within 30 Days & Revocation Application: Accepted

Now Continue Your Business as Earlier No Question of Revised Invoice etc.

Not to Apply for Revocation OR Revocation Application Rejected.

RC Remain Cancelled

PAY of Final Dues

Now: No Business
No Tax Collection
No Revised Invoice
No Return

SPECIAL NOTE

Precondition to file Revocation Application in case where cancellation was due to Non-filing of Return

CASE:1 Where Cancellations effective Prospectively

- A. File All pending Returns Due UPTO **cancellation order**
- B. Now file Revocation Application
- C. Revocation Accepted
- D. Now file Return Due from Cancellations order to Revocation order

Calculation of Final Dues

FOR INPUTS:

Corresponding ITC on Input (in Any Form, as such, WIP, contained in final product)

OR

Output GST on such Goods (as it is Deemed Supply to himself [Whichever is higher] xxx

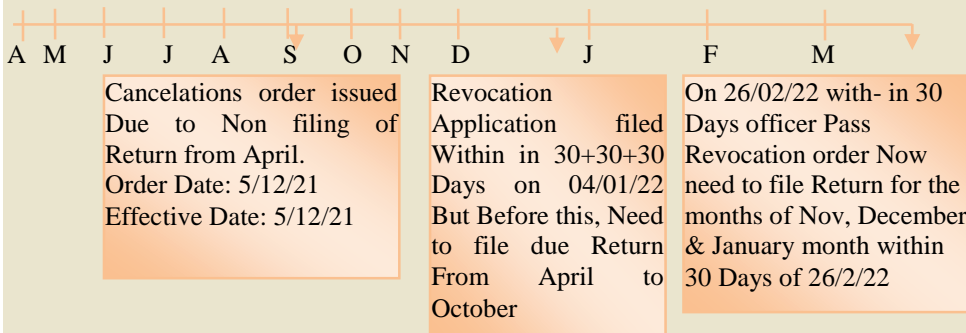
FOR CAPITAL GOODS

* ITC Related to Capital Goods by taking 5% per quarter or Part thereof

OR

* Output GST on Transaction value u/s 15 [Whichever is Higher] xxx

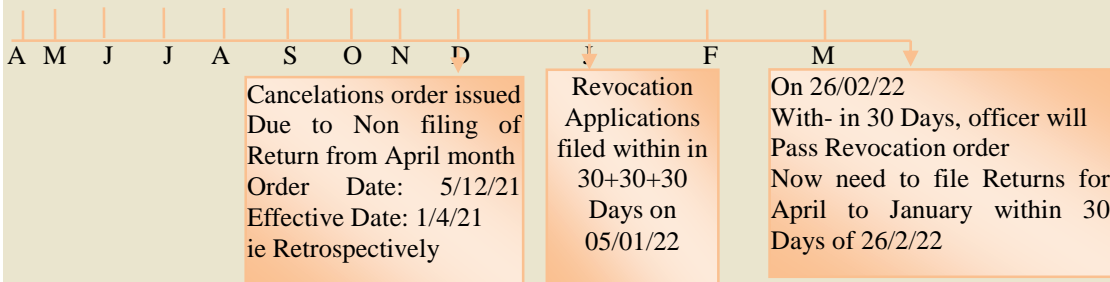
Example



CASE: 2 Where Cancellation effective Retrospective (WEF:1/4/21)

- A. ~~File All pending Returns Due UPTO cancellation order~~
- B. Now file Revocation Applications
- C. Revocation Accepted
- D. Now file Return Due **from April Month to Revocation order.**

Example



Legal Text

Note: Section 22, 23, 24 already covered under chapter TAXABLE PERSON.

Section 29: Cancellation OR suspension of registration

Cancellation of Registration	<p>(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:</p> <p>(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</p> <p>(b) There is any change in the constitution of the business; or</p> <p>(c) The taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under section 25 (3).</p> <p>Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.</p>
Effective date of cancellation	<p>(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—</p> <p>(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or</p> <p>(b) a person paying tax under section 10 has not furnished returns for “the return for a financial year beyond 3 months from the due date of furnishing the said return three consecutive tax periods; or</p> <p>(c) any registered person, other than a person specified in clause (b), has not furnished returns “such continuous tax period as may be prescribed” for a continuous period of six months; or</p> <div style="border: 1px solid black; background-color: #e1eef6; padding: 5px; margin-top: 10px;"> <p>Rule 21 of CGST Rules, 2017</p> <p>(h) being a registered person required to file return under Regular scheme for each month or part thereof, has not furnished returns for a continuous period of 6 months;</p> <p>(i) being a registered person required to file return under Regular scheme – (QRMP SCHEME) for each quarter or part thereof, has not furnished returns for a continuous period of 2 tax periods.</p> </div>

CGST Rules, 2017 – Registration**Rule 21A
Suspension of
registration**

(4) The suspension of registration under sub-rule (1) or sub-rule (2) or sub-rule (2A)

- shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and
- such revocation shall be effective from the date on which the suspension had come into effect.

Provided that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

Provided further that

- Where the registration has been suspended due to non - filing of return and
- the registration has not already been cancelled
- the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.



Chapter 12

Manner of Payment

Background



On GST portal, we have 3 Ledgers –

E- CASH LEDGER LEDGER (LIKE PAYTM WALLET)	E- CREDIT LEDGER LEDGER	E- LIABILITY REGISTER
<p>WE MUST HAVE SUFFICIENT BALANCE IN E CASH LEDGER ON DUE DATE OF FILING OF RETURN.</p> <p>IF IT IS NOT, THEN ADD SUFFICIENT AMOUNT IN IT.</p> <p>IN THE GIVEN SITUATION ₹ 9,000 TO BE ADDED (ASSUMING WE HAVE NO OPENING BALANCE IN E CASH LEDGER)</p>	<p>AMOUNT WILL BE UPDATED THROUGH GSTR 2 /3B</p>	<p>E- LIABILITY REGISTER HAS 2 PARTS--</p> <p>PART I: SELF ASSESSED LIABILITY AS PER RETURN</p> <p>PART II: RE-ASSESSED LIABILITY BY DEPARTMENT</p>
<p>HOW TO ADD...</p> <p>1. CREATE A CHALLAN ON GST PORTAL WHICH WILL REMAIN VALID FOR 15 DAYS. PORTAL WILL GENERATE C-PIN (COMMON PORTAL IDENTIFICATION NUMBER: 14 DIGIT)</p> <p>2. MAKE PAYMENT OF AMOUNT AS GIVEN IN CHALLAN @ ONLINE /OFFLINE.</p> <p><i>NOTE: ONLINE = NET BANKING, RTGS, NEFT, DEBIT/CREDIT CARD ETC.</i></p>		<p>FIRST OF ALL, WE WILL DISCHARGE PART I LIABILITY AND OUT OF THIS</p> <p>A. PREVIOUS PERIOD LIABILITY FIRST THEN,</p> <p>B. CURRENT PERIOD LIABILITY</p> <p>AFTER THAT DISCHARGE PART II LIABILITY.</p>

NOTE: OFFLINE CAN BE DEPOSITED IN SPECIFIED SITUATIONS AS AMOUNT IS UPTO ₹ 10,000, BY GOVT. DEPARTMENT EG POST OFFICE, IN CASE OF SEARCH AND SEIZURE.

3. AS THE PAYMENT CREDITED TO BANK A CHALLAN IDENTIFICATION NUMBER (CIN) WILL BE GENERATED, WHICH WILL BE A COMBINATION OF CPIN + 3/4 DIGIT OF BANK BRANCH CODE.

4. CIN WILL BE COMMUNICATED TO GST PORTAL BY BANK AND THE AMOUNT WILL BE REFLECTED IN E CASH LEDGER.

NOW FILE GSTR 3B AND USE ITC (₹ 18,000) AND E CASH LEDGER (₹ 9000) TO DISCHARGE LIABILITY OF ₹ 27,000

MANNER OF USING ITC—

C		C
I		I
S		S

Legal Text

Section: 49 Payment of Tax, Interest, Penalty and Other Amounts

Every deposit made to E-Cash Ledger Account and its utilization

Deposit: (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.

Use/Adjust on filing Return:(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 thereunder in such manner and subject to such conditions and within such time as may be prescribed.

Q. Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST Laws?

Ans. The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST Laws.

ITC shall be credited to E-Credit Ledger and its

E-Credit Ledger: (2) The input tax credit 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.

utilization

Use/Adjust on filing Return: (4) The amount available in the electronic credit ledger may be used for making any payment **towards OUTPUT TAX under this Act or under the Integrated Goods and Services Tax Act** in such manner and subject to such conditions **and restrictions** and within such time as may be prescribed.

Q. Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

Ans. It is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

Q. Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST Laws?

Ans. The electronic credit ledger can be used for making payment of output tax only under the [CGST Act](#) or the [IGST Act](#).

It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said acts. Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

Transfer between E-cash Ledger

(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for....

(a) Integrated tax, central tax, State tax, Union territory tax or cess; or

(b) Integrated tax or central tax of a distinct person

and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act:

However, no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

~~(10) A registered person may, on the common portal,~~

- ~~▪ transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act,~~
- ~~▪ to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess;~~

- ~~in such form and manner and subject to such conditions and restrictions as may be prescribed and~~
- ~~such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.~~

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).

(12) Notwithstanding anything contained in this Act,

- **the Government may, specify such maximum proportion of output tax liability**
- **under this Act or under the Integrated Goods and Services Tax Act, 2017**
- **which may be discharged through the electronic credit ledger**

by a registered person or a class of registered persons, as may be prescribed.

Section 50: Interest on delayed payment of tax



Interest for belated period @ 18% [Maximum]

(1) GENERAL PROVISION:

- **Every person who is liable to pay tax,**
- 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% PA.**

(2) Special Provision – W.E.F. 01/07/2017:

- The interest on tax payable
- in respect of supplies made during a tax period and
- declared in the return for the said period
- furnished after the due date in accordance with the provisions of section 39,
- shall be payable on that portion of the tax
- which is paid by debiting the electronic cash ledger.

[Special Provision will not be applicable where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period ie such kinds of cases will fall under general Provision]

How to calculate interest

(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.

Interest @ higher
% [24%
maximum]

[W.E.F 01/07/2017]

(3) Where the input tax credit has been wrongly availed and utilised,

- the registered person shall pay interest
- on such input tax credit wrongly availed and utilised,
- at such rate not exceeding 24% as may be notified by the Government,
- and the interest shall be calculated,
- in such manner as may be prescribed.

(3) ~~A taxable person~~

- ~~▪ who makes an undue or excess claim of input tax credit 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.~~

Section 52: Collection of tax at source



(6) If any operator after furnishing a statement under sub-section (4) 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 statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the 30th day of November following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

CGST Rules, 2017: Payment of Tax

Rule 85

E-Liability 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; **OR**

~~(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.

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 or section 49A or section 49B,

(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**.

(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.

(4B) Where a registered person deposits the amount of erroneous refund sanctioned to him,

(a) under section 54(3) of the Act, or [Refund of ITC]

(b) under Rule 96(3), in contravention of Rule 96(10), [Refund of IGST from Custom Department]

- along with interest and penalty, wherever applicable,
- through FORM GST DRC-03,
- by debiting the electronic cash ledger,
- on his own or on being pointed out,
- an amount equivalent to the amount of erroneous refund deposited by the registered person
- shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03A.

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.

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

(3) The deposit under sub-rule (2) shall be made through any of the following modes, namely:-

(i) Internet Banking through authorised banks;

(ia) Unified Payment Interface (UPI) from any bank;

(ib) Immediate Payment Services (IMPS) from any bank.

(ii) Credit card or Debit card through the authorised bank;

(iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

(iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

(5) Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement **or IMPS** 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:

Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan.

(14) A registered person may, on the common portal,

- transfer any amount of tax, interest, penalty, fee or any other amount
- available in the electronic cash ledger under the Act
- to the electronic cash ledger for central tax or integrated tax of a **distinct person**
- in FORM GST PMT- 09:

Provided that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

Rule 88B
Manner of
calculating
interest on
delayed
payment of tax

(1) In case,

- Where the supplies made during a tax period are declared by the registered person in the return for the said period and
- the said return is furnished after the due date in accordance with provisions of section 39,
- except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period,
- the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger,
- for the period of delay in filing the said return beyond the due date, at such rate as may be notified under section 50.

(2) In all other cases,

- Where interest is payable in accordance with section 50 (1),
- the interest shall be calculated on the amount of tax which remains unpaid,
- for the period starting from the date on which such tax was due to be paid till the date such tax is paid,
- at such rate as may be notified under section 50.

(3) In case,

- Where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with section 50(3),
- the interest shall be calculated on the amount of input tax credit wrongly availed and utilised,
- for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount,
- at such rate as may be notified under section 50(3).

Explanation. -For the purposes of this sub-rule, -

(1) Input tax credit wrongly availed shall be construed to have been utilised,

- When the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and
- the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) The date of utilisation of such input tax credit shall be taken to be, -

(a) The date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) The date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

Chapter 13

Return

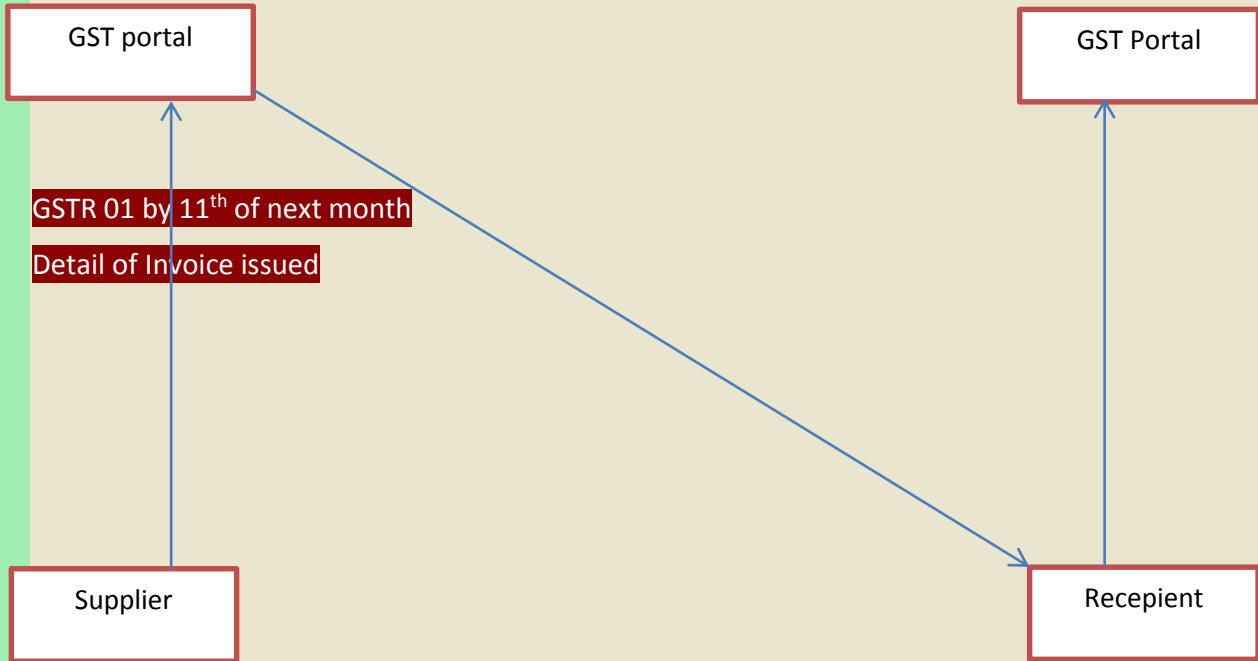
Sections List

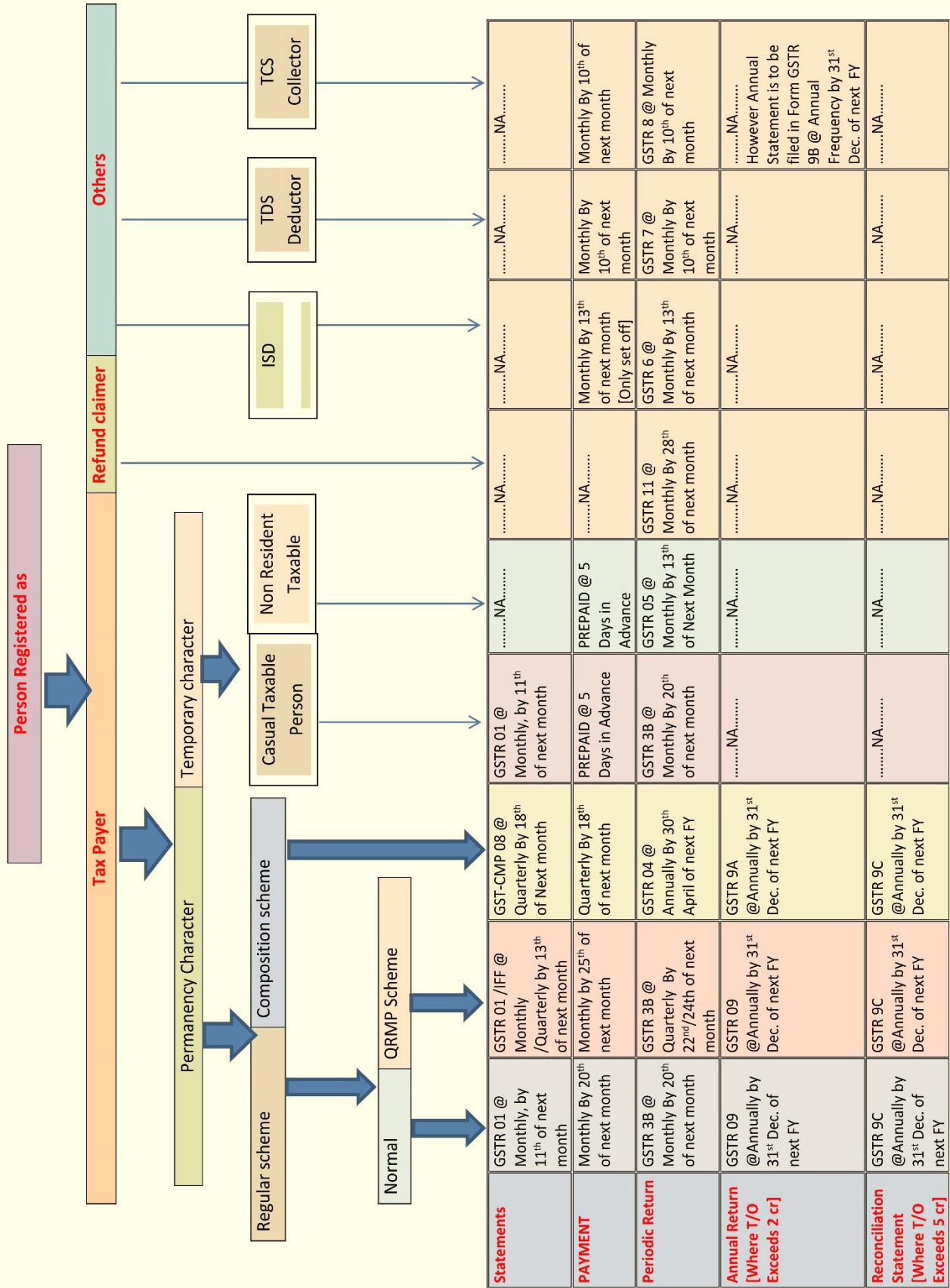
Section 37	Outward supply statement
Section 38	Communication of details of inward supplies and input tax credit [GSTR 2B]
Section 39	Filing of Return
Section 40	First Return
Section 41	Availment of input tax credit
Section 42	Matching / Mismatching of ITC
Section 43	Matching / Mismatching of ITC
Section 44	Annual Return
Section 45	Final Return
Section 46	Notice on Non- filing
Section 47	Late fees
Section 48	GST practitioner

Forms List

Form	Content
GSTR 01	Invoice issued
GSTR-02	Invoice received
GSTR 3B	Return
GSTR 04	Annual statement @ composite dealer
GST CMOP 08	Quarterly Statement
GSTR 05	NRTP
GSTR 06	ISD
GSTR 07	TDS RETURN
GSTR 08	TCS RETURN
GSTR 09	Annual Return @Regular Scheme
GSTR 9A	Annual Return @Composition Scheme
GSTR 9B	Annual TCS Statement
GSTR 9C	Annual Reconciliation Statement
GSTR 10	Final Return
GSTR 11	UIN HOLDER

Process:





Annual Return and Reconciliation Statement

For Regular and composite supplier			FOR Special category no need to file these forms
Aggregate Turnover	Annual Return Form 9/9A u/s 44	Reconciliation statement @ self- certified u/s 44	CTP, NRTP, Refund claimer TDS deductor, TCS collector, ISD and Govt. Departments.
Upto 2 cr	Exempted by way of notification issued every year	No	
Above 2 cr to 5 cr	Yes	No	
Above 5 cr	Yes	Yes	

First and Last Return

First Return	Last Return
<ul style="list-style-type: none"> * GSTR ??? @ One time After grant of RC * Details of outward supply * For the period: The date on which liability of registration arises TILL the date on which Registration is granted.[Pre RC Period] 	<ul style="list-style-type: none"> * GSTR 10 @ One time * Person whose RC canceled * With- in 3 month from (order/effective of Cancellation) whichever is later
	<ul style="list-style-type: none"> * GSTR 05 @ Monthly * Non Resident Taxable Person * Last Return: 13th of Next Month or within 7 days after the last day of validity of Registration Certificate – whichever is earlier.

Notes:

- (1) No rectification of any omission or incorrect particulars shall be allowed after: 30th November of next FY or annual return Actual filing date (whichever is Earlier)
- (2) Payment of tax mandatory to file a valid return Except QRMP Scheme.
- (3) Nil return also required to be filed.

SECTION 37: OUTWARD SUPPLIES DETAILS i.e. DETAILS OF INVOICE, DEBIT & CREDIT NOTES.[GSTR : 1]

- (i) - Every Registered person: [Other Than : Non-Resident, Composite Dealer, ISD (Input service distributor), TDS Deductor, TCS Collector]
- Shall Furnish Details of Outward supplies in form GSTR=1 for a tax Period on or Before 11th /13th of next month and
- Such Details shall be Communicated to Recipient.

(ii) **MAXIMUM TIME OF AMENDMENT/RECTIFICATION : IN GSTR: 1**

- GSTR:1 can be amended or Rectified,
- **@ Maximum by 30th Novmber of next FY OR Actual Filing of Annual Return Date (Whichever is Earlier)**

Moreover-

- Any Registered Person who has furnished GSTR:1 for any tax period shall upon discovery of
- any error / Omission which leads to a case of Short-Payment.
- Liable to pay such tax with Interest.

(iii) **RESTRICTION ON FURNISHING OF GSTR:1**

- **A registered person shall not be allowed to furnish the details of outward supplies (GSTR 1) for a tax period,**
- **if the details of outward supplies [GSTR 1] for any of the previous tax periods has not been furnished by him:**

Note: 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.

SECTION:38: Communication of details of inward supplies and input tax credit.

(1) The details of outward supplies furnished by the registered persons under section 37(1) and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit **shall be made available electronically to the recipients** of such supplies in Specified form.

(2) The auto-generated statement shall consist of—

- (a) details of inward supplies in respect of which credit of **input tax may be available to the recipient;** and

- (b) details of supplies in respect of which **such credit cannot be availed**, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under section 37(1),—
- (i) by any registered person within such period of taking registration as may be prescribed; or
 - (ii) by any registered person, **who has defaulted in payment of tax** and where such default has continued for such period as may be prescribed; or
 - (iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, **exceeds the output tax** paid by him during the said period by such limit as may be prescribed; or
 - (iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that **exceeds the credit that can be availed by him** in accordance with clause (a), by such limit as may be prescribed; or
 - (v) by any registered person, who has **defaulted in discharging his tax liability** in accordance with the provisions of section 49(12) subject to such conditions and restrictions as may be prescribed; or
 - (vi) by such other class of persons as may be prescribed.

SECTION 39: FILING OF PERIODIC RETURN

(i) GSTR:3/3B

Every registered person, other than (Other than Non Resident, Composite Dealer, ISD, TDS Deductor, TCS Collector)

- shall, **for every calendar month or part thereof**, furnish, a return, electronically,
- of inward and outward supplies of goods or services or both,
- input tax credit availed,
- tax payable, tax paid and
- such other particulars,
- in such form and manner, and within such time, as may be prescribed:

However the Government may, notify certain class of registered persons who shall furnish a return for **every quarter or part thereof**, [*SPECIFIED PERSONS under QRMP*]

(ii) GST-CMP:08	<p>A composite dealer shall,</p> <ul style="list-style-type: none"> - for each financial year or part thereof, furnish a return, electronically, - of turnover in the State or Union territory, - inward supplies of goods or services or both, - tax payable, tax paid and - such other particulars in such form and manner, and within such time, as may be prescribed.
(iii) GSTR:5	<ul style="list-style-type: none"> - Every Registered Non-Resident Taxable Person Shall file GSTR:5 for every Calendar Month of part thereof - @ Specified Details - with in 13 Days after the end of Calendar Month OR - Within 7 Days after the expiry of Registration period (Whichever is Earlier) <p>NOTE: The Commissioner may extend the time limit for Furnishing the Return under this section.</p>
ISD @ monthly frequency by 13th [section 51] [FORM GSTR: 6]	<p>(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within 13th days after the end of such month.</p>
TDS Deductor @ monthly frequency by 10th [section 51] [FORM GSTR: 7]	<p>(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within 10 days after the end of such month.</p>

(iv) TAX PAYMENT BY DUE DATE OF RETURN:

General Provision	<p>Every registered person who is required to furnish a return under subsection (1), <i>[other than the person SPECIFIED PERSONS under QRMP]</i></p> <p>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.</p>
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QRMP Holder	<p><i>SPECIFIED PERSONS under QRMP</i>- shall pay to the Government,</p> <p>(a)</p> <ul style="list-style-type: none"> - the tax due taking into account inward and outward supplies of goods or services or both, - input tax credit availed, - tax payable and - such other particulars during a month, in such form and manner, and within such time, as may be prescribed OR <p>(b) An amount determined in prescribed manner [fixed %].</p>
Composite dealer	<p>For composite Dealers: Provided further that every registered person furnishing return under subsection (2)</p> <ul style="list-style-type: none"> - shall pay to the Government the tax due - taking into account turnover in the State or Union territory, - inward supplies of goods or services or both, - tax payable, and such other particulars - during a quarter, in such form and manner, and within such time, as may be prescribed.

(v) NIL RETURN:

- Every registered person (Other than Non Resident, ISD, TDS Deductor, TCS Collector)
- Including Composite Dealer is required to file NIL Return Also.

(vi) RECTIFICATION:

After Furnishing a Return, where any registered person discovers any omission or Incorrect Particulars.

- Then he shall rectify such omission or Incorrect Particulars in the Upcoming Month / Quarter's Return. [Note: Interest will be payable if any]
- Maximum time for such rectification will be earlier of the two:
 - 30th November of Next FY

OR

 - Actual Date of Furnishing of Relevant annual Return.

(vii) **NO FUTURE RETURN:** 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 or the details of outward supplies [GSTR: 1] for the said tax period has not been furnished by him.

SECTION: 40 : FIRST RETURN @ PRE RC PERIOD

- Every Registered Person who has made outward supplies in PRE RC PERIOD [The Period start with the date on which the person liable for Registration till the date of grant of Registration)
- shall declare the same in his first return furnished by him after grant of registration corticated.

SECTION: 41 : AVAILMENT OF INPUT TAX CREDIT

(1) Every registered person **shall be entitled to avail the credit of eligible input tax**, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, **shall be reversed along with applicable interest.**

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

NOTE: Section 42,43 Ommited

Section 44: Annual return @ Annual Frequency

By every registered person except notified [GSTR: 9, 9A]

(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

- which may include a self-certified reconciliation statement,
- reconciling the value of supplies declared in the return furnished for the financial year,
- with the audited annual financial statement for every financial year electronically, on or before the 31st December following the end of such financial year **and in form GSTR 9 [Form 9A for composite supplier]**

However Commissioner may, exempt any class of registered persons from filing annual return under this section:

Notification No. 31/2021 - It is hereby exempts the registered person whose aggregate turnover in the financial year 2020-21 is upto Rs. 2 cr, from filing annual return for the said financial year.

GSTR 9C	<p>Every registered person, other than</p> <ul style="list-style-type: none"> ○ an Input Service Distributor, ○ a person paying tax under section 51 or section 52, ○ a casual taxable person and ○ a non-resident taxable person <p>Whose aggregate turnover during a financial year exceeds Rs. 5 cr, shall also furnish a self-certified reconciliation statement as specified under section 44 in FORM GSTR-9C along with the annual return on or before the 31st December following the end of such financial year.</p>
Relaxation from GSTR 9/9A/9C	<p><u>Relaxation to Government Department:</u>The provisions of this section will not be applicable to</p> <ul style="list-style-type: none"> ▪ Any department of the Central Government or a State Government or a local authority, ▪ whose books of account are subject to audit ▪ by the Comptroller and Auditor-General of India [CAG] or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”

Section: 45 Final Return [One time Return]

Every Registered person: [Other Than : Non-Resident, Composite Dealer, ISD, TDS Deductor, TCS Collector]

- whose registration has been cancelled shall furnish a final return
- within three months of the date of cancellation or date of order of cancellation, whichever is later.

Some other Points:

Section: 46 Notice to return defaulter	Where a registered taxable person fails to furnish a return under section 39,[Combined Return] 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. [GSTR 3A]	
Section: 47 Late fees	Periodic and Final Return	<p>Any registered taxable person</p> <ul style="list-style-type: none"> ▪ who fails to furnish the-details of outward supplies u/s 37 or RETURN u/s 39,45,52 by the due date ▪ shall be liable to pay late fee of ₹ 100 [Reduced to ₹ 25 and 10 for NIL RETURN] for every day during which such failure continues ▪ subject to a maximum of ₹ 5000.
	Annual Return	<p>Any registered taxable person</p> <ul style="list-style-type: none"> ▪ who fails to furnish the return required under section 44 by the due date

	<ul style="list-style-type: none"> ▪ shall be liable to a late fee of ₹ 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)/UT.
<p>Section : 48 GST Practitioner</p>	<p>The responsibility for correctness shall continue to rest with the registered taxable person.</p> <ul style="list-style-type: none"> ▪ To be a GST Practitioner need to apply in specified form. ▪ The person should be: Indian Citizen, sound mind, solvent, non-convicted, Graduate, post graduate, Qualified final exam of CA/CS/CMA etc] ▪ No person shall be eligible to attend before any authority as a GST practitioner in connection with any proceedings under the Act on behalf of any registered or un-registered person unless he has been enrolled for this. ▪ A GST practitioner attending on behalf of a registered or an unregistered person in any proceedings under the Act before any authority shall produce before such authority, if required, a copy of the authorisation.

CGST Rules 2017

<p>Rule 60: Form and manner of ascertaining details of inward supplies [FORM: GSTR 2]</p>	<p>(7) An auto- Generated drafted statement containing the details of input tax credit</p> <ul style="list-style-type: none"> - shall be made available to the registered person - in FORM GSTR-2B, for every month, and shall consist of – <p>(8) The Statement in FORM GSTR-2B for every month shall be made available to the registered person,-</p>
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Chapter 15

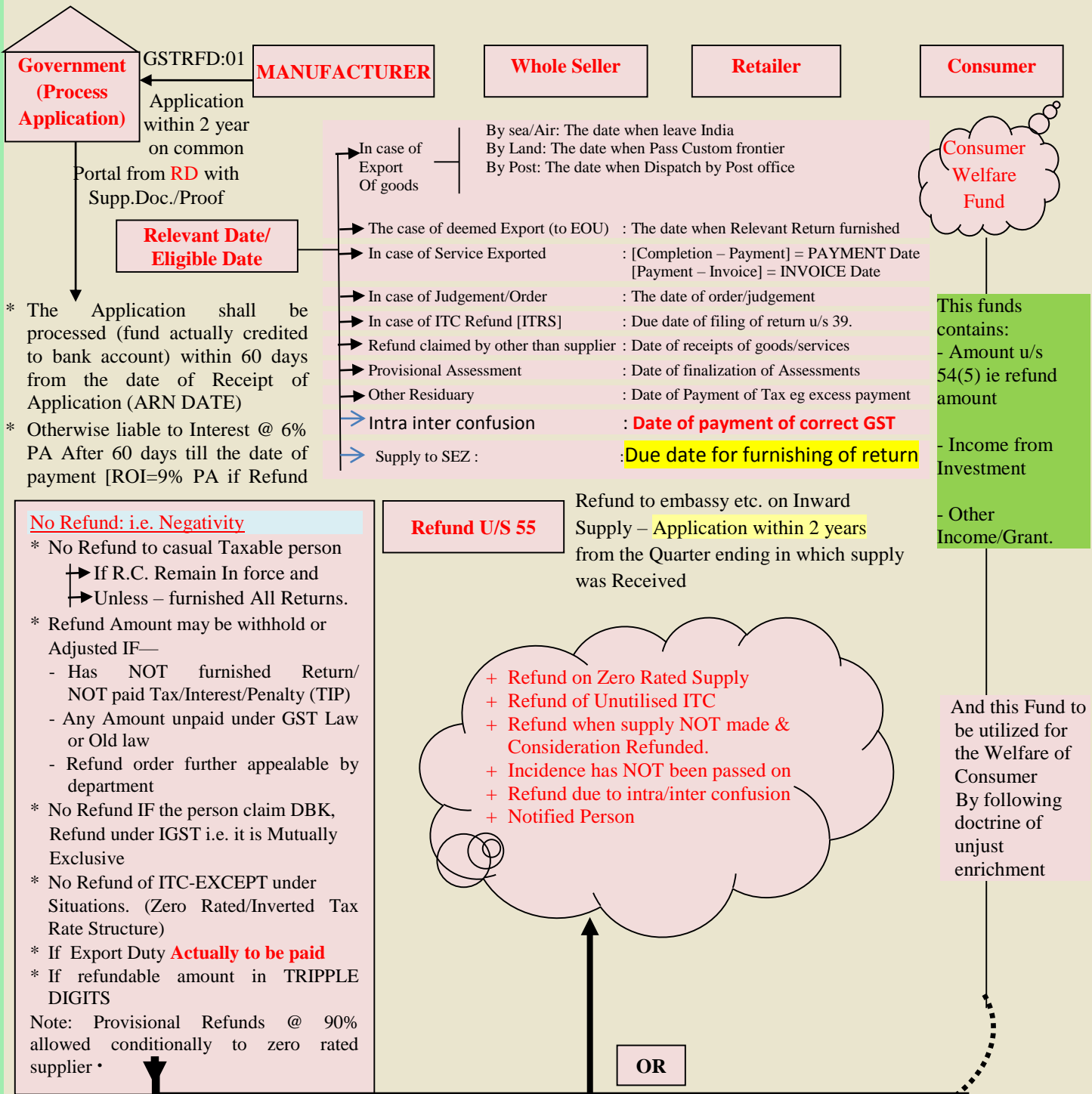
Refund

WHY REFUND

- (1) Zero Rated Supply [Export to Abroad/SEZ (Unit/Developer)]
 - (a) Pay GST & After EXPORT claim Refund.
 - (b) On Export (Abroad/SEZ): Do Not Pay Tax: (Instead: Execute BOND/L.U.T.)
- (1A) Deemed Supply
- (2) Inverted Tax Rate Structure.
- (3) Refund of Excess Amount Deposited in E-Cash Ledger.
- (4) Refund to C.T.P./N.R.
- (5) First of all Provisional Assessment ₹ = 70,000/- & later on finalization @ ₹ 50,000/- Refund of ₹ 20,000/-
- (6) Refund due to Intra/Inter confusion.
- (7) Refund of Excess Payment of Tax.
- (8) Refund to UN/Embassy.
- (9) Refund due to any Judgment/Order etc.
- (10) Refund due to any Retrospective Amendment.
- (11) Refund to Tourist on Leaving India.
- (12) Advance Payment Received & No Supply made.
- (13) Etc.

Rule: 89 Refund to Whom: Any person who borne the incidence of TAX.

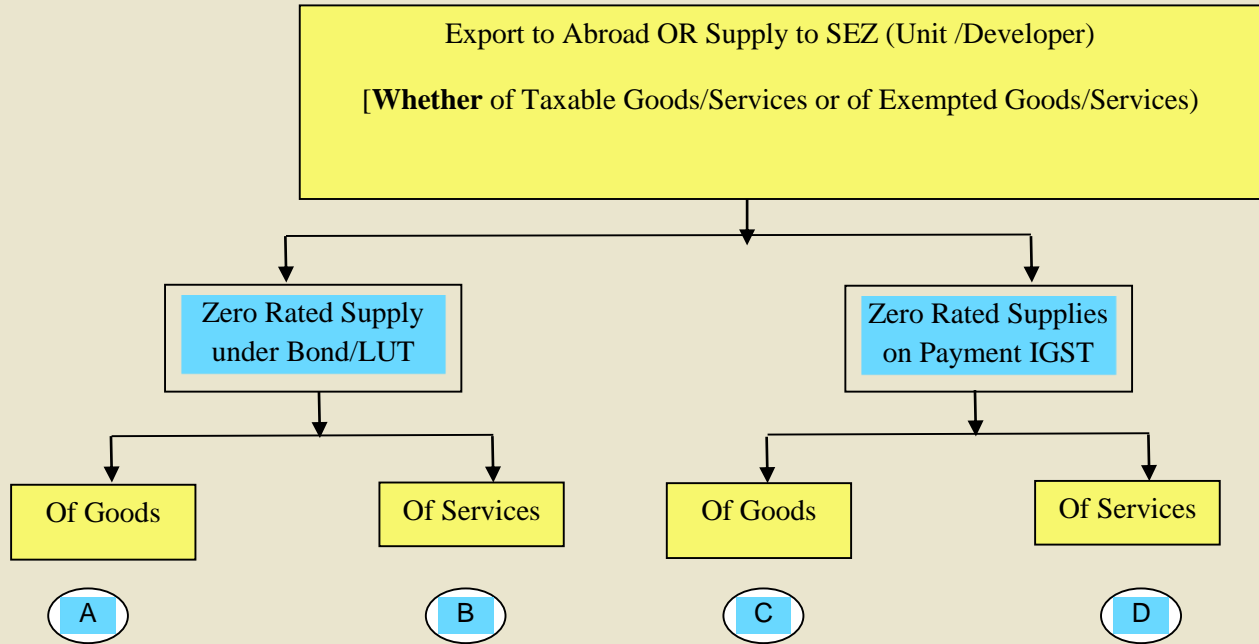
Refund Procedure



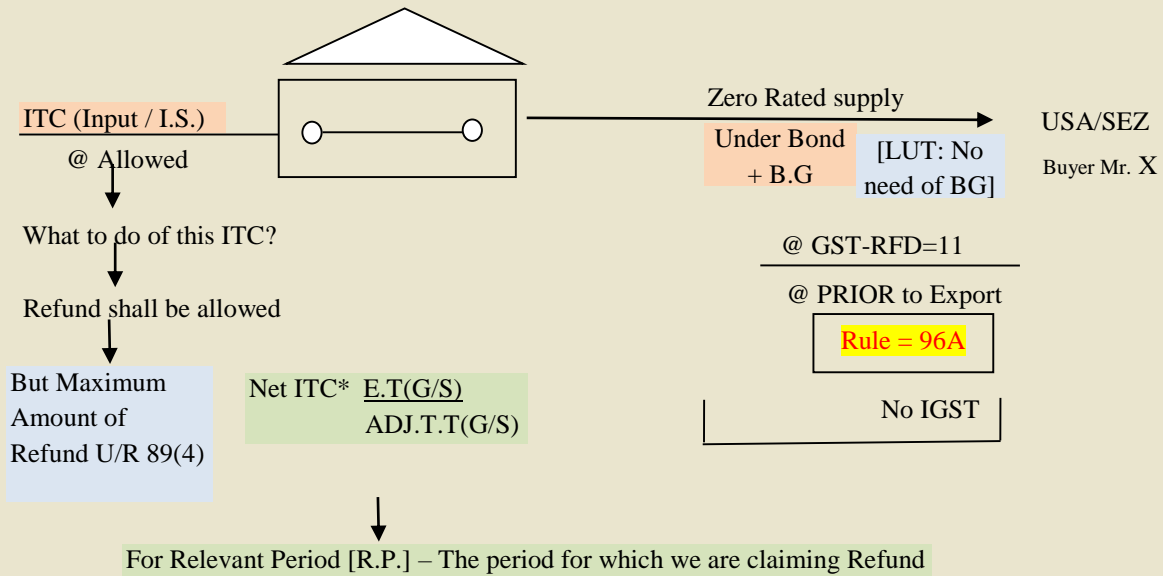
Transfer to Consumer Welfare Fund [on the basis of presumption u/s 49(9) @ tax load passed on to end user]

- Note: (1) Application:** No need to file RFD 01, In case of Refund to casual taxable person /Non Resident [claim through return].
- Note: (2) Supportive Documents:** for Incidence of tax – required only when claim amount is of 2 lakh or more otherwise declaration is sufficient.
- Note: (3) Where claiming refund of ITC then equal amount of ITC need to be deducted/ Reversed from E- Credit Ledger.**
- Note: (4) Refund is subjected to any other liability.**

Section: 16(3) of IGST Act + Section 54(3) of CGST Act + Rule: 89(4) + Rule: 96A



[A] Zero Rated Supply of Goods under Bond / LUT : Rule:89(4)





Note:1- It is Data of R.P. [Which may be 1/2/3 etc. Months] ie if any opening Balance of ITC is given then that shall be ignored

* NET ITC: ITC of Input /Input Services
* E.T. (of Goods and Services)
▪ Export T/O of Goods under Bond/LUT
OR
▪ 1.5. Times of like domestic supplies [Whichever is Lower]
▪ Export T/O of Service [Payment Received]
[+] Past Advances ***
[-] Future Advances ***
*Adjusted T.T: = ET (G&S) + Other Turnover
Note: Value of Export goods in denominator will be same as in numerator.

Note: 2: Excluding Exempted supply But if Exempted supply is Exported then it will be called as zero Rated supply & to be Included in calculation

Note 3: Where Any Refund or Benefit is Claimed By supplier U/R- 89(4A/4B) then such supply to the extent shall be Excluded with Respect to Turnover & Corresponding ITC.

Journal Entry

Purchase A/C	Dr 10000
ITC A/C	Dr 1800
To Bank	11800
Bank A/C	Dr. 1800
To ITC	1800

Mr. X	Dr 15000
To Sales	15000
Bank A/C	Dr.15000
To Mr. X	15000

Procedure

- @ Application in RFD=01
 - @ Within 2 year from the Date of [Export Goods]
- Goods Leave India
 - Goods Pass Custom Frontier
 - Dispatch by Foreign Post Office

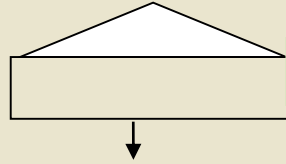
With Supportive Documents:

- *In Case of Real Export: Shipping Bill / Bill of Export and Invoice
- *In case of SEZ: Invoice, SEZ officer Certificate, Declaration that No GST charged From SEZ (Unit /Developer)]

[B] Zero Rated Supply (Export/SEZ) of Service under Bond/LUT

ITC of INPUT /I.S.
XXX

Bond/LUT
Rule: 96A



Everything will be same as in Case of Goods: Except the Following:-

- @ Application within in 2 year From the Date of "Export of Service"
- (i) Completion 1/1/20
- (ii) Payment: 1/2/20 —> LATER: 1/2/20
- (i) Payment : 1/1/20
- (ii) Invoice :1/2/20 —> LATER1/2/20

@ With Supportive Documents:

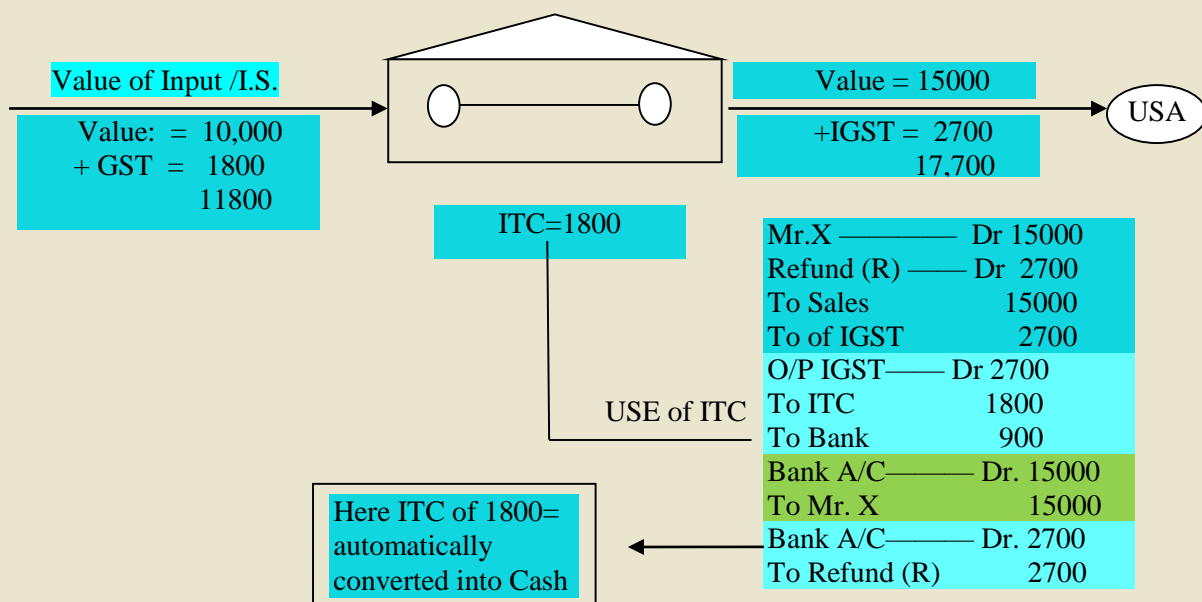
***In case of Export:** Invoice, Bank Realisation Certificate [Proof of Foreign Currency Payment]

***In case of SEZ:** Invoice, Payment Proof, Declaration as No GST has been charged, certificate of SEZ officer

[C] Export of Goods on payment of GST

[But Not to Charge from Customer]

Special Provision @ Refund by Customs Department [Auto Refund]

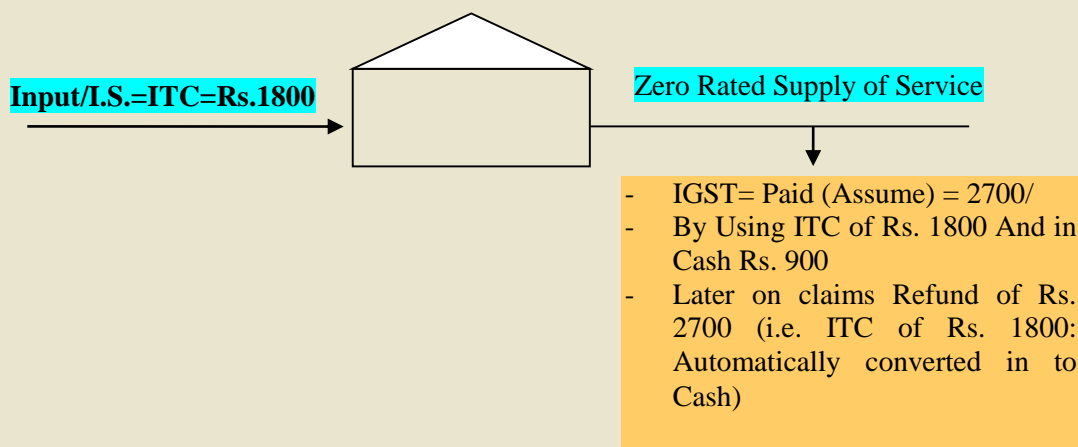


Process of Refund (Auto Process)

- * Need to File GST-RFD=01= No
- * Refund of IGST shall be given by customs Department
- ⇒ Shipping Bill/Bill of Export shall be treated as Refund Applications (Provided: Export manifest filed By Person in charge of conveyance.
- ⇒ GSTR-1 @ Auto transmit to Customs for Verification and Exporter Need to submit Valid Return (GSTR=1 and 3B and it is also transmit to customs department.
- ⇒ Now Custom officer – **Process the Refund and Amount Shall be transferred to Exporter.**

[D] Zero Rated Supply of Service [Export/SEZ]

On Payment of IGST



Process:

* File Application RFD=01 for Rs. 2700

* within 2 year of “Export of Service” ie

Completion

OR

(Whichever is LATER)

Payment

Payment

OR

Invoice

(Whichever is LATER)

* With Supportive Documents: “Same an earlier”

- **In case of Export:** Invoice, Payment Proof (For Export)

- **In case of SEZ:** Invoice, Payment Proof, Certificate of SEZ officer Declaration as No GST has been Charged from SEZ”

Provisional Refund [RFD: 04]

This Facility is Available to “All kind of Zero Rated Supplier of Goods/ Service (Export/SEZ): Except..

- Export of Goods to Abroad (Where Refund is Automatic given by custom department)
- The Person who was prosecuted in Last 5 years for an amount of Rs. 2.5. Crore Plus (under GST law/old law)

*** Refund Amount will be: 90% of Amount claimed: ITC OR output IGST**

[1A] Deemed Export

Note: It is not ZERO Rated supply

“Deemed Export”

of “Goods”

Value = 1,00,000
 GST = 18,000
 1,18,000
 GST Always be charged

Mr. X

Payment of GST to Government = 18000

- * 100% EOU
- * EPCG- Holder
- * A.A.S. Holder etc.
- * Etc

NOW

Note: Deemed export data (ITC and outward turnover) will be Excluded in calculation of rule 89(4) only when option (2) is exercised i.e. Supplier claims benefit, Otherwise remain included.

Option 2

(S)

OR

By (R)

Option: 1

- (R) Authorise Suppliers to claim Refund
- (R) Not to Book ITC or claim Refund

Claim ITC
 OR
 Claim Refund

Mandatory steps to be taken for claiming refund by RECEIPT (in case of deemed export..)

- (a) First of all - Book ITC
- (b) At the time of refund application Reduce Equal Amount from E-credit ledger
- (c) Now submit your Refund Application [RFD 01]

Process

- @ Application: RFD=01 from the date of furnishing of Valid Return (GST= Rs.18,000 paid)
- @ With supportive Documents: (Invoice, Declaration etc. if any.)

Q. Whether the ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is to be included in the “Net ITC” for computation of refund of unutilised ITC under rule 89(4) & rule 89 (5) of the CGST Rules, 2017.

Ans. The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, such ITC availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports is **not** to be included in the “Net ITC” for computation of refund of unutilised ITC on account of zero-rated supplies under rule 89(4) or on account of inverted rated structure under rule 89(5) of the CGST Rules, 2017.

Question:

- (i) ITC in Relevant period = Rs. 14, 00,000 [Input and I.S.]
[Which Includes ITC Related to Rule: 89 (4A/4B) of Rs. 120,000]
- (ii) Zero Rated Supply to USA = Rs. 40,000,00 (under Bond) Supply to SEZ = 5,00,000 (under Bond)
(and value of like domestic goods Rs. 32,00.000)
- (iii) Supply to SEZ = 5,00,000 (under Bond)
- (iii) Supply to 100% EOU = 15,00,000
- (iv) Total Payment Received for Service in Relevant period Rs. 50, 00,000 which Includes Rs. 8,00,000 for Future
[Moreover Rs. 7,00,000 was Received Before Relevant period But Services is Completed in Relevant period]
- (v) Exempted supplies = 20,00,000
- (vi) Other Taxable Supplies Rs. 30,00,000 Find out maximum Amount of Refund U/R= 89(4)

Answer

$$\text{ITC Max} = \text{NET ITC} * \frac{\text{E.T. (Goods and Services)}}{\text{Adjusted T/T}}$$

$$\begin{aligned} * \text{NET ITC: [Input/I.S]} &= 14,00,000 \\ \text{[ITC- Rule: 89(4A/4B)]} &= \underline{1,20,000} \\ &= \underline{12,80,000} \end{aligned}$$

* **Export Turnover [ET]**

Goods: Under @ Bond: Zero Rated

-USA= 40 Lakh

-SEZ= 5 Lakh

45 Lakh @ Declared value

OR

1.5 Times Domestic value (32 Lakh × 1.5) = 48 Lakh

[whichever is lower ie Rs. 45 lakh]

For Services – in Relevant Period = Payment Received: 50Lakh

-Advance for future = 8 Lakh

+ Past Advances for services = 7 Lakh

Total= 49 Lakh

Total ET: 45+49= 94 Lakh

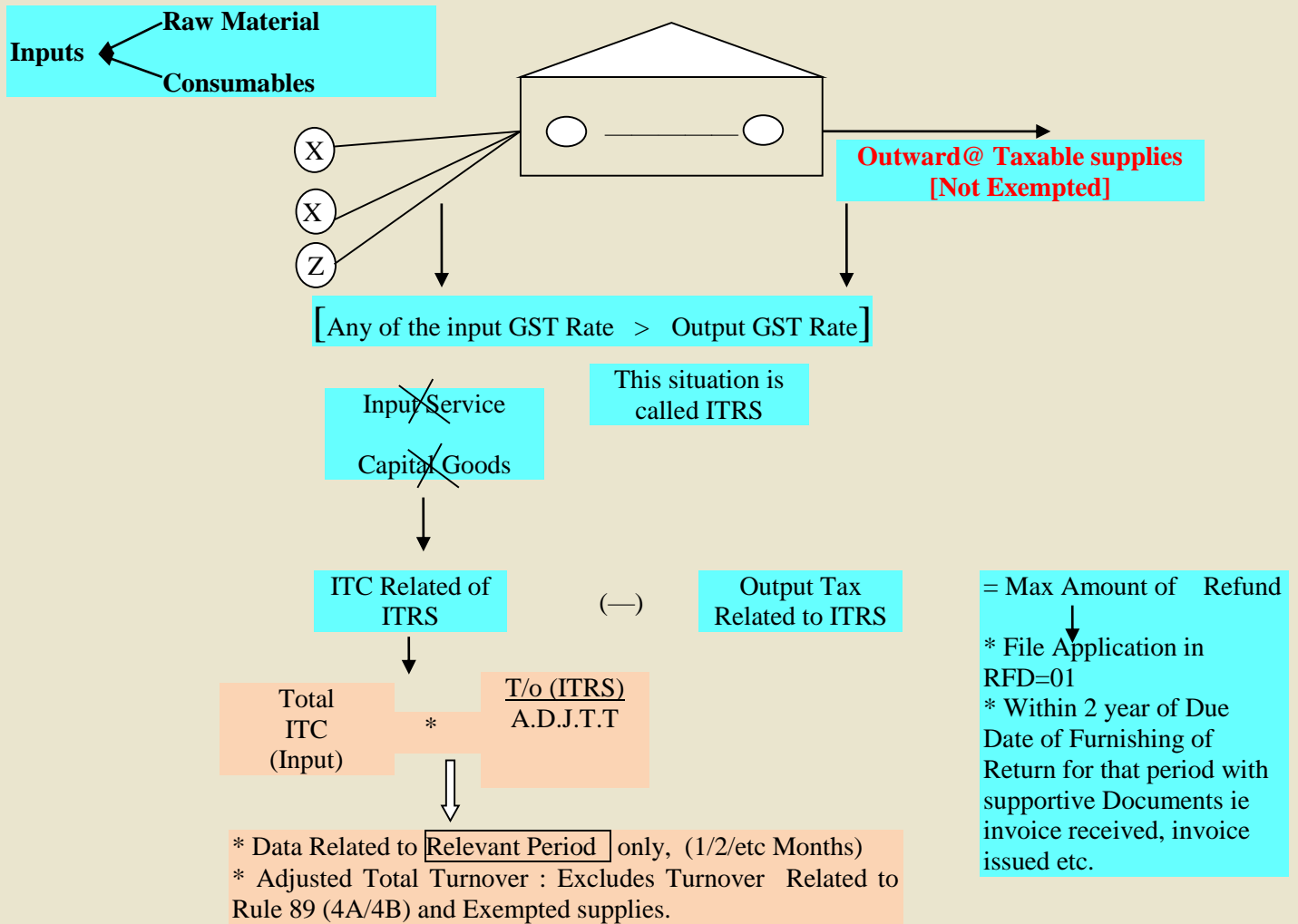
Adjusted Total T/O : Zero Rated Value under bond = 94 Lakh

$$\begin{aligned} + \text{Other turnover} &= 30\text{Lakh} \\ \text{Total Turnover} &= \mathbf{124 \text{ Lakh}} \end{aligned}$$

$$\begin{aligned} \text{MAX Amount of Refund} &= \text{NET ITC} \times \text{ET} / \text{Adjusted Total Turnover} \\ &= 12,80,000 \times \frac{94 \text{ Lakh}}{124 \text{ Lakh}} \\ &= \mathbf{Rs. 9,70,323} \end{aligned}$$

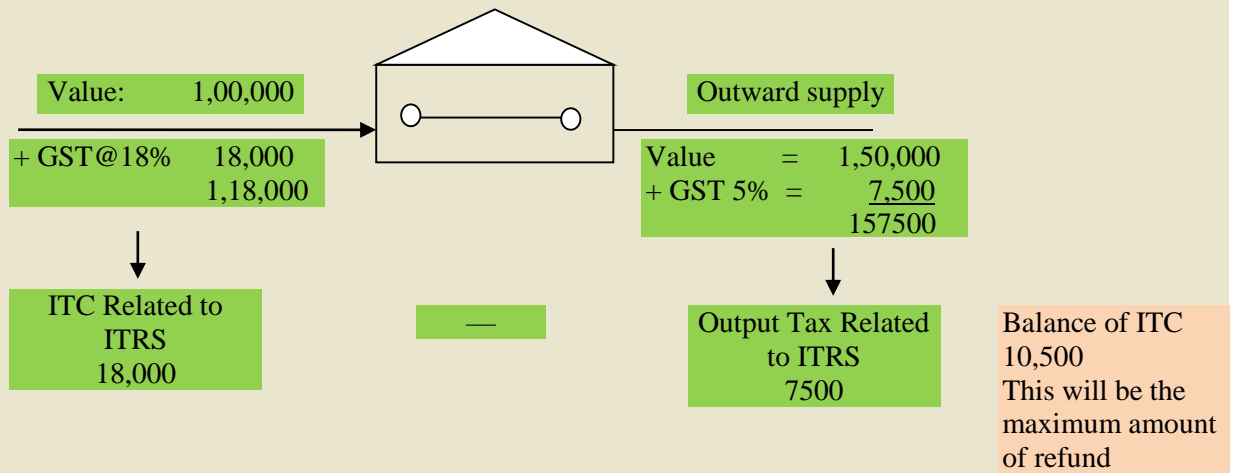
**Inverted Tax Rate Structure
Section: 54(3) + Rule: 89(5)**

What is inverted tax rate structure [I.T.R.S.]:

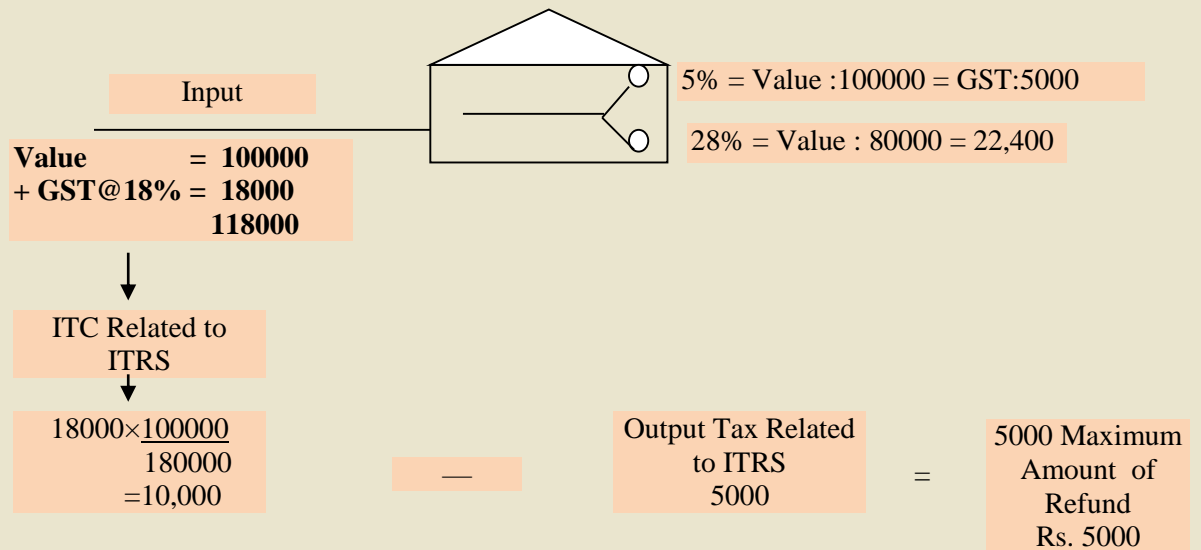


Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services x (Net ITC ÷ ITC availed on inputs and input services).]

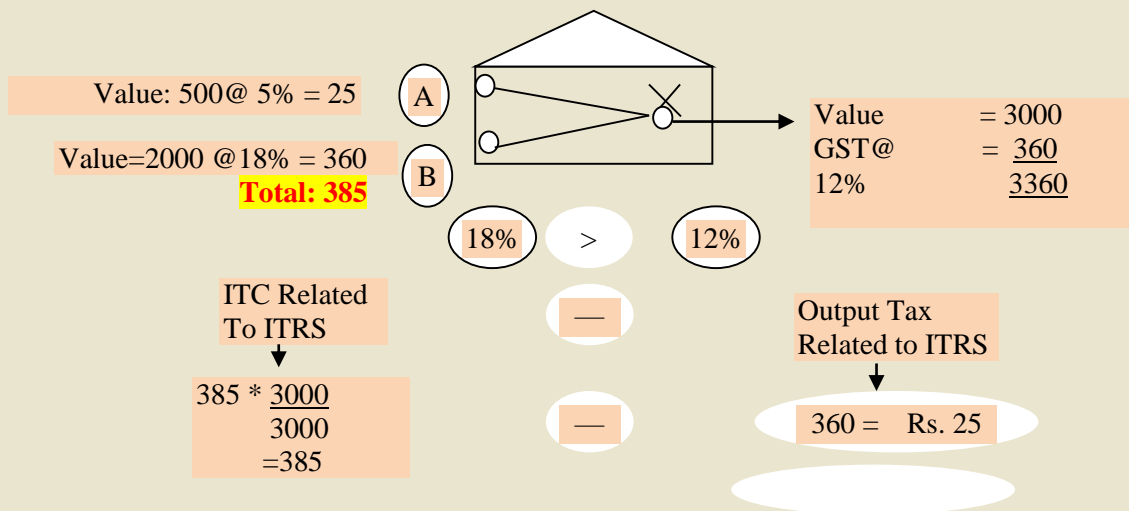
Q. 1



Q.2



Q=3



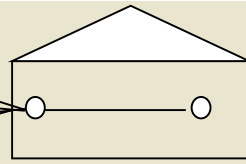
Q=4

(A) 10000 @ 5% = 500

(B) 20000 * 12% = 2400R/M

(C) 10000 * 18% = 1800R/M

(D) 10000 * 28% = 2800

7500

Value : = 1,00,000

GST@18% = 18,000
118000

28%

>

18%

$$7500 \times \frac{1,00,000}{1,00,000}$$

—

18000

7500 (—) 18000 = No Refund

However if Credit was 27,500

Instead of Rs. 7500 then Refund amount will be Rs. 9500

Refund of accumulated ITC on account of reduction in GST rate on goods, not available

The issue which arose for consideration is whether an applicant can seek refund of unutilized ITC on account of inverted duty structure, under section 54(3)(ii) of the CGST Act, 2017, in a case where the inversion is due to change in the GST rate on the same goods. For example, an applicant trading in goods has purchased, say goods “X” attracting 18% GST. However, subsequently, the rate of GST on “X” has been reduced to, say 12%.

It is clarified that, in such cases, the input and output being the same, though attracting different tax rates at different points in time, do not get covered under section 54(3)(ii) of the CGST Act, 2017. Thus, refund of accumulated ITC under said clause would not be applicable in cases where the input and the output supplies are the same.

F.No. CBIC-20001/2/2022: Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification

1. It is hereby clarified that refund of accumulated ITC under inverted tax rate structure would not be applicable in cases where the input and the output supplies are the same.

2. However, there may be cases

- Where though inputs and output goods are same but the output supplies are made under a concessional notification due to which the rate of tax on output supplies is less than the rate of tax on inputs.
- the credit accumulated on account of the same is admissible for refund under inverted tax rate structure.
- other than the cases where output supply is either Nil rated or fully exempted, and also provided that supply of such goods or services are not notified by the Government for their exclusion from refund of accumulated ITC under inverted tax rate structure.

Circular no. 125/44/2019

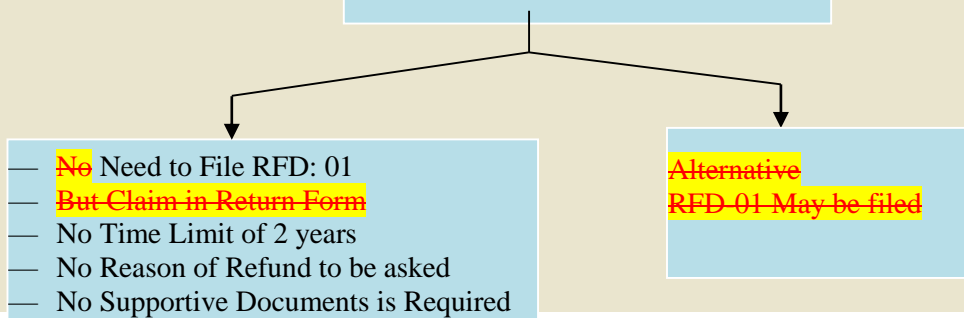
In case of refunds of unutilised ITC on account of zero rated supplies and inverted tax rate structure, the common portal calculates the refundable amount as the least of the following amounts:

- (a) The maximum refund amount as per the formula in [Rule 89\(4\)](#) or [Rule 89\(5\)](#) of the [CGST Rules](#) [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];
- (b) The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in [FORM GSTR-3B](#) for the said period has been filed; and
- (c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

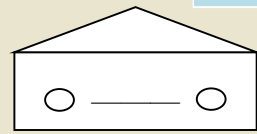
Comparison

* Rule: 89(4) Zero Rated Supply	*Rule: 89(5) Inverted Tax Rate Structure [ITRS]
* Where outward Exempted supply is Exported then it will be called as ZERO Rated -So Benefit is Allowed Under Rule 89(4)	*Where outward Exempted Supply is fall under ITRS- then Benefit-Rule: 89(5) shall Not be given
*No Such Restriction *Benefit U/R 89(4) is Allowed on ITC of Input and Input Services	* Benefit U/R: 89(5) Not Allowed on Notified Products. * Benefit U/R: 89(5) allowed on ITC of Input only.
*Maximum Amount of Refund = * Total ITC of Input and I.S. * $\frac{\text{Export Turnover}}{\text{Adj. T.T.}}$	Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services x (Net ITC ÷ ITC availed on inputs and input services).]
Adjusted Total Turnover-- Excludes : Supplies U/R=89(4A/4B) Excludes : Exempted supply (other than zero Rated)	
Relevant Period = 1Months /2Months /3Months etc.	1/2/3 Months 1 Financial year
Relevant Date → → When goods Leave India → Cross Barrier → Dispatch By Foreign Post Office → Export of Service	Relevant Date: Return Due Date
Refund may be Allowed Provisionally	No Provisional Refund

(3) Refund from E-Cash Ledger



(4) Refund of Excess Payment



Value = 1,00,000

Legal Rate of : GST=12%, but Actually Paid @ 18% (with Interest due to late Payment)

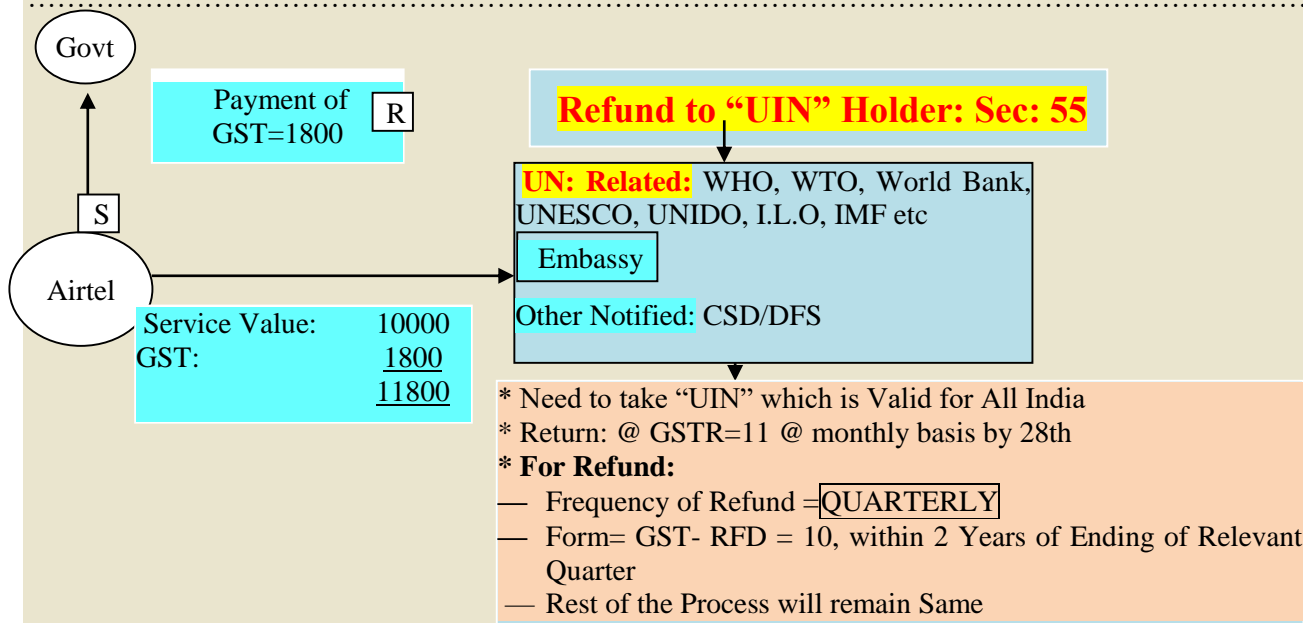
Tax and Interest	CGST	SGST	Interest on CGST	Int. on SGST	Total
Actually Paid @ 18%	9000	9000	900	900	=19800
Amount to be paid@12%	6000	6000	600	600	=13200
Refund:	3000	3000	300	300	6600

Tax = 6000+Interest = 600 = Rs. 6600

If Rs. 6,600 Not Paid within 60 Days then Interest @ 6% PA is to be Paid along with 6600

Supportive Document in Other Cases

Situation	Documents
<ul style="list-style-type: none"> *Refund due to Provisional to Final Assessment * Refund due to: Intra/Inter Confusion * Excess Payment 	<ul style="list-style-type: none"> Copy of Final assessment All Invoices Related to Situation Invoice



Section 54: Refund of tax

<p>How to claim Refund:</p>	<p><u>Application with in 2 year from Relevant Date:</u>(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of 2 years from the relevant date in such form and manner as may be prescribed:</p> <p><u>Claim refund through Return:</u> <i>A registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of section 49(6), may claim such refund in the return furnished under section 39 such Form and manner as may be prescribed.</i></p>
<p>Refund to UN/Embassy etc. on INWARD supplies.</p>	<p>(2) A 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 or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on INWARD supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of 2 YEARS 18 months from the last day of the quarter in which such supply was received.</p>
<p>Refund of unutilized ITC in case of Zero Rated Supplies and in case of inverted tax rate structure</p>	<p><u>Refund of ITC at the end of TAX PERIOD:</u> (3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:</p> <p><u>Withhold or Adjust refund amount</u> (10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may-</p> <ol style="list-style-type: none"> (a) Withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be; (b) Deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law. <p><u>Explanation:</u> For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.</p>
<p>Explanation</p>	<p>“Relevant date” means—</p> <ol style="list-style-type: none"> (a) In the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,— <ol style="list-style-type: none"> (i) <i>if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or</i> (ii) <i>if the goods are exported by land, the date on which such goods pass the frontier; or</i>

(iii) if the goods are exported **by post**, the date of dispatch of goods by the Post Office concerned to a place outside India;

(b) In the case of supply of goods regarded as **deemed exports** where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(ba) In case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies.

CGST Rules, 2017 (Rule 89 to 97)

RULE 89: Application for refund of tax, interest, penalty, fees or any other amount

(1) Any person, except the persons covered under notification issued under section 55, claiming refund of **[any balance in the electronic cash ledger in accordance with the provisions of section 49(6) or]** any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file subject to the provisions of rule 10B, an application electronically in **FORM GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

~~Provided that any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant tax period in **FORM GSTR-3** or **FORM GSTR-4** or **FORM GSTR-7**, as the case may be:~~

Explanation. - For the purposes of this sub-rule, “specified officer” means a “specified officer” or an “authorised officer” as defined under rule 2 of the Special Economic Zone Rules, 2006.

(1A) Any person, claiming refund under section 77 of the Act of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period **of 2 years from the date of payment of the tax on the inter-State supply**, file an application electronically in **FORM GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that the said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of **2 years from the date on which this sub-rule comes into force.**

(2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in **Form GST RFD-01**, as applicable, to establish that a refund is due to the applicant, namely:-

- (a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in subsection (6) of section 107 and sub-section (8) of section 112 claimed as refund;
- (b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods [other than electricity]
- [(ba) a statement containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity as per agreement, along with the copy of statement of scheduled energy for exported electricity by Generation Plants issued by the Regional Power Committee Secretariat as a part of the Regional Energy Account (REA) under the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 and the copy of agreement detailing the tariff per unit, in case where refund is on account of export of electricity.
- (c) a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the export of services;

Explanation: For the purposes of this rule-

- (i) in case of refunds referred to in clause (c) of sub-section (8) of section 54, the expression "invoice" means invoice conforming to the provisions contained in section 31;
- (ii) where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.
- (3) Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed.

(4) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of subsection (3) of section 16 of the Integrated Goods and Services Tax Act, 2017, refund of input tax credit shall be granted as per the following formula –

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where, -

(A) "**Refund amount**" means the maximum refund that is admissible;

(B) "**Net ITC**" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(C) "**Turnover of zero-rated supply of goods**" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both.

(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:—

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(E) "Adjusted Total Turnover" means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding—

(i) the value of exempt supplies other than zero-rated supplies; and

(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,

during the relevant period.

(F) "Relevant period" means the period for which the claim has been filed.

[Explanation. – For the purposes of this sub-rule, the value of goods exported out of India shall be taken as –

(i) The Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, or

(ii) The value declared in tax invoice or bill of supply, whichever is less.]

(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:—

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services x (Net ITC ÷ ITC availed on inputs and input services)}.]

Explanation:- For the purposes of this sub-rule, the expressions –

(a) Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

(b) "Adjusted Total turnover" and "relevant period" shall have the same meaning as assigned to them in sub-rule (4)

Rule 95A: Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration

~~(1) Retail outlet established in departure area of an international airport, beyond the immigration counters, supplying indigenous goods to an outgoing international tourist who is leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.~~

~~(2) Retail outlet claiming refund of the taxes paid on his inward supplies, shall furnish the application for refund claim in FORM GST RFD-10B on a monthly or quarterly basis, as the case may be, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.~~

counters making tax free supply to an outgoing international tourist

~~(3) The self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice shall be submitted along with the refund application.~~

~~(4) The refund of tax paid by the said retail outlet shall be available if-~~

~~(a) the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;~~

~~(b) the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;~~

~~(c) name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and~~

~~(d) such other restrictions or conditions, as may be specified, are satisfied.~~

~~(5) The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.~~

Explanation.- For the purposes of this rule, the expression "outgoing international tourist" shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Rule 96: Refund of integrated tax paid on goods OR SERVICES exported out of India

(1) The shipping bill filed by an exporter OF GOODS shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:-

(a) The person in charge of the conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

(b) the applicant has furnished a valid return in **FORM GSTR-3B**:

Provided that if there is any mismatch between the data furnished by the exporter of goods in Shipping Bill and those furnished in statement of outward supplies in **FORM GSTR-1**, such application for refund of integrated tax paid on the goods exported out of India shall be deemed to have been filed on such date when such mismatch in respect of the said shipping bill is rectified by the exporter.

~~(b) The applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be~~

(c) The applicant has undergone Aadhaar authentication in the manner provided in rule 10B.

(2) The details of the relevant export invoices in respect of export of goods contained in **FORM GSTR-1** shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

Provided that where the date for furnishing the details of outward supplies in **FORM GSTR-1** for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been

furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period.

(3) Upon the receipt of the information regarding the furnishing of a valid return in **FORM GSTR-3B** from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

(4) The claim for refund shall be withheld where,—

(a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962 **OR**

(c) the Commissioner in the Board or an officer authorised by the Board, *[the Principal Director General/Director General of Directorate General of Analytics and Risk Management (DGARM), CBIC, New Delhi]*, on the basis of data analysis and risk parameters, is of the opinion that verification of credentials of the exporter, including the availment of ITC by the exporter, is considered essential before grant of refund, in order to safeguard the interest of revenue.

~~(5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.~~

(5A) Where refund is withheld in accordance with the provisions sub-rule (4) (a)(c),

- such claim shall be transmitted to the proper officer of Central tax, State tax or Union territory tax, as the case may be, electronically through the common portal in a system generated **FORM GST RFD-01** and
- the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and
- notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission.

(5B) Where refund is withheld in accordance with the provisions of sub-rule (4)(b) and

- the proper officer of the Customs passes an order that the goods have been exported in violation of the provisions of the Customs Act, 1962
- then, such claim shall be transmitted to the proper officer of Central tax, State tax or Union territory tax, as the case may be, electronically through the common portal in a system generated **FORM GST RFD-01** and

- the intimation of such transmission shall also be sent to the exporter electronically through the common portal, and
- notwithstanding anything to the contrary contained in any other rule, the said system generated form shall be deemed to be the application for refund in such cases and shall be deemed to have been filed on the date of such transmission.

(5C) The application for refund in **FORM GST RFD-01** transmitted electronically through the common portal in terms of sub-rules (5A) and (5B) shall be dealt in accordance with the provisions of rule 89.

~~(6) Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part A of FORM GST RFD-07.~~

~~(7) Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount by passing an order in FORM GST RFD-06 after passing an order for release of withheld refund in Part B of FORM GST RFD-07.~~

Explanation: For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.

Clarification on certain refund related issues-

S. No.	Issue	Clarification
1.	Whether the provisions of section 54(1) regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?	No,
2.	Whether certification/ declaration under Rule 89(2)(l) or 89(2)(m) [for not passing the incidence of tax to any other person] of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?	No, As unjust enrichment clause is not applicable in such cases.
3.	Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51/52 of the CGST Act can be refunded as excess balance in cash ledger?	YES Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger.

<p>4. Whether relevant date for the refund of tax paid on supplies regarded as deemed export by recipient is to be determined as per section 54 - Explanation (2), Clause (b)</p> <p><i>[the date on which the return relating to such deemed exports is furnished;”]</i></p> <p>and if so, whether</p> <ul style="list-style-type: none"> ▪ The date of return filed by the supplier or ▪ date of return filed by the recipient will be relevant <p>for the purpose of determining relevant date for such refunds?</p>	<p>The given relevant date is applicable, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.</p> <p>Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.</p>
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Instruction No. 03/2022: Procedure relating to sanction, post-audit and review of refund claims

Refund claims shall not be subjected to pre-audit. However, the post-audit of refund claims may continue. Considering the large number of refund claims filed in GST, it has been decided that **post-audit may henceforth be conducted only for refund claims amounting to Rs. 1 Lakh or more till further instructions.**

Chapter 24

Supplementary/MISC.: PROVISIONS

Section 168: Power to issue Circulars/Instructions or Directions

<p>Circulars to GST officer</p>	<p>(1) The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.</p>
<p>Meaning of commissioner</p>	<p>(2) The Commissioner specified in:</p> <ul style="list-style-type: none">▪ sub-section (1) of section 37,▪ sub-section (2) of section 38,▪ sub-section (6) of section 39,▪ sub-section (1) of section 151,▪ clause (1) of sub-section (3) of section 158 and▪ section 167 <p>shall mean a Commissioner or Joint Secretary posted in the Board [Such commissioner having Jurisdiction @ALL OVER INDIA] and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.</p>

Miscellaneous Circulars

Instruction No. 01/2022-23: Deposit of tax during the course of search, inspection or investigation

It is clarified that

- There may not be any circumstance necessitating ‘recovery’ of tax dues during the course of search or inspection or investigation proceedings.
- However, there is also no bar on the taxpayers for voluntarily making the payments on the basis of ascertainment of their liability on non-payment/ short payment of taxes before or at any stage of such proceedings.
- The tax officer should however, inform the taxpayers regarding the provisions of voluntary tax payments through [DRC-03](#).

F.No. CBIC-20001/2/2022-GST

Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices

A number of cases have come to notice where the registered persons are found to be involved in issuing tax invoice, without actual supply of goods or services or both (ie “fake invoices”), in order to enable the recipients of such invoices to avail and utilize input tax credit fraudulently.

Representations are being received from the trade as well as the field formations seeking clarification on the issues relating to applicability of demand and penalty provisions under the [CGST Act, 2017](#), in respect of such transactions involving fake invoices.

Sl. No.	Issues	Clarification
1.	In case where a registered person “A” has issued tax invoice to another registered person “B” without any underlying supply of goods or services or both, whether such transaction will be covered as “supply” under section 7 of CGST Act and whether any demand and recovery can be made from ‘A’ in respect of the said transaction under the provisions of section 73 or section 74 of CGST Act . Also, whether any penal action can be taken against registered person ‘A’ in such cases.	Since there is only been an issuance of tax invoice by the registered person ‘A’ to registered person ‘B’ without the underlying supply of goods or services or both, therefore, such an activity does not satisfy the criteria of “supply”, as defined under section 7 of the CGST Act . As there is no supply by ‘A’ to ‘B’ in respect of such tax invoice in terms of the provisions of section 7 of CGST Act , no tax liability arises against ‘A’ for the said transaction, and accordingly, no demand and recovery is required to be made against ‘A’ under the provisions of section 73 or section 74 of CGST Act in respect of the same. Besides, no penal action under the provisions of section 73 or section 74 is required to be taken against ‘A’ in respect of the said transaction. The registered person ‘A’ shall, however, be liable for penal action under section 122 (1)(ii) of the CGST Act for issuing tax invoices without actual supply of goods or services or both.
2.	A registered person “A” has issued tax invoice to another registered person “B” without any underlying supply of goods or services or both. ‘B’ avails input tax credit on the basis of the said tax invoice. B further	Since the registered person ‘B’ has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of section 16(2)(b) of CGST Act , he shall be liable for the demand and recovery of the said ITC, along with penal

	<p>issues invoice along with underlying supply of goods or services or both to his buyers and utilizes ITC availed on the basis of the above mentioned invoices issued by 'A', for payment of his tax liability in respect of his said outward supplies. Whether 'B' will be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.</p>	<p>action, under the provisions of section 74 of the CGST Act, along with applicable interest under provisions of section 50 of the said Act.</p> <p>Further, as per provisions of section 75(13) of CGST Act, if penal action for fraudulent availment or utilization of ITC is taken against 'B' under section 74 of CGST Act, no penalty for the same act, i.e. for the said fraudulent availment or utilization of ITC, can be imposed on 'B' under any other provisions of CGST Act, including under section 122.</p>
3.	<p>A registered person 'A' has issued tax invoice to another registered person 'B' without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice and further passes on the said input tax credit to another registered person 'C' by issuing invoices without underlying supply of goods or services or both. Whether 'B' will be liable for the demand and recovery and penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.</p>	<p>In this case, the input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, has been utilized by 'B' for passing on of input tax credit by issuing tax invoice to 'C' without any underlying supply of goods or services or both. As there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction, no tax was required to be paid by 'B' in respect of the same. The input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, is ineligible in terms of section 16 (2)(b) of the CGST Act. In this case, there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction and also no tax was required to be paid in respect of the said transaction. Therefore, in these specific cases, no demand and recovery of either input tax credit wrongly/ fraudulently availed by 'B' in such case or tax liability in respect of the said outward transaction by 'B' to 'C' is required to be made from 'B' under the provisions of section 73 or section 74 of CGST Act.</p> <p>However, in such cases, 'B' shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii) of the CGST Act, for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services.</p>

The fundamental principles that have been delineated in the above scenarios may be adopted to decide the nature of demand and penal action to be taken against a person for such unscrupulous activity.

Actual action to be taken against a person will depend upon the specific facts and circumstances of the case which may involve complex mixture of above scenarios or even may not be covered by any of the above scenarios.

Any person who has retained the benefit of transactions specified under [sub-section \(1A\) of section 122](#) of [CGST Act](#), and at whose instance such transactions are conducted, shall also be liable for penal action under the provisions of the said sub-section.

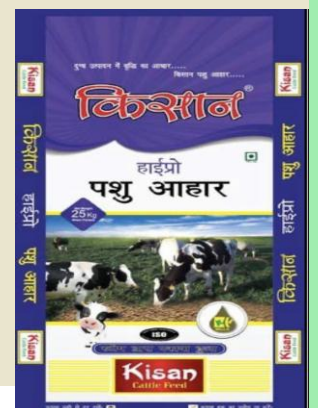
It may also be noted that in such cases of wrongful/ fraudulent availment or utilization of input tax credit, or in cases of issuance of invoices without supply of goods or services or both, leading to wrongful availment or utilization of input tax credit or refund of tax, provisions of [section 132](#) of the [CGST Act](#) may also be invocable, subject to conditions specified therein, based on facts and circumstances of each case.

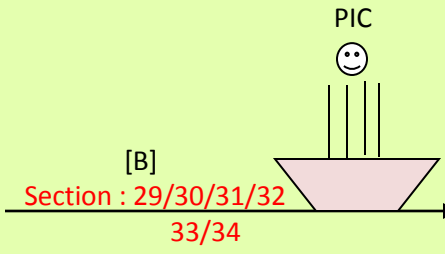
PART 2

Custom Laws

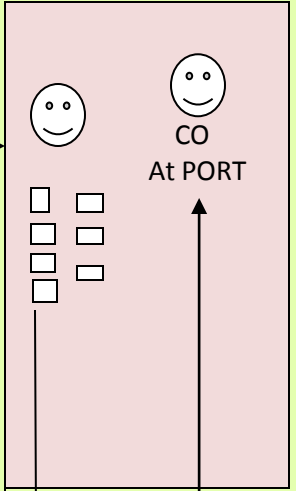
Chapter 4

CUSTOMS (IGCRD or for specified end use) Rules, 2022





Mumbai Custom PORT



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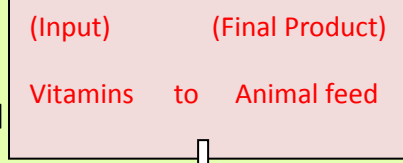
File Bill of entry + **INN+BOND DETAILS [Bond will be debited]**
 Along with all other Documents
 I.D. = 100000*4% = 4000/-

D Clearance order U/S : 47(1)[which is called date of import]
 and now take **Delivery of goods**

Common Portal
 (www.icegate.gov.in)

[A] One time info. **[IGCR- 1]** to Portal after acceptance INN generated
 Name, address, Description , value etc. of Goods , E/N Particulars : Bond Execution, Origin Port, Destination Port MCP (INDIA)
 End USE = Animal feed.
 Quantity = 100 Unit,
 Goods to be used **at his/JW Premises**
 - **Details of End use Recipient [If any]**
 [Above info may be amended at later also]

Mr. X : Manufacturer / Service Provider



NOTE:1 There is an Exemption issued by Govt., if any person use VITAMINS for manufacturing of animal feeds – RATE of IMPORT DUTY will be 4% Instead of 16% SUBJECT TO PRESCRIBED PROCEDURE : Such EXEMPTION is: Conditional ie condition of END USE & issued u/s 25.

AV of Vitamins = 1,00,000
 STANDRD ID = 16,000
 Concessional ID = 4000 concession / exemption /benefit = 12,000

NOTE :2. If VITAMINS are NOT USED (any reason) in manufacturing of Animal Feed or MISUSED then Prop. ID.- to be paid with interest@15%PA from the date of import till the date of payment.

NOTE:3 -Where importer (Mr. X) Returns Imported material (fully/partially) then he need not to Pay diff. amount with interest rather he can claim refund of import duty paid earlier of [Rs. 4000] @ 100% under Section 26A Or @ 98% under section : 74(1).

Provided that the value of such goods for re-export shall not be less than the value of the said goods at the time of import.

Now the Question is this : How to check for END USE ?

- *In case of non/short receipts of goods – intimate immediately on portal **[IGCR-2]**
- *Records @ Bill of Entry wise: IMPORT – USE – DESTROY – MISUSE = CLOSING STOCK, And Transfer to JOB work, local clearance, export etc.
- * File monthly statement by 10th of next month on common portal with Above records details. **[IGCR-3]**

IMPORTED GOODS CAN BE TRANSFERRED TO JOB WORKER [EXCEPT GEMS AND JEWELLERY SECTOR] AND SUBJECT TO SPECIFIED PROCEDURE WHICH IS AS FOLLOWS...

- 1. IMPORTER SEND GOODS TO JOB WORKER UNDER AN INVOICE, E WAY BILL.**
- 2. IMPORTER SHALL MAINTAIN THE RECORDS OF GOODS SENT TO JOB WORKER DURING THE MONTH AND SHOW IT IN MONTHLY STATEMENT.**
- 3. JOB WORKER SHALL MAINTAIN RECORD AS FOLLOWS..**
 - RECEIVED, PRODUCED/ CONSUMED / AND WASTE QUANTITY OF GOODS.**
 - ON DEMAND PRODUCE THE RECORDS BEFORE JURISDICTIONAL OFFICER.**
- 4. MAXIMUM PERIOD OF JOB WORK WILL BE 6 MONTHS FROM THE DATE OF INVOICE.**
- 5. AFTER THE JOB WORK- JOB WORKER WILL TRANSFER THE GOODS TO IMPORTER OR ANOTHER JOB WORKER AS PER THE INSTRUCTION GIVEN BY IMPORTER UNDER COVER OF INVOICE, E WAY BILL.**
- 6. IN CASE OF CHEATING PROVISION OF RULE 11 AND 12 SHALL APPLY ON IMPORTER.**

NOTE: ABOVE PROCEDURE SHALL APPLY MUTATIS MUTANDIS-

- IN CASE UNIT TRANSFER OF IMPORTED GOODS.**
- IN CASE RECIPIENT**

An Analysis

Definitions:

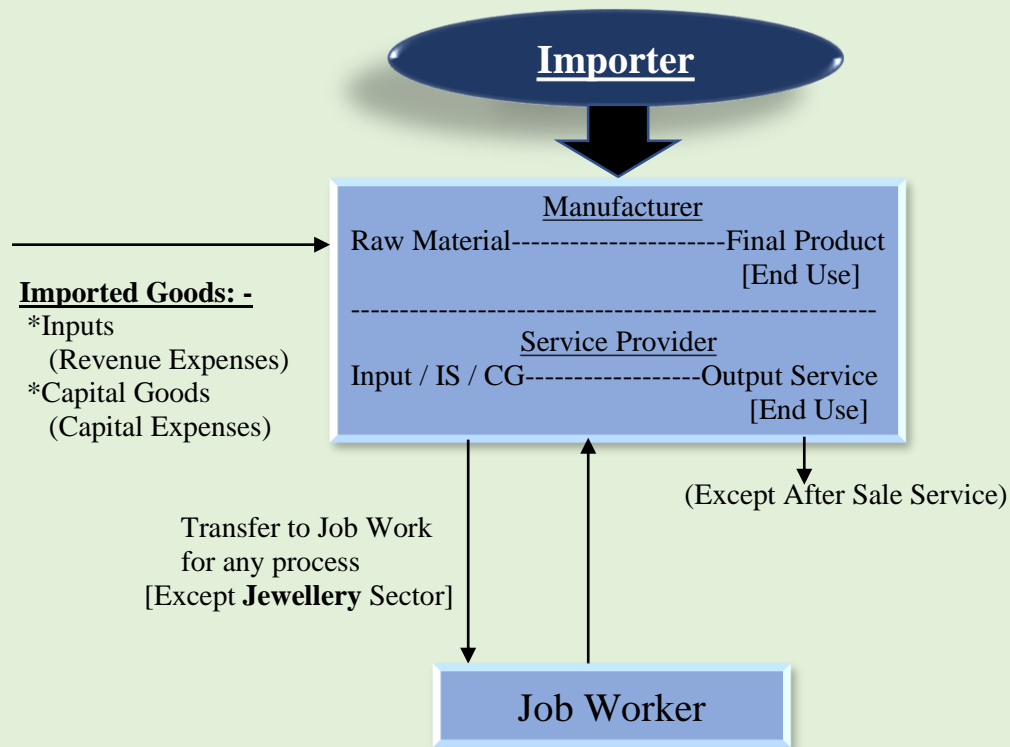
*Act = Custom Act, 1962

*Capital Goods = Capital Expenditure (for goods) i.e., which is capitalised in the books of account

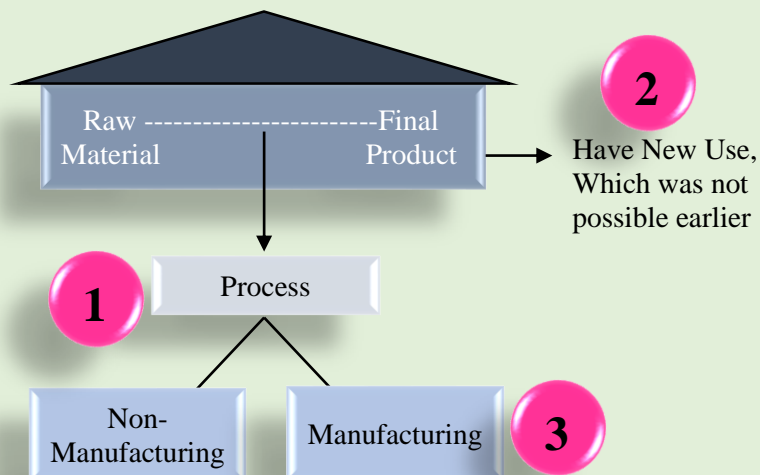
*Exemption Notification = “End Used” based E/N issued u/s 25

*Information = An information Given by the importer to avail such exemption.

***Specified End Use** means dealing with the goods imported in a manner specified in the notification and includes supply to the intended person and the term “end use recipient” shall be construed accordingly.



Manufacture: -



Question / Answer: -

Vitamins Import

(100Units)

Used for Intended purpose with in the specified time
i.e., use in manufacturing of Animal Feed



OK
(Exemption remain allowed)

Otherwise/Unutilised, Defective
i.e., Vitamins are not used for Intended Purpose

* Max. time = 6+3 months
* Permission of C.O.

Misuse (or)
Destroyed etc.

Vitamins sold
in India

Vitamins
Export

Mr. X – Liable to pay Differential amount of `12,000 with Interest from the Date of Import till the date of payment

i.e., consumption place of goods is not in India
So no Import duty at all

- 1- Import Vitamins
- 2- Import duty = 4,000
- 3- Export (Defective / Surplus)

In this case, no need to pay Difference amount of `12,000 with interest.

Rather he is eligible to claim refund of Import Duty which was already paid

* U/S 26A = 100% = `4,000
* U/S 74(1) = 98% = `3,920 (DBK)

Question / Answer: -

Proportionate
Input in the
ratio of
Quantity

- 1) 1,000 kg Material Import: 1/1/20
- 2) Import Duty : 16% - After Exemption : 4%
- 3) Assessable Value = `1,00,000
- 4) Treatment of 1000 kg Raw Material-

90%	—	900kg- Use for Intended Purpose
5%	—	50kg- Re Export
3%	—	30kg- Local Sale
2%	—	20kg- Destroy

Ans: - 900kg – Use for Intended purpose

Exemptions remain allowed

-50kg (5%) Re – Export

Claim Refund

-U/S 26A = `4,000 x 5% = `200 (100%) (OR)

-U/S 74(1) = `4,000 x 5% = `200 (98%) = `196

5% - Balance 50kg (30kg + 20kg): Need to pay differential amount

$$= (12,000 \times 5\%) = `600$$

$$= \left[\frac{600 \times 15}{100} \times \frac{1/1/20 \text{ to } 10/4/20}{365} \right]$$

$$= \left[\frac{600 \times 15 \times 100}{100 \times 366} = 24.66 \right]$$

$$= \text{i.e., } 600 + 25 = `625$$

Capital Goods

Life = 10years

For Capital Goods
Make it
proportionally
@ Life-wise

The date on which
capital goods come
into use [1/1/2022]
i.e., Put to use

In 8 Qtrs.

The date of
clearance of Capital
Goods [20/12/2023]

Value = ` 1,00,000
Standard Rate = 16%
Concessional Rate = 4%

Year No.	Depreciation for each quarter or part thereof	Annual Rate
Year 1	4%	16%
Year 2	3%	12%
Year 3	3%	12%
Year 4	2.5%	10%
Year 5	2.5%	10%
Year 6	2%	8%
Year 7	2%	8%
Year 8	2%	8%
Year 9	2%	8%
Year 10	2%	8%
		100%

4% - 3% - 2.5% - 2%

Total Concession / Exemption = `12,000

For Usage period amount =

Year 1 = (4x4) = 16%

Year 2 = (3x4) = 12%

= `3,360

28%

To be paid along with interest =

= `8,640

(From Date of import
till Date of Payment)

<p>Rule 1: Short title and commencement</p>	<p>(1) These rules may be called the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.</p> <p>(2) They shall come into force on the date of their publication in the Official Gazette.</p>
<p>Rule 2: Application</p>	<p>(1) These rules shall apply where—</p> <p>(a) A notification provides for the observance of these rules;</p> <p>(b) An importer intends to avail the benefit of any notification and Such benefit is dependent upon the use of the goods imported being covered by that notification</p> <ul style="list-style-type: none"> - for the manufacture of any commodity or - provision of output service or - being put to a specified end use.
<p>Rule 3: Definition</p>	<p>(1) In these rules, unless the context otherwise requires, -</p> <p>(a) “Act” means the Customs Act, 1962 ;</p> <p>(b) “Capital Goods” means goods, the value of which is capitalized in the books of account of the importer;</p> <p>(c) “Customs Automated System” means the Indian Customs Electronic Data Interchange System;</p> <p>(d) “Date of import” means the date of the order made by the proper officer under section 47, permitting clearance of the goods.</p> <p>(f) “Information” means the information provided by the importer who intends to avail the benefit of a notification;</p> <p>(g) “Job Work” means any treatment, process or manufacture, consistent with the notification undertaken by a person on goods belonging to the importer <i>except gold, jewellery and articles thereof</i>, and other precious metals or stones and the term “job worker” shall be construed accordingly;</p> <p>(h) “Jurisdictional Custom Officer” means an officer of Customs of a rank equivalent to the rank of Superintendent or Appraiser exercising jurisdiction over –</p> <ul style="list-style-type: none"> – The premises where either the goods imported shall be put to use for manufacture or for rendering output services; – The primary address specified in the Importer Exporter Code in other cases; <p>(i) “Manufacture” means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term “manufacturer” shall be construed accordingly;</p>

	<p>(k) “Output service” means supply of service excluding after-sales service, utilising imported goods.</p> <p>(m) “Specified End Use” means dealing with the goods imported</p> <ul style="list-style-type: none"> - in a manner specified in the notification and - includes supply to the intended person and - the term “end use recipient” shall be construed accordingly.
<p>Rule 4: Importer to give one-time prior information</p>	<p>(1) Information: The importer shall provide one-time prior information on the common portal, in Form IGCR-1 containing the following particulars, namely: -</p> <ul style="list-style-type: none"> (i) The name and address of the importer and his job worker, if any; (ii) The goods produced or process undertaken at the manufacturing facility of the importer or his job worker, if any, or both; (iii) The nature and description of goods imported used in the manufacture of goods at the premises of the importer or the job worker, if any; (iv) Particulars of the notification applicable on such import ; (v) Nature of output service rendered utilising the goods imported; (vi) Particulars of premises intended to be used in case of unit transfer; (vii) Details of the end use recipient in cases where goods imported are supplied for specified end use; and (viii) The intended ports of import. <p>(2) IIN: On acceptance of the information, an <u>Import of Goods at Concessional Rate of Duty(IGCR) Identification Number (IIN)</u> shall be generated against such information :</p> <p>Provided that such information may be updated on the common portal in case of a change in the details furnished in Form IGCR-1.</p> <p>(3) Bond: The importer who intends to avail the benefit of a notification shall submit a continuity bond with such surety or security as deemed appropriate by the AC/DC of Customs having jurisdiction over the premises, with an undertaking to pay -</p> <ul style="list-style-type: none"> (a) In case of a notification that provides a duty exemption, the amount equal to the difference between the duty leviable on inputs but for the exemption and that already paid, if any, at the time of import, along with interest, at the rate of 15% PA, for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay ; (b) In all cases where the notification is other than one that provides an exemption benefit, the amount equal to the assessable value of the goods being imported.

<p>Rule 5: Procedure to be followed</p>	<p>(1) Bill of entry Contain Relevant Details: The importer who intends to avail the benefit of a notification shall be required to mention the IIN and continuity bond number and details while filing the Bill of Entry.</p> <p>(2) Benefit Allowed: The AC/DC of Customs at the custom station of importation shall allow the benefit of the notification to the importer.</p> <p>(3) Where a Bill of Entry is cleared for home consumption, the bond submitted by the importer gets debited automatically in the customs automated system and the details shall be made available electronically to the jurisdictional Customs Officer.</p>
<p>Rule 6: Importer to maintain records</p>	<p>(1) The importer shall maintain an account so as to clearly indicate -</p> <ul style="list-style-type: none"> (i) Quantity and value of goods imported; (ii) Quantity and date of receipt of the goods imported in the relevant premises; (iii) Quantity of such goods consumed including the quantity used domestically for manufacture, quantity exported, if any, to fulfil the intended purpose and quantity of goods sent to an end use recipient; (iv) Quantity of goods sent for job work and the nature of job work carried out; (v) Quantity of goods received after job work; (vi) Quantity of goods re-exported, if any, under rule 10; and (vii) Quantity remaining in stock, according to bills of entry, <p>and shall produce the said account as and when required by the AC/DC of Customs having jurisdiction over the premises or where the goods imported shall be put to use for manufacture of goods or for rendering output service:</p> <p>Provided that in case of non-receipt or short receipt of goods imported in the relevant premises, the importer shall intimate such non-receipt or short receipt immediately on the common portal in the Form IGCR-2.</p> <p>(2) Monthly Statement: The importer shall submit a monthly statement on the common portal in the Form IGCR-3 by the 10th day of the following month;</p> <p>Provided that the importer may submit details of goods consumed in the Form IGCR-3A at any point of time, for immediate re-credit of the bond which shall become a part of the monthly statement of the subsequent month.</p>
<p>Rule 7: Procedure for allowing imported goods for job work</p>	<p>(1) Maintain Records: The importer shall maintain a record of the goods sent for job work during the month and mention the same in the monthly statement.</p> <p>(2) Send Goods with E way Bill: The importer shall send the goods to the premises of the job worker under an invoice or wherever applicable, through an electronic-way bill.</p> <p>(3) Maximum Period of Job Work: The maximum period for which the goods can be sent to the job worker shall be six months from the date of invoice or electronic way bill.</p>

	<p>(4) Not Used as Specified: In case the importer is unable to establish that the goods sent for job work have been used as per the particulars mentioned under rule 4, the jurisdictional Customs Officer shall take necessary action against the importer under rule 11 and 12.</p> <p>(5) The job worker shall,-</p> <ul style="list-style-type: none"> (i) Maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process; (ii) Produce the account details before the jurisdictional Customs Officer as and when required by the said officer; (iii) After completion of the job work send the processed goods to the importer or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or electronic way bill.
<p>Rule 8: Procedure for allowing imported goods for unit transfer</p>	<p>(1) Maintain Records: The importer shall maintain a record of the goods sent for unit transfer during the month and mention the same in the monthly statement.</p> <p>(2) Send the Goods: The importer shall send the goods under an invoice or wherever applicable, through an electronic-way bill.</p> <p>(3) The importer shall in relation to transfer of goods to another unit,-</p> <ul style="list-style-type: none"> (i) Maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process; (ii) Produce the account details before the jurisdictional Customs Officer as and when required by the said officer; (iii) After completion of the said process, send the processed goods back to the premises of the importer from where the goods were received or to a job worker for carrying out the remaining processes, if any, under the cover of an invoice or electronic way bill.
<p>Rule 9: Procedure for supplying imported goods to the end use recipient</p>	<p>(1) Maintain Records: The importer shall maintain a record of the goods supplied to the end use recipient during the month and mention the same in the monthly statement.</p> <p>(2) Send the Goods: The importer shall send the goods under an invoice or wherever applicable, through an electronic way bill,</p> <p>(3) In case of supply for replenishment or Export against supply, the end use recipient shall,-</p> <ul style="list-style-type: none"> (i) Maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process; (ii) Produce the account details before the jurisdictional Customs Officer as and when required by the said officer; (iii) Produce the relevant details to the importer for fulfilment of the benefit under the notification;

Rule:10 Re-export or clearance of unutilised or defective goods

(1) Un-utilised /Defective Goods: The importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so imported, the importer shall have an option to either re-export or clear the same for home consumption, within the said period, namely –

- (i) Within the period specified in the notification;
- (ii) Within 6 months from the date of import, where the time period is not specified in the notification:

Provided that, the said period of 6 months can be further extended by the **Jurisdictional Commissioner** for a period not exceeding 3 months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control.

(2) Re- Export: Any re-export of the unutilised or defective goods referred to in sub rule (1) shall be recorded by the importer in the monthly statement by providing the details of necessary export documents:

Note: The value of such goods for re-export shall not be less than the value of the said goods at the time of import.

(3) Clear for Home Consumption: The importer who intends to clear unutilised or defective goods for home consumption shall have an option of voluntary payment of applicable duty along with interest on the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the monthly statement.

(4) Clear of CAPITAL GOODS: The importer shall have an option to clear the capital goods imported, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA, on the depreciated value allowed in straight line method as under -

- (i) For every quarter in the first year @ 4%;
- (ii) For every quarter in the second year @ 3%;
- (iii) For every quarter in the third year @ 3%;
- (iv) For every quarter in the fourth and fifth year @ 2.5%;
- (v) and thereafter for every quarter @ 2%.

Explanation. - (1) Part Quarter = Full Quarter: For the purpose of computing rate of depreciation under this rule for any **part of a quarter, a full quarter** shall be taken into account.

(2) Usage Period: The depreciation shall be allowed from the date when the capital goods imported have come into use for the purpose as laid down in the notification, upto the date of its clearance.

(5) The importer shall have the option of voluntary payment of the duty along with interest, through the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the monthly statement.

<p>Rule 11: Recovery of duty in certain case</p>	<p>(1) In the event of any failure on the part of the importer to comply with the conditions mentioned in Rule 10(1) or where the payment referred in Rule 10(3)(4) is not paid or short paid, the AC/DC of Customs having jurisdiction over the premises, shall take action by invoking the Bond to initiate the recovery proceedings of an amount as under -</p> <p>(a) In case of a notification that provides a duty exemption, equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of importation, along with interest, at the rate of 15% PA. for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay;</p> <p>(b) In cases where the notification is other than one that provides an exemption benefit, an amount equal to the assessable value of the goods being imported.</p> <p>(2) Notwithstanding anything contained in these rules in relation to removal and processing of imported goods for jobwork, the importer shall be responsible for ensuring that the said goods are used in accordance with the purposes provided in the notification and in the event of failure to do so, the AC/DC having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for specified end use or for rendering output service shall take action in accordance with these rules.</p>
<p>Rule 12: Penalty</p>	<p>The importer or a job worker who contravenes any of the provisions of these rules or abets such contravention shall be liable to a penalty to an extent of the amount specified under section 158(2)(ii).</p>
<p>Rule 13: Reference of Earlier Rules</p>	<p>References in any rule, notification, circular, instruction, standing order, trade notice or other order pursuant to the</p> <ul style="list-style-type: none"> - Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 and - Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 and - Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 and - shall be construed as reference to the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.

Chapter 16

Foreign Trade Policy 2015-2020

- FTP 2015 -2020 will be applicable for May 2023 Exams
- Exemption from IGST and Compensation Cess extended for future in case of import under Advance Authorisation, EPCG, EOU/EHTP/STP/BTP Units