

CA CMA CS Final

Indirect Taxation

(GST + Customs)

NOTE: AMENDED PORTION IS
HIGHLIGHTED WITH PEN.
NO NEED TO TAKE PRINT OUT
OF THIS FILE. I WILL MAKE
HANDWRITTEN NOTES IN CLASS.

Amendment Booklet

For May 2024 Exams

[Amendments from
1-05-2023 to 31-10-2023]

CA Raj kumar

About CA RAJ KUMAR

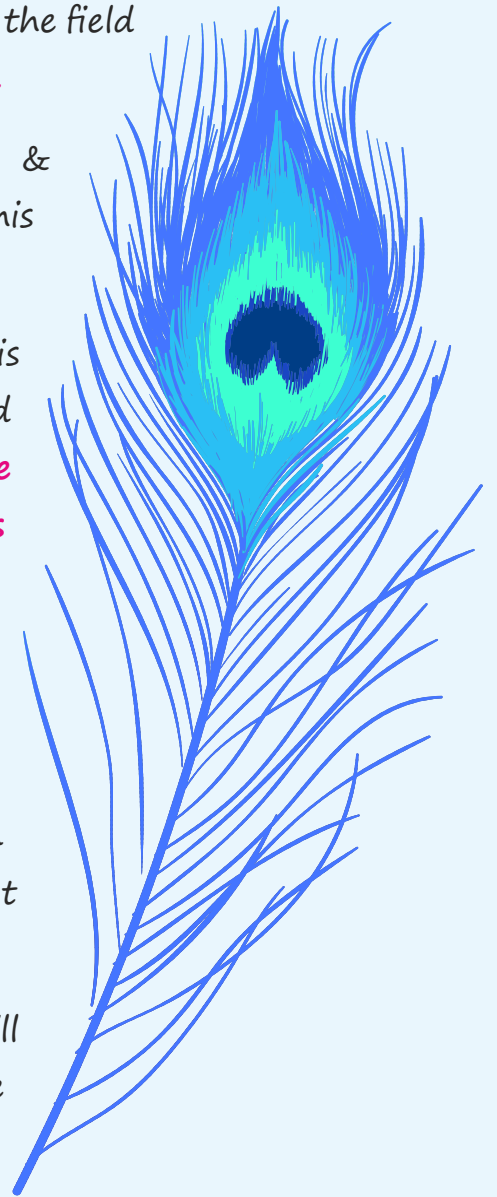
CA Raj Kumar is a dynamic & qualified Chartered Accountant. As a brilliant student and a position holder at Graduation & Post Graduation level, during his **16 years of glorious teaching experience** in the field of Indirect Taxation he has taught **over 1,70,000 students**.

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 10 times AIR #1 and 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'.



Goods and Services Tax

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1. ACTIONABLE CLAIM :

<p>Actionable claim is Defined under "Transfer of property Act, 1882, -</p> <p>In simple wording – Actionable claim means – as – I have Right to Receive any Benefit/ Assets in future – which is CONTIGENT ie contingent Assets.</p> <p>For Example:</p> <ul style="list-style-type: none"> • Betting, Gambling, Lottery • Pending Litigations • Insurance claim • Unsecured debts. • Etc. 	<p>However under GST-Regime Actionable claim Relating to Lottery, Betting, Gambling ALONE will be Regarded as supply of Goods.</p> <p>REST of the forms of Actionable Claim – will NOT be treated as supply of Goods or services.</p> <p>Hence NO Question of GST.</p>
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WHAT ABOUT: DTH VOUCHERS/Promo codes/Foods Coupons: Not an Actionable Claim.

2. ADJUDICATING AUTHORITY : "Adjudicating Authority" means:

- ✦ Any authority, **appointed or authorised to pass any order or decision under this Act,**
- ✦ but does not include
 - the **Central Board of Indirect Taxes and Customs,**
 - the Revisional Authority,
 - the Authority for Advance Ruling,
 - the Appellate Authority for Advance Ruling,
 - the National Appellate Authority for Advance Ruling, **[FA 2019: but not effective yet]**
 - **the Appellate Authority,**
 - **the Appellate Tribunal.**

Analysis

- 39. NOTIFICATIONS:** * C.G. & SG – ARE EMPOWERED TO ISSUE Notifications to give effect to – Certain provisions. eg. Levy, Exemptions, RCM, Classification etc.

STATES AND UT

(103) "State" includes union Territory with legislature.

(114) "Union territory" means the territory of-

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli; AND DAMAN and DIU
- (d) LADAKH ~~Daman and Diu~~
- (e) Chandigarh; and

"online gaming" means:

- offering of a game on the internet or an electronic network and
- includes online money gaming;

"online money gaming" means:

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

81. OTHER TERRITORY- Includes territories other than

- Delhi and Puducherry
- the Andaman and Nicobar Islands;
- Lakshadweep;
- Dadra and Nagar Haveli;
- Daman and Diu
- Chandigarh

IN simple wordings: other territory Means Residuary PART. [eg Oil Rigs Area in EEZ]

52. SECURITY: shall have the same meaning as assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956.

Section 2(h) 'securities' include—

- (i) Shares, bonds, debentures, debenture stock or other marketable securities.
- (ia) units of mutual fund.
- (ii) Government securities
- (iii) etc.

53. SERVICE: Means:

- anything other than goods, money and securities
- but includes activities relating to the use of money or its conversion by cash or by any other mode,
- from one form, currency or denomination,
- to another form, currency or denomination
- for which a separate consideration is charged.

Note: For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

54. STATE TAX: State Specific GST eg. UP-GST, HR-GST, etc.

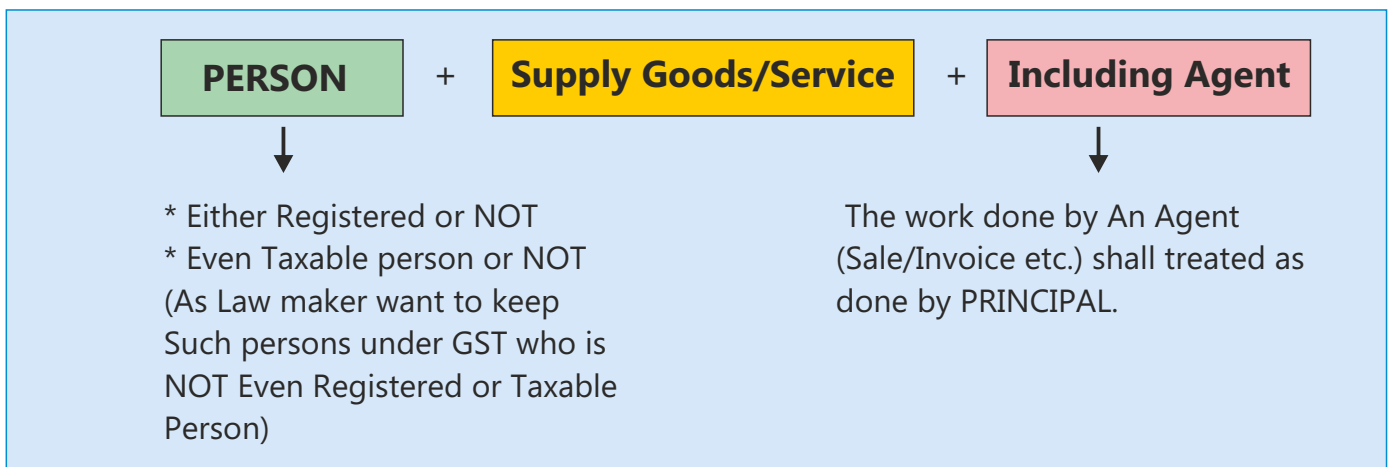
55. SUPPLIER: "Supplier" in relation to any goods or services or both, shall mean:

- The person supplying the said goods or services or both and
- shall include an agent acting as such on behalf of such supplier
- in relation to the goods or services or both supplied.

Provided that a person

- ⇒ Who organises or arranges, directly or indirectly, supply of specified actionable claims,
- ⇒ including a person who owns, operates or manages digital or electronic platform for such supply,
- ⇒ shall be deemed to be a supplier of such actionable claims,
- ⇒ whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets,

- ⇒ for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and
- ⇒ **all the provisions of this Act shall apply** to such supplier of specified actionable claims,
- ⇒ **as if he is the supplier liable to pay the tax** in relation to the supply of such actionable claims;"



56. TAX PERIOD: The period of which **RETURN** [Monthly/Quarterly] is required to be furnished.

57. TURNOVER IN A STATE: Turnover in State” or “Turnover in Union Territory” means:

- the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) **and**
- **exempt supplies** made within a State or Union territory by a taxable person,
- **exports of goods or services** or both and
- inter-State supplies of goods or services or both made from the State or Union territory by the said taxable **person**
- **but excludes central tax, State tax, Union territory tax, integrated tax and cess;**

It is a Replica of “Aggregate Turnover” But limited to STATE/UT.

Note: T/O in a State – Required in the concept of Composition Scheme.

58. UT-GST ACT: - UT-GST ACT, 2017.

58. VALID RETURN: Valid Return” means a return furnished under section 39(1) **on which self-assessed tax has been paid in full.**

The Return - ON WHICH-**SELF ASSESSED TAX-PAID IN FULL.**

Note: Full ITC will be available to Recipient only IF Return furnished by the supplier is a valid Return.

60. "virtual digital asset":

- ⇒ shall have the same meaning as assigned to it
- ⇒ in **section 2(47A)** of the **Income-tax Act.**

'(102A) "**specified actionable claim**" means the actionable claim involved in or by way of—

- (i) Betting;
- (ii) Casinos;
- (iii) Gambling;
- (iv) Horse racing;
- (v) Lottery; or
- (vi) Online money gaming

61. **WORKS CONTRACT** means:

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

* **[Goods + Service]** @ Single PRICE

[Which will be **classified as SERVICE**]

BUT LIMITED TO IMMOVABLE PROPERTY

What about (Goods + Service) @ Single PRICE & Resultant Property is an movable property – then Depend: eg. Service/Goods cannot be called as works contract.

Definitions under IGST ACT, 2017: Section 2

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

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

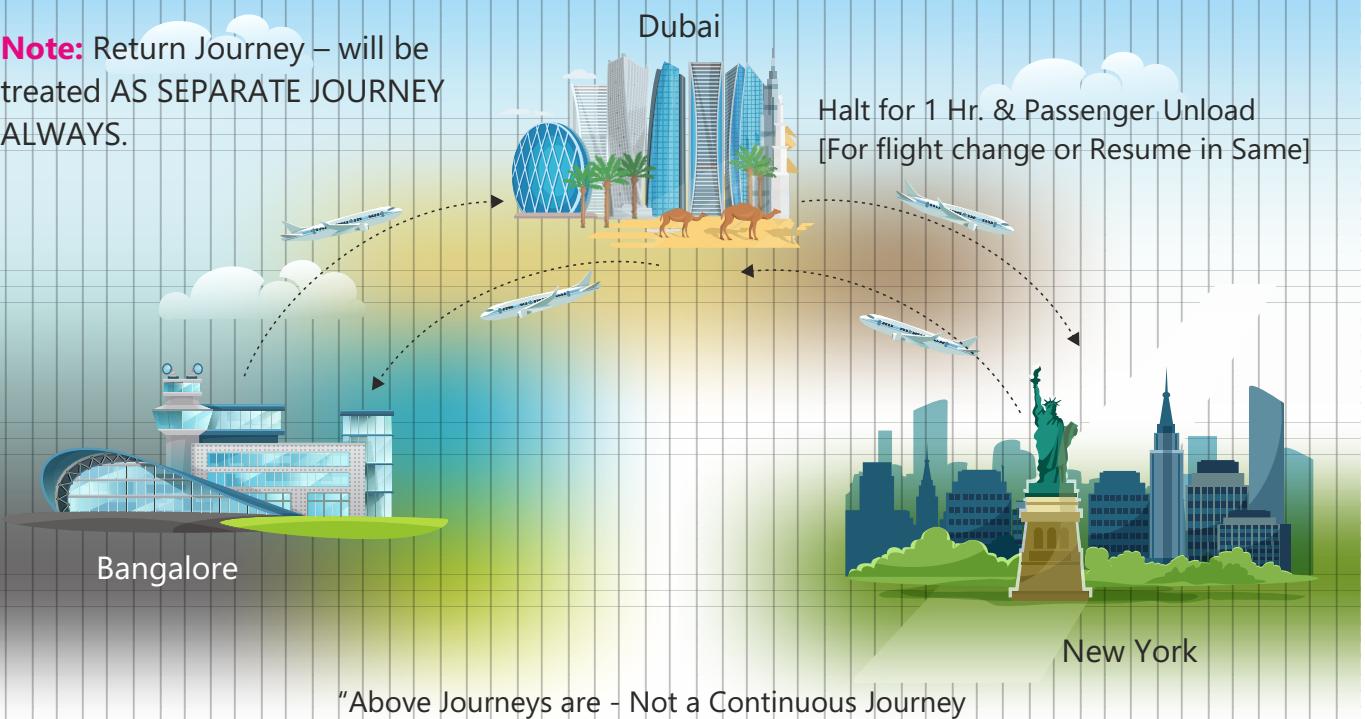
It is Relevant for Place of Supply

* A Journey for which a Single Ticket or more than one ticket/Invoice is issued AT THE SAME TIME (Either by Single Supplier or through an Agent on Behalf of More than one supplier).

* **NO STOP OVER** (stopover means: A place where passenger disembarks from the conveyance i.e. Break in Journey) between any of the legs of Journey, (For which above tickets are issued).

CRUX: * Ticket: Single Ho To Very well
 But If Multiple Hai To Same time issue HONA CHAHIYE.
 * Journey: Halt NAHI Hai To very well
 IF Halt Hai To Passenger Plane SE UTARNA NAHI CHAHIYE

Note: Return Journey – will be treated AS SEPARATE JOURNEY ALWAYS.



- 2. CUSTOM FRONTIER OF INDIA:** means the limits of a customs area as defined in section 2 of the Customs Act, 1962.



- 3. EXPORT OF GOODS:** Means -
- * taking goods out of INDIA.
 - * to A place Outside INDIA.
 - *No condition of Foreign Currency as Required in EXPORT OF SERVICE.

Note: EXPORT of Goods called Zero Rated supply, So ITC on INPUT etc. shall be allowed & the person can use it or get Refund of the ITC.

4. EXPORT OF SERVICE: Export of services" means the supply of any service when,—

- The supplier of service is located in India;
- The recipient of service is located outside India;
- The place of supply of service is outside India;
- The payment for such service has been received by the supplier of service in convertible foreign exchange; or in Indian rupees wherever permitted by the Reserve Bank of India and
- The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Clarification on export of services under GST: Circular No. 78/52/2018

Illustration: ABC Ltd. India has received an order for supply of services amounting to \$ 5,00,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in Section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay integrated tax on the same under reverse charge and also be eligible to take input tax credit of the integrated tax so paid. Further, if the provisions contained in section 2(6)

of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided integrated tax on import of services has been paid on the part of the services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.

Circular No. 202/14/2023: Clarification relating to export of services- (Payment in Foreign Currency)

It is clarified that

- When the Indian exporters, undertaking export of services, are **paid the export proceeds in INR from the Special Rupee Vostro Accounts** of correspondent bank(s) of the partner trading country, opened by AD banks,
- the same shall be considered to be fulfilling the conditions of (iv) **[Payment in Foreign Currency]**,
- subject to the conditions/ restrictions mentioned in Foreign Trade Policy, 2023 & extant RBI Circulars and without prejudice to the permissions / approvals, if any, required under any other law.

5. FIXED ESTABLISHMENT: Same Definition as IN GST.

6. GST- (Compensation to STATE) ACT: Means – GST (Compensation to State) CESS ACT, 2017
 Note: (CESS CESS)

7. GOVT: Means – Central Govt. – as it is IGST ACT.

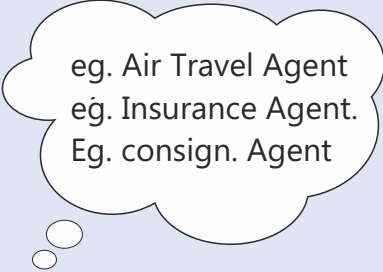


8. IMPORT OF GOODS: * Bringing Goods into INDIA.
 * From a Place outside INDIA.

9. IMPORT OF SERVICE: means the supply of any service, where—
 (i) The supplier of service is located outside India;
 (ii) The recipient of service is located in India; and
 (iii) The place of supply of service is in India;

10. INTEGRATED TAX: IGST @ 40% Maximum.

11. INTERMEDIARY: "Intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, **but does not include a person who supplies such goods or services or both or securities on his own account.**



Intermediary Means:

- * Who Arranges or facilitates supply of Goods/Service (MAIN)
- * Between 2 or more persons
- * BUT does NOT INCLUDE the person – who supply the Goods/Service – On his own Account)

Note: PoS For Intermediary (During Import-Export Transactions) is Location of Supplier

12. LOCATION OF RECIPIENT:

- | | |
|---|-----------------------|
| * | Registered Place (HO) |
| * | Branch Office |
| * | HO/Branch |
| * | Residence |

13. LOCATION OF SUPPLIER:



14. Non-Taxable online Recipient"

means any **unregistered person and the person who is registered as TDS Deductor only**, receiving online information and database access or retrieval services located in taxable territory.

15. OIDAR: "Online Information and Database Access or Retrieval (OIDAR) Services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

- (i) Advertising on the internet;
- (ii) Providing cloud services;
- (iii) Provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) Providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) Online supplies of digital content (movies, television shows, music and the like);
- (vi) Digital data storage; and
- (vii) online gaming, excluding the online money gaming as defined in clause (80B) **[Online money Gaming]** of section 2 of the CGST Act, 2017.

PRELIMINARY

Section 1 : Short title, extent and commencement

Section 2 : Definitions.

ADMINISTRATION

Section 3 : Appointment of officers.

Section 4 : Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances

LEVY AND COLLECTION OF TAX

Section 5 : Levy and collection.

Section 6 : Power to grant exemption from tax.

DETERMINATION OF NATURE OF SUPPLY

Section 7 : Inter-State supply

Section 8 : Intra-State supply.

Section 9 : Supplies in territorial waters.

PLACE OF SUPPLY OF GOODS OR SERVICES OR BOTH

Section 10: Place of supply of goods other than supply of goods imported into, or exported from India.

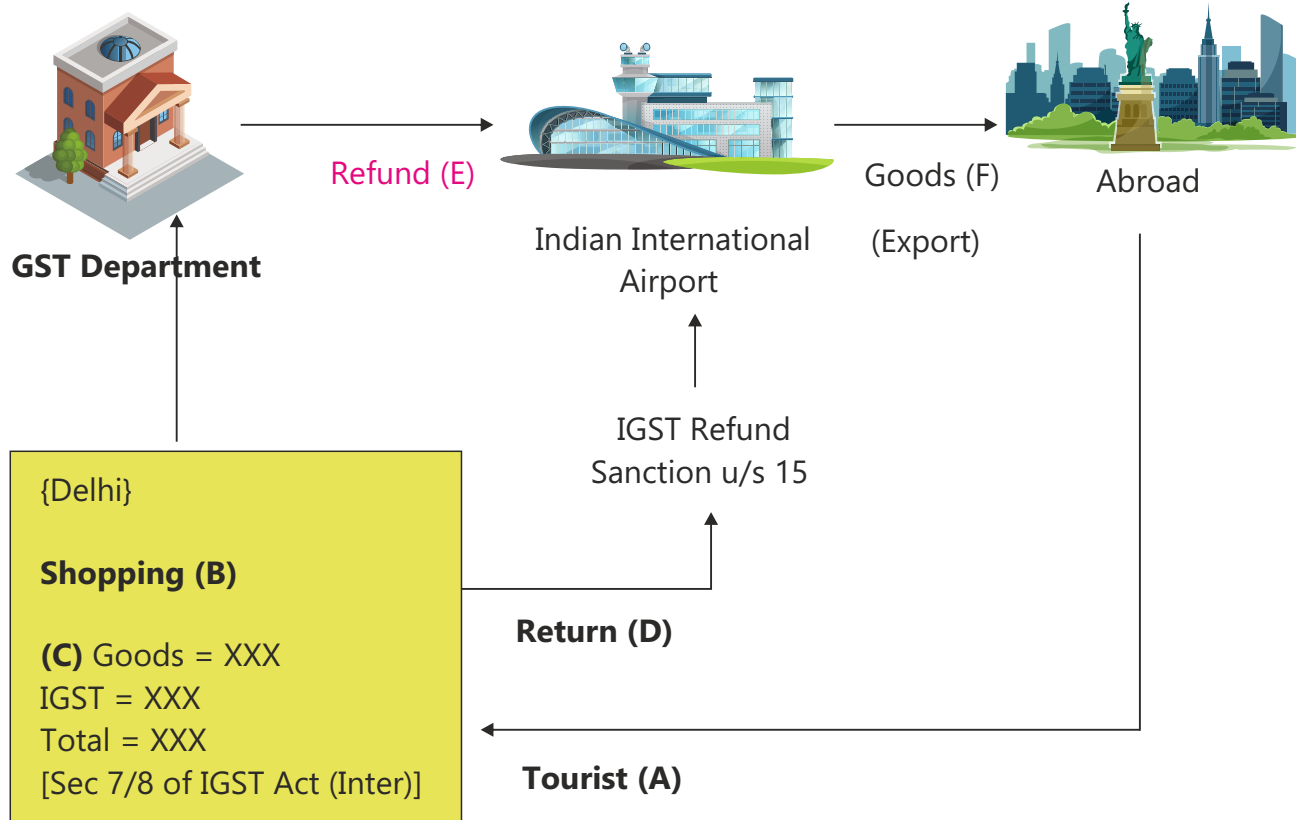
Section 11: Place of supply of goods imported into, or exported from India.

Section 12 : Place of supply of services where location of supplier and recipient is in India

Section 13: Place of supply of services where location of supplier or location of recipient is outside India.

Section 14 : Special provision for payment of tax by a supplier of online information and database access or retrieval services

Analysis



Section 16: Zero rated supply

What is Zero Rated Supply

- (1) **“Zero rated supply”** means any of the following supplies of goods or services or both, namely:—
- Export** of goods or services or both; or
 - Supply** of goods or services or both **[for authorised operations]** to a Special Economic Zone developer or a Special Economic Zone unit.

Deemed Export: NOTIFICATION No. 48/2017–Central Tax

SN	Description of supply
1.	Supply of goods by a registered person against Advance Authorisation
2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3.	Supply of goods by a registered person to Export Oriented Unit
4.	Supply of gold by a bank or Public Sector Undertaking against Advance Authorisation.

Input tax credit allowed

- (2) **Credit of input tax may be availed for making zero-rated supplies, even though that such supply is an exempt supply.**

Claim refund of ITC or Output tax paid (As the case may be)

(3) A registered person making zero rated supply **shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking**, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:

Provided that

- the **registered person making zero rated supply** of goods
 - shall, in case of **non-realisation of sale proceeds**,
 - be liable to **deposit the refund** so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act
 - within 30 days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999.
 - for receipt of foreign exchange remittances, in such manner as may be prescribed.
- (4) The Government may and subject to such conditions, safeguards and procedures, by notification, specify—
- (i) **A class of persons** who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;
 - (ii) **A class of goods or services** which may be exported on payment of IGST and the supplier of such goods or services may claim the refund of tax so paid."

Circular No. 1/1/2017: It is hereby clarified that provisions of section 16 of the IGST Act, 2017, relating to zero rated supply will also apply on Compensation Cess, wherever applicable.

Ch 1 GOODS AND SERVICES

Section 1: Short title and commencement

- (1) This Act may be called the Central Goods and Services Tax Act, 2017.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Section: 1 of IGST Act, 2017: Short title, extent and commencement

- (1) This Act may be called the Integrated Goods and Services Tax Act, 2017.
- (2) It shall extend to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:.

Section 9: CHARGING SECTION/PROVISION

Main provision	<p>(1) There shall be levied a tax called the CGST</p> <ul style="list-style-type: none"> On all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, On the value determined under section 15 and At such rates, not exceeding 20 %, as may be notified by the Government on the recommendations of the Council and Collected in such manner as may be prescribed and Shall be paid by the taxable person.
5 Petroleum Products	<p>(2) The CGST on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</p>
Reverse charge Mechanism on notified supplies, where supplier is unregistered	<p>(3): Notified Goods/Services: RCM - The Government may, by notification, specify</p> <ul style="list-style-type: none"> Categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient . <p>4) Unregistered person make supply of GOODS/SERVICES to a Registered Person: RCM-The Government may, by notification, specify</p>

	<ul style="list-style-type: none"> • A class of registered persons who shall, • in respect of supply of specified categories of goods or services or both • received from an unregistered supplier, • pay the tax on reverse charge basis
E- Commerce Operator	(5) On notified services CGST shall be collected from E-commerce operator having place of Business in India But where Ecommerce operator has No Place of Business in India then he need to setup a place of Business in India or to appoint any person as agent.

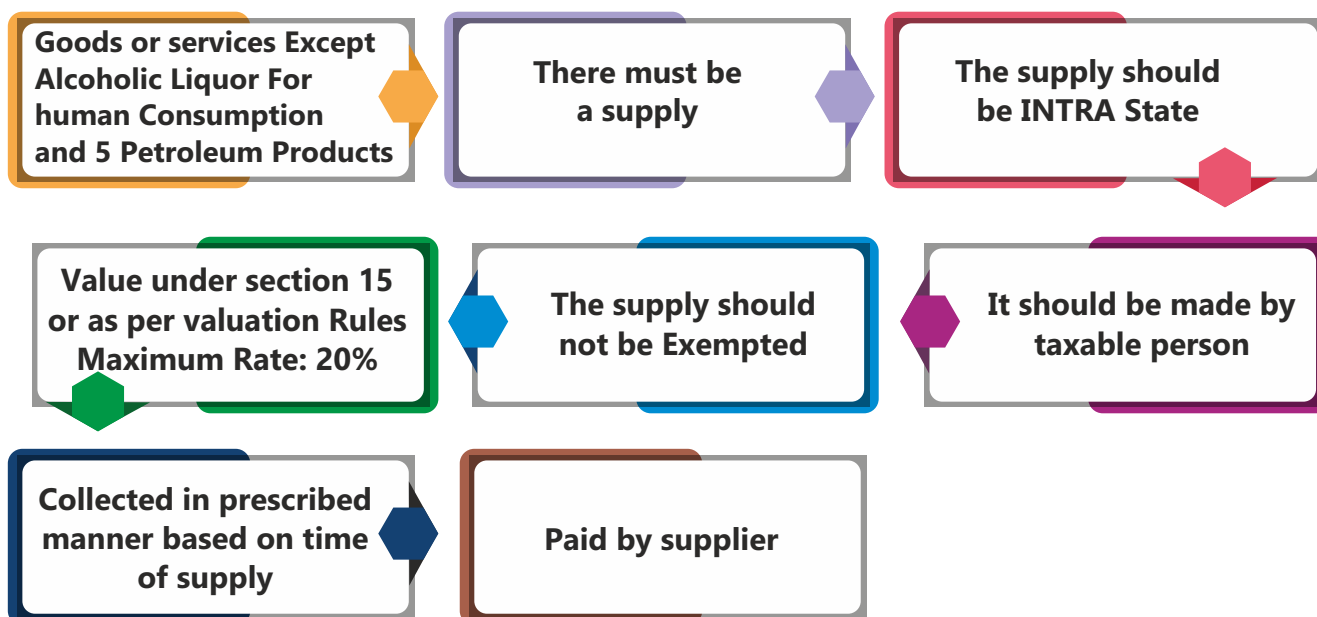
Notified Services and their provisions are as follows:

Hotel Accommodation Service: (eg OYO)	E-Commerce Operator will be the deemed supplier and liable to pay GST.	However if the real supplier (Hotel) is crossing the limit of 10 Lakh or 20 Lakh then Hotel Liable to Pay GST.
Misc. Utilities (e.g. urban clap):	E-commerce operator i.e. (Urban Clap) will be deemed supplier and Liable to Pay GST.	However if Real Supplier of service crossing the limit of Rs. 10 lakh/20 lakh then Real supplier liable to pay GST.
Passenger Transportation Service by radio taxi, motorcab, maxi-cab, motor cycle or any other motor vehicle except omnibus	E-commerce operator (e.g. Uber/OLA) will be deemed supplier of service and Always liable to pay GST.	
Services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company	- E- eommerce operator will be deemed supplier of service and always liable to pay GST	
Supply of restaurant service	E-commerce operator will be deemed supplier of service and Always liable to pay GST	However, Real supplier liable to pay GST on the services supplied by restaurant, eating joints etc., located at the premises providing hotel accommodation service having declared tariff of any unit of accommodation above Rs.7,500 per unit per day or equivalent."
What about Rest of the Services and Goods	Section 9(5) not applicable	Always Real supplier Liable to pay GST

Radio Taxi"	Radio Taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS);
Maxicab	Maxicab means having seating capacity @ 7 to 12 persons.
Motorcab	Motorcab means having seating capacity @ upto 6
Motor cycle	Motor cycle means - 2 wheeled with or without sidecar,
Company	Company has the same meaning as assigned to it in section 2(20) of the Companies Act, 2013

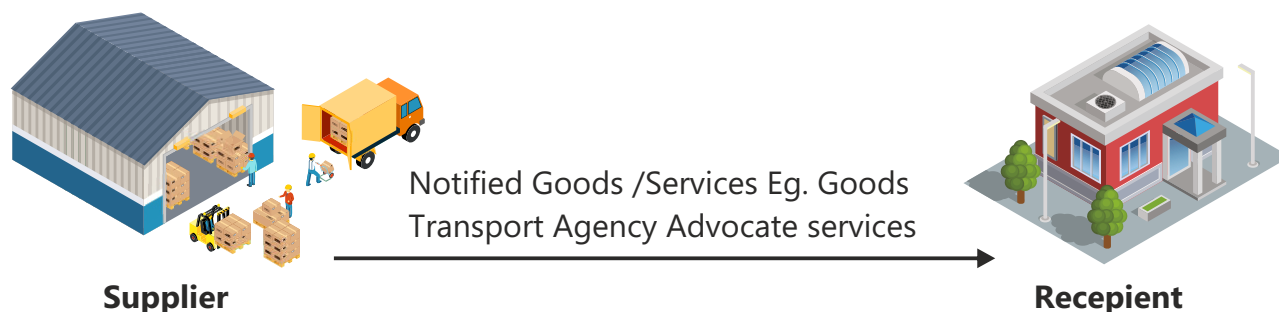
ANALYSIS of Section 9

Section 9 (1) (2): Supplier liable to pay GST:



Section 9(3) (4) Recipient liable to pay GST

Section 9 (3): Gives Power to Government to Impose RCM in specified Services



Basis	Section 9 of CGST	Section 5 of IGST
Nature of supply	Intra state	Inter state
Maximum Rate of GST	14%	28%
Special provision for import of goods	-	<p>IGST ON IMPORT OF GOODS: The IGST on goods imported into India shall be</p> <ul style="list-style-type: none"> Levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when BASIC CUSTOM DUTY levied on the said goods. <p>Note : The Government, notifies</p> <ul style="list-style-type: none"> The supply of online money gaming as the goods on import of which the proviso to Section 5(1) of the said Act shall not apply. But on which IGST shall be levied and collected under Section 5(1) of the said Act

SUPPLY OF GOODS OR SERVICES (TAXABLE EVENT)

There are two sections in this chapter read with 3 schedules. Supply is the Taxable event to levy GST i.e. It is the backbone for levying GST.

Section 7: Defines:

Part – A	:	Meaning of supply [Read with Schedule: I]
Part – B	:	After being supply – It will be supply of goods or supply of service such distinguishment will be discussed as per schedule – II
Part – C	:	Some of the Activities/transaction will never be treated as Supply and consequently not liable to GST as per schedule – III.

Section 8: It describes treatment of composite and Mix supply treatment.

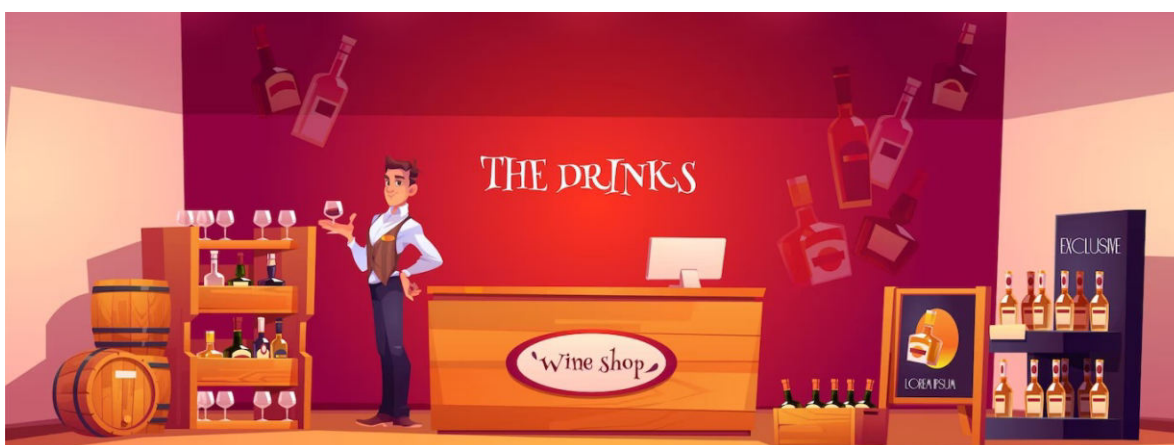
GATE NO.2

SUPPLY OF GOODS/SERVICE

Following Activities are Supplies If FOR A Consideration

Following are Supplies EVEN IF NO Consideration EXISTS

<p>All form of supply of Goods/SERVICE such as:</p> <ul style="list-style-type: none"> - Sale - Exchange - Transfer - Barter - License - Renting - Lease - Disposal <p>Made or to be made IN THE COURSE or furtherance of Business</p>	<p>Supply of Goods/services Between RELATED PERSONS OR DEEMED DISTINCT PERSONS eg. Stock T/F</p> <p>PERMANENT Transfer/disposal of Business Assets [if ITC availed already]</p>
Transactions between club and members	Import of service by a person from a related person or from any of his other establishment outside India (for business)
Importation of services (business/Personnel)	Agency Activity: Movement of GOODS between principle & agent.



SCHEDULE III: ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

<p>NTT to NTT</p>	<p>1. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. <i>Actually Effected from 1/02/2019 but now deemed to be effected From 1/07/2017:</i> Explanation: The persons who have paid GST - No refund shall be granted to those persons and the persons who have not paid no collection of Tax will be made from those persons.</p>
<p>Employee to Employer (Including Whole Time Director)</p>	<p>2. Services by an employee to the employer in the course of or in relation to his employment shall not be treated as supply.</p>
<p>Warehouse goods</p>	<p>3. (a) Supply of warehoused goods to any person before clearance for home consumption; (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.</p> <p>Examples:</p> <p>a. Mr. A purchased goods from China and sold it to Mr. John in Canada without bringing the goods in India. This transaction is neither supply of goods nor supply of services.</p> <p>b. Mr. X Imported some goods in India, but kept the goods in custom bonded warehouse without clearing it for home consumption. In the meantime, Mr. X sold these goods to Mr. Y while they were in warehouse. This transaction between Mr. X and Mr. Y is neither supply of goods nor supply of services.</p> <p>c. Mr. P. of India imported some goods from Japan. While the goods were in high seas, Mr. P sold the goods to Mr. Q in India by way of endorsement of document of title of goods. This transaction between Mr. P and Mr. Q is neither supply of goods nor supply of services.</p> <p><i>Actually Effected from 1/02/2019 but now deemed to be effected From 1/07/2017:</i> Explanation: The persons who have paid GST - No refund shall be granted to those persons and the persons who have not paid no collection of Tax will be made from those persons.</p>

Mortuary Services	4. Services of funeral , burial, crematorium or mortuary including transportation of the deceased shall not be treated as supply .
Actionable Claim	5. Actionable claims shall not be treated as supply, but specified actionable claims SHALL BE TREATED AS A SUPPLY.
Government Peoples	6. (a) The functions performed by the Members of Parliament , Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; shall not be treated as supply . (b) The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; shall not be treated as supply or (c) The duties performed by any person as a Chairperson or a Member or a Part time Director in a body established by the Central Government or a State Government or local authority shall not be treated as supply .
Immovable Property	7. Sale of land, sale of completed building shall not be treated as supply .
Court etc.	8. Services by any court or Tribunal established under any law shall not be treated as supply .

Section 7(3)

The Government may notify the transactions that are to be treated as-

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

Section 8: Tax liability on Composite and Mixed supply

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

However, in certain cases, supplies are not such simple and clearly identifiable supplies. Some of the supplies are a combination of goods or combination of services or combination of goods and services both and each individual component of such supplies may attract a different rate of tax. In such a case, the rate of tax to be levied on such supplies may be a challenge. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

In order to determine whether the supplies are 'composite supplies' or 'mixed supplies', one needs to determine whether the supplies are naturally bundled or not naturally bundled in ordinary course of business.

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



Various clarifications

Question 1: Whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of or supply of services?

Answer: [Circular No. 11/11/2017]

In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies **would constitute supply of service.**

In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would **constitute supply of goods.**

(viii) Cancellation charges recovered by railways for cancellation of tickets, etc.

Question 12 Taxability of shares held in a subsidiary company by the holding company: **Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.** [Circular No. 196/08/2023:

Ans. Securities are considered neither goods nor services. Further, securities include 'shares' as per definition of securities.

This implies that the **securities held by** the holding company in the subsidiary company are neither goods nor services. Further, **purchase or sale of shares** or securities, in itself is neither a supply of goods nor a supply of services.

For a transaction/activity to be treated as supply of services, there must be a supply.

It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a SAC entry '997171' in the scheme of classification of services mentioning; **"the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest."**, unless there is a supply of services by the holding company to the subsidiary company in accordance with [section 7](#) of [CGST Act](#).

Question 13. Whether supply of food or beverages in cinema hall is taxable as restaurant service which attract GST at the rate of 5% or Not. [Circular No. 201/13/2023]

Ans. : Background: **Restaurant Service'** means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, **eating joint** including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied."

- n Eating joint is a wide term which **includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.**
- n The cinema operator may run these refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party.
- n The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services.
- n Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

Clarification: It is hereby clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- a) The food or beverages are supplied by way of or as part of a service, and
- b) Supplied independent of the cinema exhibition service.

It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

CHAPTER AT A GLANCE

NATURE OF SUPPLY: INTRA OR INTER

ORIGIN OF SUPPLY

- As per section : 2 of CGST Act
- 1 Head Office
 - 2 Branch Office
 - 3 Head Office / Branch Office (which is more connected)
 - 4 Residence

DESTINATION OF SUPPLY
Consumption place of Supply

OF GOODS

- Section : 10
- Section : 11

OF SERVICE

- Section : 12
- Section : 13

In 2 Different

- State
- UT'S
- State & UT
- Countries ie Boarder of State/UT/ Country/State & UT : Exist

↓

- Then the supply will be Inter-state Supply [Section : 7]
- Otherwise : it will be intra state supply [Section : 8]

SPECIAL: where UNIT/Developer of SEZ involved in a transaction then the transaction will always be Inter- state supply
 SPECIAL: If goods sold to a tourist – who will claim refund at Indian airport shall be treated as Inter State Supply

→ TWI'S Origin/Destination shall be Interpreted as per Nearest Coastal State /UT [Section : 9]

NATURE OF SUPPLY : Whether INTER or INTRA

Section 7 of IGST Act, 2017: Inter-State supply

General Provision for Goods	<p>(1) Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in—</p> <ul style="list-style-type: none"> (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, <p>shall be treated as a supply of goods in the course of inter-State trade or commerce.</p>
Import of Goods	<p>(2) Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.</p>

PLACE OF SUPPLY**Section 10 of IGST Act, 2017: Place of supply of goods other than supply of goods imported into, or exported from India**

(1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—

(a) Where the supply involves movement of goods, (whether by the supplier or the recipient or by any other person)	The place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;
(b) Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, (whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods)	The place of supply of such goods shall be the principal place of business of such person;
(c) Where the supply does not involve movement of goods, (whether by the supplier or the recipient,)	The place of supply shall be the location of such goods at the time of the delivery to the recipient;
(ca) where the supply of goods is made to an un-registered person , the place of supply shall, notwithstanding anything contrary contained in clause (a),(c)	be the: <ul style="list-style-type: none"> • Location as per the address of the said person recorded in the invoice issued in respect of the said supply and • where the address of the said person is not recorded in the invoice then place of supply be the location of the supplier Explanation: For the purposes of this clause, <ul style="list-style-type: none"> • Recording of the name of the State of the said person in the invoic • shall be deemed to be the recording of the address of the said person.
(d) Where the goods are assembled or installed at site,	the place of supply shall be the place of such installation or assembly;

(e) Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,

The place of supply shall be the location at which such goods are taken on board.

(2) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed

Section 12: of IGST Act, 2017: Place of supply of services where location of supplier and recipient is in India

(1) The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

Basis	Situation	Place of Supply
(2) Residuary Rule	<p>The place of supply of services, except the services specified in sub-sections (3) to (14),—</p> <p>(a) Made to a registered person Sec. 2 of (94) "Registered person" means a person who is registered under section 25 but does not include a person having a Unique Identity Number.</p> <p>(b) Made to any person other than a registered person</p>	<p>(a) Place of supply: shall be the location of such person.</p> <p>(b) Place of supply: shall be</p> <p>(i) The location of the recipient where the address on record exists; and</p> <p>(ii) The location of the supplier of services in other cases.</p>
(3) Immovable property linked services	<p>Services,—</p> <p>(a) Directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or</p> <p>(b) By way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or</p> <p>(c) By way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services</p>	<p>The place of supply shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:</p> <p>Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.</p> <p>Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.</p>

Basis	Situation	Place of Supply
		proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.
(8) Goods Transportation Services	In case of services by way of transportation of goods, including by mail or courier to,—	<p>The place of supply if provided to-</p> <p>(a) A registered person, shall be the location of such person;</p> <p>(b) A person other than a registered person, shall be the location at which such goods are handed over for their transportation.</p> <p>Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.</p>
(9) Passenger transportation services	In case of passenger transportation service to,-	<p>The place of supply if provided to-</p> <p>(a) a registered person, shall be the location of such person;</p> <p>(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:</p> <p>Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of section 12 (2).</p>
(10) On board services	In case of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,	The place of supply shall be the location of the first scheduled point of departure of that conveyance for the journey.

Q.9)



Value Rs 30, 00,000/-



Govt. Agency

— MP = Place of supply

— KT = Place of supply

[Ratio : No of screens of "PVR" in each state]

Q.10) ADVERTISEMENT OVER INTERNET

— BP

— HR

— UP

[Ratio : Number of "INTRNET" Subscribers in each state]

Note: In the case of advertisements over internet **the service shall be deemed to have been provided all over India and**, the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be calculated on the basis of the internet subscribers in such State or Union territory,

Place of supply in case of supply of services in respect of advertising sector

Issue : Advertising companies are often involved in procuring space on hoardings/ bill boards erected and mounted on buildings/land, in different States, from various suppliers ("vendors") for providing advertisement services to its corporate clients. There may be variety of arrangements between the advertising company and its vendors as below:

- (i) There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?
- (ii) There may be another case where the advertising company wants to display its advertisement on hoardings/ bill boards at a specific location availing the services of a vendor. The responsibility of

arranging the hoardings/ bill boards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertisement company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure.

In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

Clarification : It is clarified that the place of supply in the case supply of services in respect of advertising sector, in the cases referred in (i) and (ii), shall be determined as below:

Place of supply in Case (I): The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth.

Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of IGST Act.

As per section 12(3)(a) of IGST Act, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work shall be the location at which the immovable property is located. Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.

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

Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location. Therefore, such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which Place of Supply shall be determined in terms of Section 12(2) of IGST Act.

Place of supply in case of supply of the "co-location services"

Issue - Co-location is a data center facility in which a business/company can rent space for its own servers and other computing hardware along with various other bundled services related to Hosting and information technology (IT) infrastructure.

A business/company who avails the co-location services primarily seek security and upkeep of its server/s, storage and network hardware; operating systems, system software and may require to interact with the system through a web-based interface for the hosting of its websites or other applications and operation of the servers.

In this respect, various doubts have been raised as to

- i. Whether supply of co-location services are renting of immovable property service (as it involves renting of space for keeping/storing company's hardware/servers) and hence the place of supply of such services is to be determined in terms of provision of Section 12(3)(a) of the IGST Act which is the location where the immovable property is located; or
- ii. Whether the place of supply of such services is to be determined by the default place of supply provision under section 12(2) of the IGST Act as the supply of service is Hosting and Information Technology (IT) Infrastructure Provisioning services involving providing services of hosting the servers and related hardware, security of the said hardware, air conditioning, uninterrupted power supply, fire protection system, network connectivity, backup facility, firewall services, 24 hrs. monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc.

Clarification - It is clarified that the Co-location services are in the nature of "Hosting and information technology (IT) infrastructure provisioning services" (S.No. 3 of Explanatory notes of SAC-998315).

Such services do not appear to be limited to the passive activity of making immovable property available to a customer as the arrangement of the supply of colocation services not only involves providing of a physical space for server/network hardware along with air conditioning, security service, fire protection system and power supply but it also involves the supply of various services by the supplier related to hosting and information technology infrastructure services like network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for the recipient business/company to interact with the system through a web based interface relating to the hosting and operation of the servers.

In such cases, supply of colocation services cannot be considered as the services of supply of renting of immovable property. Therefore, the place of supply of the colocation services shall not be determined by the provisions of Section 12(3)(a) of the IGST Act but the same shall be determined by the default place of supply provision under Section 12(2) of the IGST Act i.e. location of recipient of co-location service.

However, in cases where the agreement between the supplier and the recipient is restricted to providing physical space on rent along with basic infrastructure, without components of Hosting and Information Technology (IT) Infrastructure Provisioning services and the further responsibility of upkeep, running, monitoring and surveillance, etc. of the servers and related hardware is of recipient of services only, then the said supply of services shall be considered as the supply of the service of renting of immovable property. Accordingly, the place of supply of these services shall be determined by the provisions of Section 12(3)(a) of the IGST Act which is the location where the immovable property is located.

Section 13 of IGST Act, 2017: Place of supply of services where location of supplier or location of recipient is outside India

(1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

Basis	Situation	Place of Supply
(2) Residuary Provision	In case of services except the services specified in sub-sections (3) to (13)	The place of supply shall be the location of the recipient of services: Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.
(3) Performance based services	In case of the following services namely:- (a) Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services: (b) Services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.	The place of supply shall be the location where the services are actually performed. Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services: Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process.
(4) Immovable property linked services	In case of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights	The place of supply shall be the place where the immovable property is located or intended to be located.

Basis	Situation	Place of Supply
(9) Transportation of goods	In case of services of transportation of goods, other than by way of mail or courier,	The place of supply shall be the place of destination of such goods.
(10) Passenger transportation service	In respect of passenger transportation services	The place of supply shall be the place where the passenger embarks on the conveyance for a continuous journey.
(11) On board services	In case of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board,	The place of supply shall be the first scheduled point of departure of that conveyance for the journey.
(12) online information and database access or retrieval services (OIDAR)	<p>In case of online information and database access or retrieval services</p> <p>Explanation.—For the purposes of this subsection, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non-contradictory conditions are satisfied, namely:—</p> <ol style="list-style-type: none"> The location of address presented by the recipient of services through internet is in the taxable territory; The credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory; The billing address of the recipient of services is in the taxable territory; The internet protocol address of the device used by the recipient of services is in the taxable territory; The bank of the recipient of services in which the account used for payment is maintained is in the taxable territory; The country code of the subscriber identity module card used by the recipient of services is of taxable territory; The location of the fixed land line through which the service is received by the recipient is in the taxable territory. 	The place of supply shall be the location of the recipient of services.

Export



Origin = Location of Supplier = Maharashtra
 Destination = POS = Destination of Service = USA
 Hence, No GST Attracts here

-:Objects:-

Import = Decrease GST Load On Freight = Yes ↓ POS = must be in Taxable Territory GST = No	Export = Increase GST Load On Freight = No ↓ POS = Must be in Non-Taxable Territory GST = Not Applicable
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Place of supply in case of supply of service of transportation of goods, including through mail and courier

Issue- After deletion of Section 13(9) of IGST Act, doubts have been raised as to whether the place of supply **in case of service of transportation of goods, including through mail and courier**, will be determined under section 13(2), 13(3)?

Clarification- The place of supply of services of transportation of goods, **other than through mail and courier**, will be determined under section 13(2) and not as performance based services under section 13(3).

Further, it is also mentioned that the place of supply in case of service of transportation of goods by mail or courier was not covered under the provisions of section 13(9) before the said sub-section was amended/ omitted. Therefore, on the same principles as mentioned above, the place of supply in case of service of transportation of goods by mail or courier will continue to be determined by section 13(2) of IGST Act.

Section 14: Special provision for payment of tax by a supplier of online information and database access or retrieval services [OIDAR]

Who will be the supplier: (1) On supply of online information and database access or retrieval services **by any person located in a non-taxable territory and received by a non-taxable online recipient**, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

Who will be the supplier if any intermediary involved: Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient,

- an intermediary located in the non-taxable territory,
- who arranges or facilitates the supply of such services,
- **shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient**
- except when such intermediary satisfies the following conditions, namely:—
 - The invoice issued by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
 - The intermediary does not authorise the charge to the customer which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment.
 - The intermediary does not authorise delivery; and
 - The general terms and conditions of the supply are not set by the intermediary.

Registration: (2) **The supplier of online information and database access or retrieval services referred to in sub-section (1) or his agent in taxable territory shall, for payment of integrated tax, take a single registration.**

Mandatory Physical Presence: **Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.**

Section 14 A: Special provision for specified actionable claims supplied by a person located outside taxable territory.

- (1) **Supplier Liable to pay:** A **supplier** of online money gaming not located in the taxable territory, shall in respect of the supply of online money gaming by him to a person in the taxable territory, **be liable to pay IGST on such supply.**
- (2) **Single Registration:** The supplier of online money gaming shall **obtain a single registration** under the Simplified Registration Scheme. [The Central Government hereby notifies the

Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration]

Provided that **any person located in the taxable territory** representing such supplier for any purpose in the taxable territory shall get registered and pay the IGST **on behalf of the supplier:**

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, **he shall appoint a person** in the taxable territory for the purpose of paying IGST and such person shall be liable for payment of such tax.

- (3) **In case of failure to comply with above provisions** by the supplier of the online money gaming or a person appointed by such supplier or both, notwithstanding anything contained in section 69A of the Information Technology Act, 2000, any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier **shall be liable to be blocked for access by the public in such manner as specified in the said Act.**

Ch 4 TAXABLE PERSON

Provisions contained in this chapter

List of Sections: -

- Section 22** - Registration required after threshold limit,
 - Voluntary Registration,
 - Registration in case of PAN change
- Section 23** - No Registration is required.
- Section 24** - Mandatory Registration without seeing the limit of Rs 10Lakh / 20Lakh / 40Lakh.

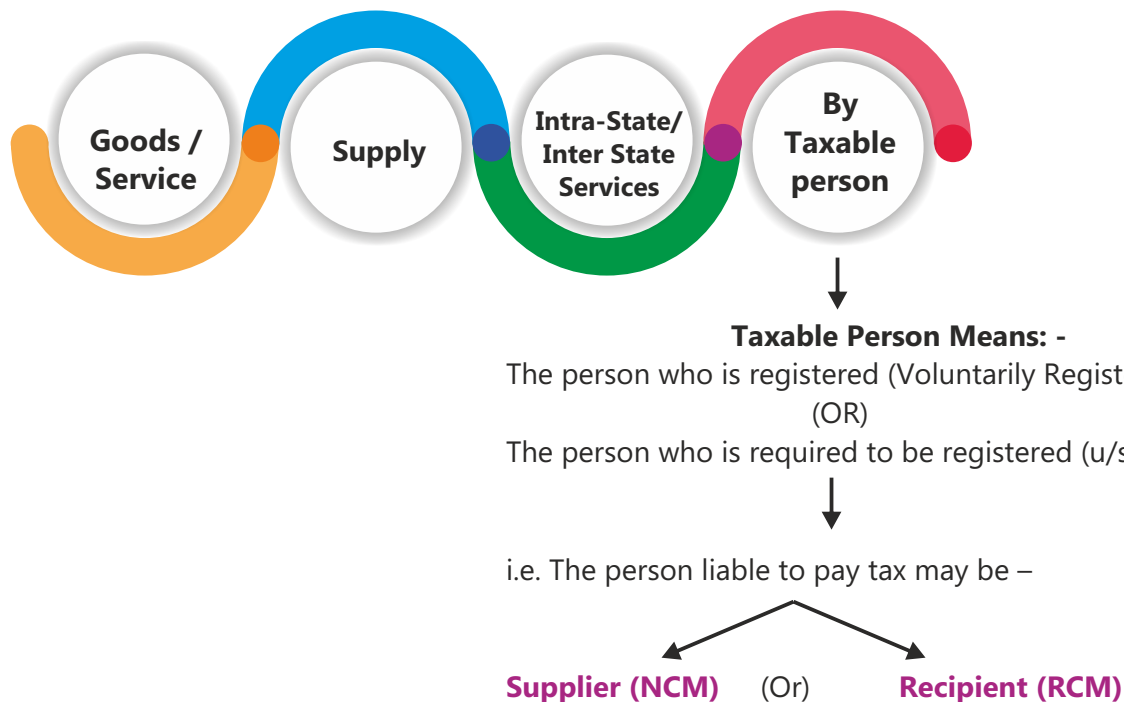
Background:

Where supply of Goods/Service made by a Taxable person whether Intra or Inter Shall be leviable to GST i.e. where such supply made by "Non-Taxable Person" then no GST will be levied.

Now the question is this who is Taxable Person. Taxable Person has been defined U/s = 2 as the person

- "Who is Registered (i.e. who has taken voluntarily Registration) or
- Required to be registered as per Law.

Now question is this when a person required to get registered himself. The solution is given under section 22,23,24 as to when a person Require Registration & when he does not need to get Register himself.



Note: - Registration is granted state wise. For Example, if any person has a business as follows

Section 23: No Registration

- (1) The following persons **shall not be liable to registration**, namely:—
- (a) Any person **engaged exclusively** in the business of **supplying goods or services or both that are not liable to tax or wholly exempt** from tax under this Act or under the Integrated Goods and Services Tax Act;
 - (b) An **agriculturist**, to the extent of supply of produce out of cultivation of land.

~~(2) The Government may, on the recommendations of the Council, by notification, **specify the category of persons** who may be exempted from obtaining registration under this Act.~~

- (2) Notwithstanding anything to the contrary contained in section 22(1) or 24,
- the Government may, on the recommendations of the Council, by notification,
 - **subject to such conditions and restrictions as may be specified therein,**
 - specify the category of persons
 - who may be exempted from obtaining registration under this Act.

Section 24: Mandatory Registration

Notwithstanding anything contained in section 22(1), the following categories of persons **shall be required** to be registered under this Act,—

- (i) **Persons making any inter-State taxable supply;**
 The persons making inter-State supplies of **taxable services** and having an aggregate turnover, to be computed on all India basis, **not exceeding an amount of Rs 20 lakh/Rs 10 Lakh in a financial year as the category of persons exempted from obtaining registration under the said Act.** [N/N: 10/2017]
 The persons making inter-State taxable supplies of handicraft goods exempted from obtaining registration under the aforesaid Act up to Rs. 20/ 10 Lakh. **[N/N: 8/2017]**
- (ii) **Casual taxable persons** making taxable supply;
 The casual taxable persons making taxable supplies of handicraft goods as the category of persons exempted from obtaining registration upto Rs.20 lakh/Rs.10 lakh. [N/N: 32/2017]
- (iii) Persons who are required to **pay tax under reverse charge;**
- (iv) Person who are required to **pay tax under section 9(5)**
- (v) **Non-resident** taxable persons making taxable supply;
- (vi) Persons who are **required to deduct tax under section 51**, whether or not separately registered under this Act;
- (vii) Persons who **make taxable supply of goods or services or both on behalf of other** taxable persons whether as an agent or otherwise;
- (viii) **Input Service Distributor**, whether or not separately registered under this Act;

- (ix) **Persons who supply goods or services or both**, other than supplies specified under section 9(5), **through** such **electronic commerce operator** who is required to collect tax at source under section 52;
- (x) **Every electronic commerce operator; who is required to collect tax at source under section 52.**

The persons making supplies of services, other than supplies specified under section 9(5) of the said Act through an electronic commerce operator who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of Rs.20 lakh /Rs 10 lakh in a financial year, as the category of persons exempted from obtaining registration under the said Act: [N/ N: 65/2017]

- (xi) Every person supplying **online information and database access or retrieval services** from a place outside India to a person in India, other than a registered person; ~~and~~
- (xia) Every person supplying **online money gaming** from a place outside India to a person in India, and;
- (xii) Such other person or class of persons as may be **notified by the Government** on the recommendations of the Council.

NOTIFICATION NO. 34/2023:

The Central Government, specifies

- the persons making supplies of goods **through** an electronic commerce operator who is required to collect tax at source under [section 52](#) of the said Act and
- having an aggregate turnover in the preceding financial year and in the current financial year [within threshold limit as applicable](#)
- Will be exempted from obtaining registration.
- subject to the following conditions,
- Such Person --
 - a) shall not make any [inter-State supply of goods](#);
 - b) shall not make supply of goods through electronic commerce operator in [more than one State or Union territory](#);
 - c) shall be required to [have a PAN](#)
 - d) shall, before making any supply of goods through electronic commerce operator, declare on the common portal their [PAN, address of their business Place and origin State /UT](#) which shall be subjected to validation on the common portal;
 - e) have been [granted an enrolment number](#) on the common portal on successful validation of the Permanent Account Number.
 - f) shall [not be granted more than one enrolment number](#) in a State or Union territory;
 - g) [No supply of goods](#) shall be made by such persons through electronic commerce operator unless such persons have been granted an enrolment number on the common portal; and
 - h) where such persons are subsequently granted registration under [section 25](#) of the said Act, the enrolment [number shall cease to be valid](#) from the effective date of registration.

Special Procedure by ECO: N/N: 37/2023

In respect of Suppliers of Goods

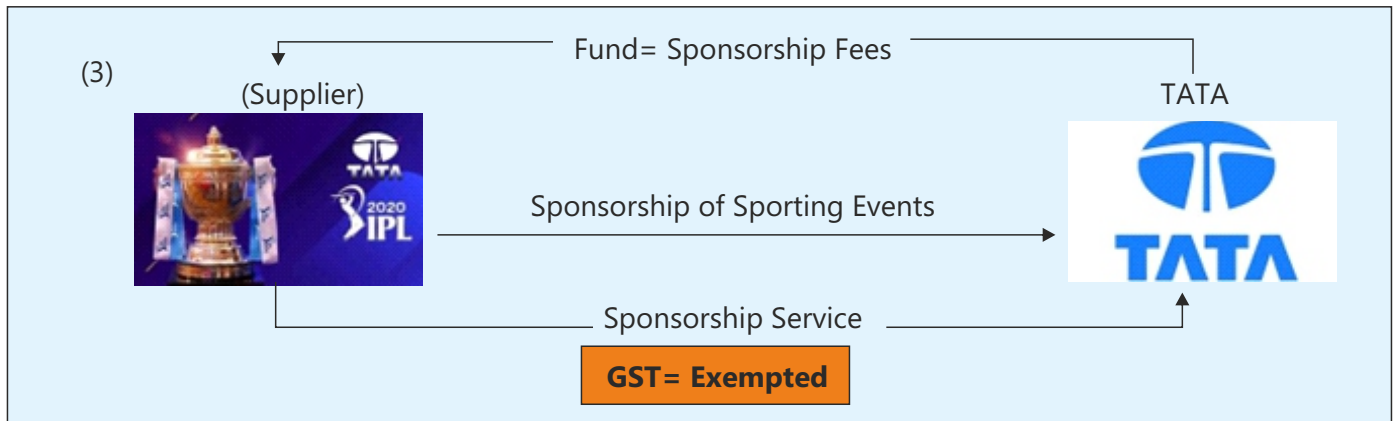
- who supplies goods through ECO and
- who is exempted from registration under N/N 34/2023
- The ECO shall follow the special Procedure which are as follows....
 - a) Only Enrollment Number holder shall be allowed.
 - b) Inter state Supply of goods shall not be allowed.
 - c) NO TCS shall be collected on such supplies of Goods and
 - d) Such Supplies of Goods shall be furnished in GSTR-8.

Note: Where multiple electronic commerce operators are involved in a single supply of goods through ECO

- The electronic commerce operator" shall mean the electronic commerce operator
- who finally releases the payment to the said person
- for the said supply made by the said person through him.

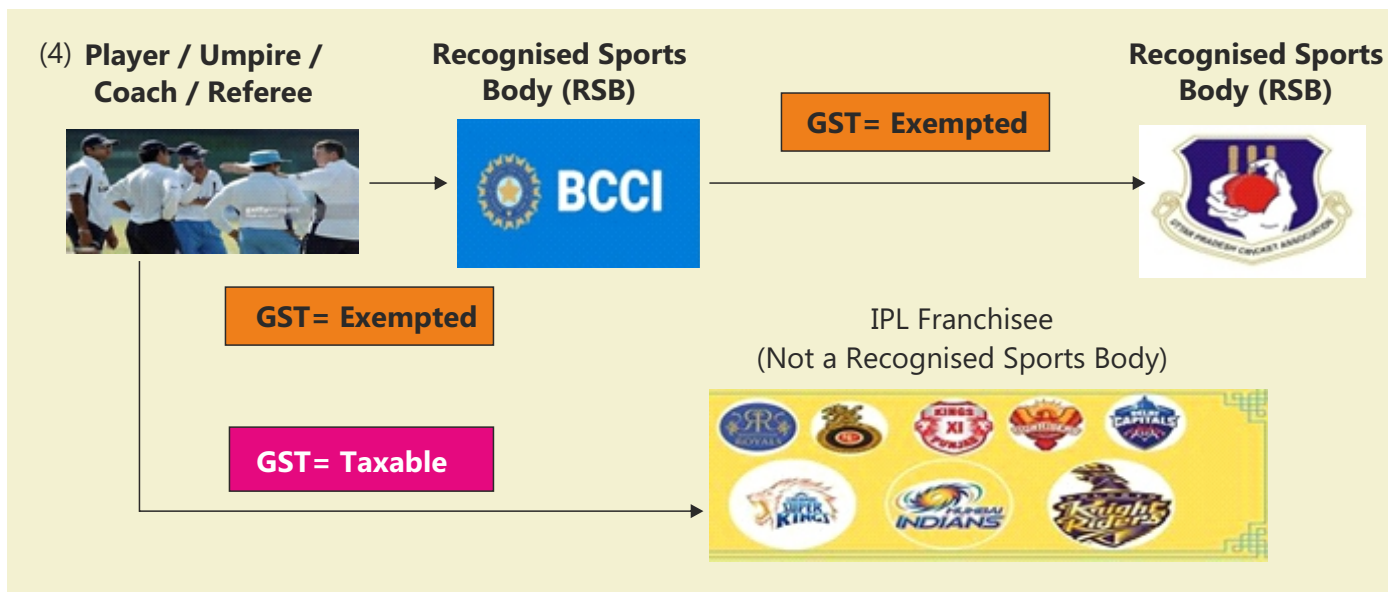
Section: 11 Power to grant exemption from tax

Basis	Exemption Notification	Special Order									
Type	<div style="text-align: center;"> </div>	<div style="text-align: center;"> </div>									
Examples	<ul style="list-style-type: none"> Supply of Salt / Water: Health Care SERVICES: Supply of Agriculture implements: Rate of IGST will be 1% on Aluminums INGOTS. , if it is used in household products Solar cells If use in specified final product: 	Floods and landslides etc has caused extensive damage to public and private property									
Effective Date of Main Notification	(I) Specific Date (or) (ii) Date of Issue [As the case may be]	(I) Specific Date (or) (ii) Date of Issue									
Effective date of Supplementary Notification	<p>Example:</p> <table border="1"> <thead> <tr> <th>1-1-18</th> <th>Confusion</th> <th>Clarification</th> <th>Conclusion</th> </tr> </thead> <tbody> <tr> <td>Govt Issued a Notification on 1-1-18 - Stating that "Pipes" are Exempted from GST</td> <td>What about "Pipe fittings" whether exempt or NOT?</td> <td>Govt. Issue second Notification issued on 1-7-18 the word PIPE shall include "Pipe Fittings" Also. (with in 1 year)</td> <td>Effective Date of Second Notification will be: 1/1/18</td> </tr> </tbody> </table> <p>Q.: What about the assesses who have paid taxes during confusion period: Get refund with interest.</p> <p>Q.: What if such Notification (Second) issued after the expire of one year from the date of original Notification: shall apply prospectively.</p>			1-1-18	Confusion	Clarification	Conclusion	Govt Issued a Notification on 1-1-18 - Stating that "Pipes" are Exempted from GST	What about "Pipe fittings" whether exempt or NOT?	Govt. Issue second Notification issued on 1-7-18 the word PIPE shall include "Pipe Fittings" Also. (with in 1 year)	Effective Date of Second Notification will be: 1/1/18
1-1-18	Confusion	Clarification	Conclusion								
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4. INDIVIDUAL'S SERVICE:

- Service of Individuals as a Player, referee, umpire, coach or team manager for participation in a sporting event.
- Organised By a Recognised Sport Body (eg. BCCI)
- Moreover service By one Recognised Sports Body to another Recognised Sports Body will Also be Exempted.



GOVERNMENT

1. Article 243G/W

- Service as specified under Article 243 G/W (e.g. Land Consolidation, Urban Town Planning, Public Health etc.) provided By "Governmental Authority" will be Exempted.
- Service as specified under Article 243 G/W as Pure Service/Composite Service (having service portion atleast 75%) provided By any person to CG/SG/LA/Government ENTITY will be Exempted.

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

(1A) Services provided to a Governmental Authority by way of –

- (a) water supply;
- (b) public health;
- (c) sanitation conservancy;
- (d) solid waste management; and
- (e) slum improvement and upgradation.

Circular No. 153/09/2021: GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS

Question. Whether composite supply of service by way of

- Milling of **wheat into wheat flour**, along with fortification, **or paddy into rice**
- By any person to a State Government for distribution of such wheat flour under Public Distribution System
- Is eligible for exemption under SN 3A (**Composite supply to Govt etc under article no. 243G/W**) of N/N 12/2017?

Answer.

Where the value of goods supplied in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply.	Then said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice,
Where value of goods supply in such a composite supply exceeds 25%.	In such case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption hence taxable.

So it is a matter of fact as to whether the value of goods in such composite supply is up to 25% or more and accordingly exemption will work on case-to-case basis. **Circular No. 153/09/2021**

Q. Taxability of sanitation and conservancy services supplied to Army and other Central and State Government departments. Note: The same is specified under Article 243G/W.

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]

2. GOVERNMENT SERVICE (Except PVT):

* **Service provided by CG/SG/UT/Local Authority:**

- to Non-Business Entity will be Exempted.
- to Business Entity will be taxable. (Unless otherwise specified elsewhere)

* **Moreover following will be taxable as follows:**

- Service By Department of Post **"and the Ministry of Railways (Indian Railways)"**
 - ~~By way of speed posts, Express Parcel Post, Life Insurance service, Agency Service.~~
to Non-Government will be taxable.
- Service By government in Relation to Aircraft/Vessel (in or outside the port or Airport) will be Taxable.
- Service by Government by way of transportation of Goods/Passenger will be taxable.

3. GARIB BUSINESS ENTITY:

- Service by CG/SG/UT/Local Authority.
- to a Business Entity having Aggregate turnover in PFY only upto threshold limit.
- will be Exempted.

Note: Sub-Point a/b/c/of Point (2) will Remain Same.

4. GOVERNMENT TO GOVERNMENT:

- Service provided by CG/SG/UT/Local Authority.
- to another CG/SG/UT/Local Authority.
- will be exempted.

Note: Sub-Point a/b/c/of Point (2) will Remain Same.

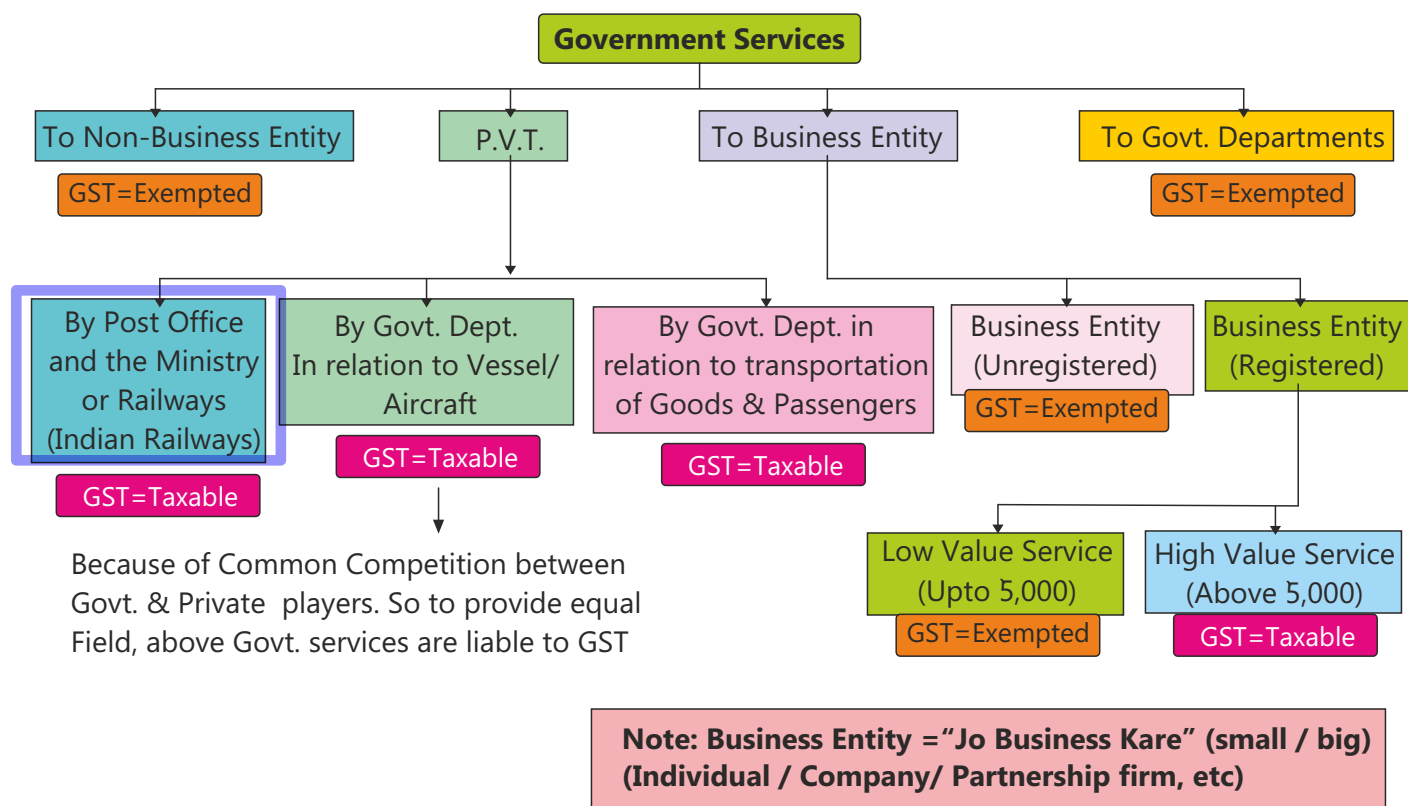
5. SMALL VALUE GOVERNMENT SERVICE:

- Service provided by CG/SG/UT
- Where the value of such service not more than `5000.
- In case of continuous supply of service (a service having life of more than 3 month & having periodic payment schedule) limit of `5000 will be computed on the basis of a Financial year i.e. value in Financial year is upto `5000 then the service will be exempted.

Note: Sub-Point a/b/c/of Point (2) will Remain Same.

6. GOVERNMENT GRANT

- Service By "Government Entity"
- To CG/SG/UT/LA
- Where consideration received in Form of Grant.
- Then it will be Exempted.



Newly Inserted: 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.

Circular No. 190/02/2023

Applicability of GST on accommodation services supplied by Air Force Mess to its personnel:

All services supplied by Central Government, State Government, Union Territory or local authority to any person other than business entities (**Except few specified services such as services of postal department, transportation of goods and passengers etc.**) are exempt from GST.

It is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered under above exemption.

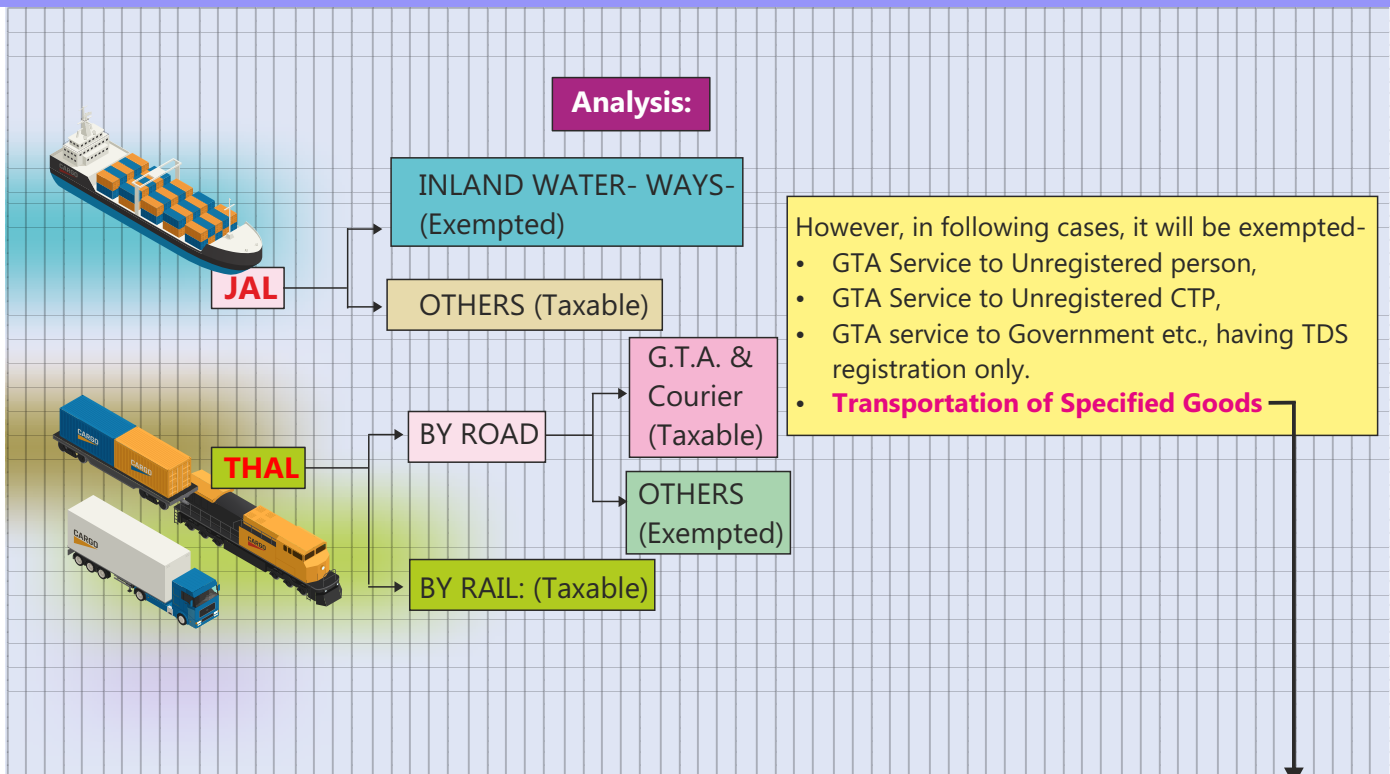
Provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

7. LONGTERM LEASE

- Service By S.G.I.D.C./U (State Government Industrial Development Corporation or by other Entity having 20% or more ownership of Government.
- Service of Granting Long Term Lease (30 years or more) of Industrial plots or plot for Development of Infrastructure for Financial Business.

TRANSPORTATION OF GOODS

- (1) Services by way of transportation of goods-
 - (a) **By ROAD [But service of goods transportation agency, courier agency will be taxable]**
 - (b) By Inland waterways.
- (2) Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.
- (3) ~~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.~~
- (4) ~~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.~~



Specified Goods	Domestic Journey (By RAIL / Vessel)	Domestic / International Journey (By 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	Now Taxable	Now Taxable
• Special Exemption	NO	I. ₹ 1500/- total truck load freight based II. ₹ 750/- consignee based.

(5) Satellite launch services supplied by ~~Indian Space Research Organisation, Antrix Corporation Limited~~ or New Space India Limited.

(5) **Shri Hari Kota India (ISRO) (ACL) (NSIL) (Supplier)**



GST=Exempted

ABC Ltd (Recipient)

(6) Service by way of granting National Permit to a Goods Carriage to operate through - out India / Contiguous States

(6) **Govt (RTO Office)**



GST=Exempted

Truck Owner

(7) Supply of service associated with Transit Cargo to NEPAL and Bhutan will be exempted.

Q. Whether the exemption covers services associated with transit cargo both to and from Nepal and Bhutan

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. it is clarified that the exemption covers services associated with transit cargo both to and from Nepal and Bhutan. **[Circular No. 177/09/2022]**

(7)




GST=Exempted

Additional Exemption under IGST Act, 2017: N/N : 9/2017 (IGST)

1. Import of Service:


- Where Location of supplier is outside India.
- and location of Receptient is in INDIA and Recipient is –
 - Government (CG/SG/UT/LA/Governmental Authority)
 - Individual (Using Service for Personal use)
 - Recognised Charitable Trust.
 - ~~RBI (Services related to forex Services)~~
 - Embassy (Use for official/personal purpose)
 - United Nations/International organisation (For Official use)
 - Special Economic Zone (Developer/Unit)
- Then such import of services will be Exempted. Except OIDAR Service provided to Unregistered Person in India (eg. Online paid games)

(1) **USA**




Import of Service →

India




GOVT. of India




Government Of India

Individual




Individual


Recognised Charitable Trust



Embassy / United Nations/
International Org.



Special Economic Zone



Particulars	Remarks
Goods / Service?	Service
Supply?	-
With consideration	It will always be treated as Supply
Without consideration	If transaction is between Related persons, in the course or furtherance of business, it will be treated as Supply
Origin?	USA
Destination?	India (Delhi)
Inter/Intra state?	Inter State Supply
Taxable Person?	----
GST?	

GST= Taxable

→

GST= Exempted

→


2. Where supplier is located outside India & Receptient is also located outside India.

➔ then GST will be Exempted.

➔ However Where"


- Services is of "Transportation of Goods" from outside INDIA to INDIA.
- Supplier (Shipping Company) located outside India.
- Receptient (the person who 'paid freight) located outside INDIA
- Then this service will be taxable.

Mr. X (Supplier) [NTT]




UNITED STATES OF AMERICA

Exempt →



INDIA

Mr. Y (Recipient)[NTT]



JAPAN


Particulars	Remarks
Supplier?	Mr. X
Recipient?	Mr. Y
Goods / Service?	Service
Supply?	Yes
Origin?	USA
Destination?	India
Inter/Intra state?	Inter-state Supply
GST?	
Taxable person?	NCM: Mr. X RCM: Mr. Y

3. Where supplier of service Located in India & Receptient Belongs to outside INDIA.


- (a)
- Service provided by Indian Tour Operator
 - to a foreign Tourist
 - In Relation to a Tour
 - Conducted wholly outside INDIA.

Foreign Tourist: -

USA




FOREIGNER




➔

&

Vrindavan (U.P.)



Sri Lanka



Q: Tour Package- (2,00,000) Sri Lanka (Outside India) + Vrindawan (India) = GST=

Computation of GST =

Value of Supply of Goods /Services: Section 15

Rate of Tax

From given schedules
0.25%, 3%, 5%, 12%,
18%, 28%

Rate of Exchange

- As Determined by CBIC/GAAP
- on the date of ToS
For goods: Rate notified by CBIC
For services: Rate notified by GAAP
(Rule 34)

Check Status of T.V.

T.V. is Available + Reliable

AV = Transaction Value

Price Actually Paid or Payable =	xxx
to supplier or on behalf of supplier Including:	
+ All Taxes	
(Exc. GST & Comp. Cess, KFC) =	xxx
+ Supplier's obligation paid by Recipient =	xxx
+ Incidental Expenses (Packing, Commission etc.) =	xxx
+ Interest & Penalty =	xxx
+ Non-Govt. subsidy =	xxx
- Discount known at the time of Supply =	(xxx)
Transaction Value	xxx

AV = Tariff Value Fixed by Govt. u/s 15

T.V. is NOT Available OR T.V. is NOT Reliable

Reason

Where Consideration NOT wholly or Partly in Money Rule: 27+30+31

- Rank 1**
*OMV of such supply
*Money value plus value of non-monetary consideration
- Rank 2**
*OMV of similar supply
- Rank 3**
*110% of COST
- Rank 3**
*Best Judgment

Transaction Between Deemed Distinct or Related Person Rule: 28+30+31

- Rank 1**
*if recipient eligible to book full ITC then declared value will be OMV/AV
- Rank 2 (OPTIONAL)**
* if GOODS are intended for further sale
* and sale of same goods
* sale made to unrelated party
* It is only for GOODS then AV will be 90% of Price 2.
- Rank 3**
*OMV of such supply
* xxxxxxxxxxxxxx
* OMV of similar supply
* 110% of COST
* Best Judgment

Transaction Between Principal & Agent Rule: 29+30+31

- Rank 1: (OPTIONAL)**
* if GOODS are intended for further sale
* and sale of same goods
* sale made to unrelated party
* It is only for GOODS then AV will be 90% of Price 2.
- Rank 2**
* OMV of such goods
- Rank 3**
* 110% of COST
* Best Judgment

Note : Provisions of 110% of cost – [For Manufacturer and Trader –Mandatory and for service provider it is Optional

Particulars	Customised Laptop	Customised Printer
Supplier?	HP	Samsung
Recipient?	Samsung	HP
Goods or Service?	Goods	Goods
ABC Test: -		
A = Activity	Barter	Barter
B = Business	Yes	Yes
C = Consideration (Printer)	Yes (Laptop)	Yes
Supply?	Yes	Yes
Inter State or Intra State?	Inter State Supply (Origin = Delhi) (Destination = Haryana)	Inter State Supply (Origin = Delhi) (Destination = Haryana)
Taxable Person?	HP	Samsung
Exemption?	No	No
Status of GST	YES	YES
Valuation?	Value as per Rule 27 Rank-1- = OMV of Laptop (Not available) = OMV of Printer (Not available) = Value of Similar Laptop (Not available) Rank-2- 110% of Cost	Value as per Rule 27 Rank-1- = OMV of Printer (Not available) = OMV of Laptop (Not available) = Value of Similar Printer (Not available) Rank-2- 110% of Cost
Computation of GST?	AV*Rate of GST of Laptop	AV*Rate of GST of Printer

Rule 28 : Value of supply of goods or services or both between distinct or related persons, other than through an agent

- (1) The value of the supply of goods or services or both--
- between **Distinct Persons** or
 - where the supplier and recipient are **Related**,
 - **(other than where the supply is made through an agent)**
- shall-**
- Rank 1**

Where the recipient is eligible for full input tax credit, **the value declared in the invoice shall be deemed to be the open market value of the goods or services.**

Rank 2 [OPTIONAL]

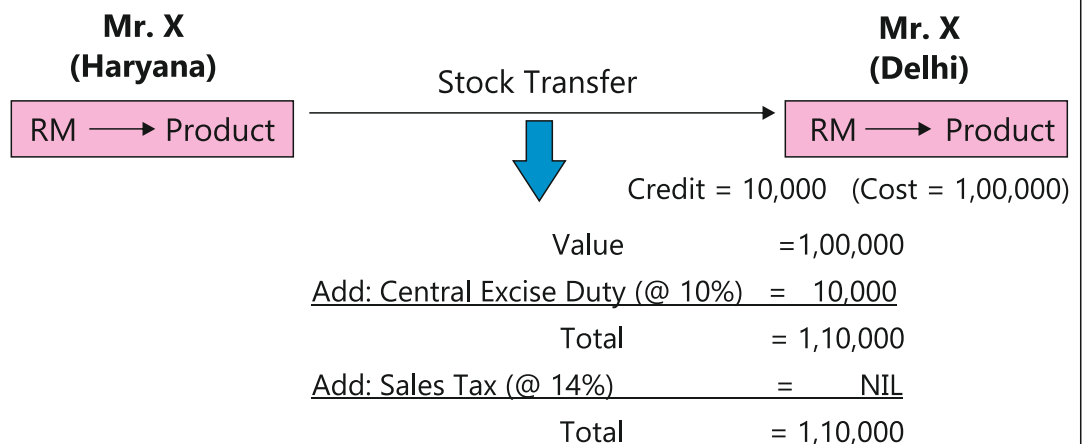
Where the GOODS are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to **90% of the price charged** for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

Rank 3

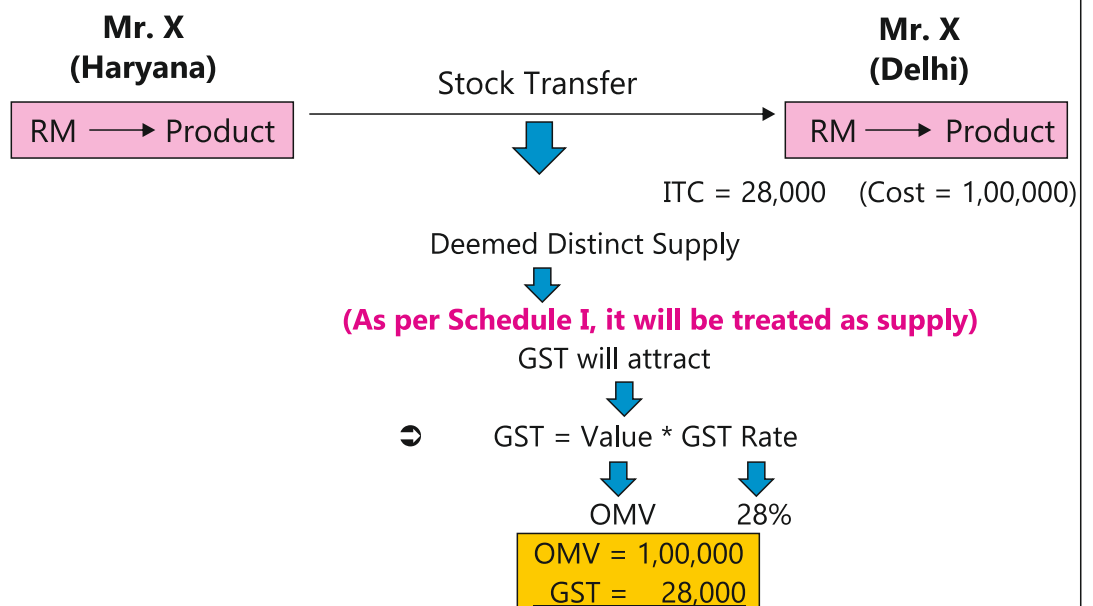
- (a) Be the **Open Market Value** of such supply;
- (b) If the open market value is not available, be the value of supply of goods or services of **Like Kind and Quality**;
- (c) If the value is not determinable under clause (a) or (b), be the value as determined by the **application of**
 - **Rule 30 or**
 - **Rule 31, in that order:**

Example- 1

(Pre-GST)



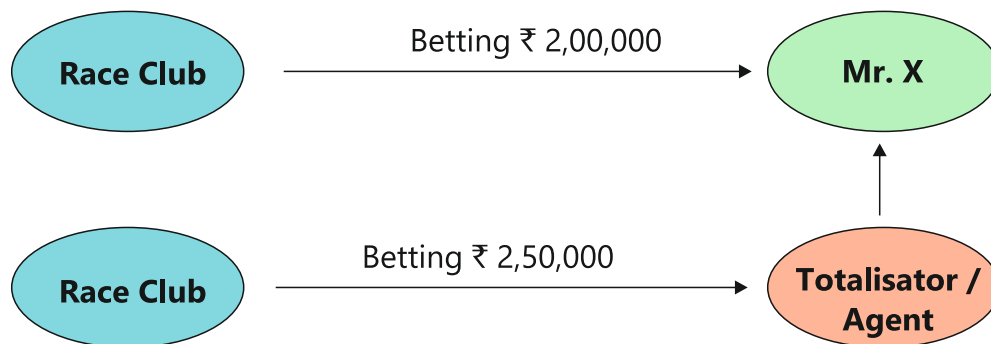
(Post-GST)



Particulars	Example - 1	Example - 2	Example - 3
Supplier?	TEVA API (MP) (Manufacturer)	TEVA API (MP) (Manufacturer)	TEVA API (MP) (Manufacturer)
Recipient?	TEVA API (UP) (Trader)	TEVA API (UP) (Manufacturer)	TEVA API (UP) (Manufacturer)
Goods or Service?	Goods	Goods	Goods
ABC Test: -			
A = Activity	Stock T/f of Medicine Powder	Stock T/f of Medicine Powder	Stock T/f of Medicine Powder
B = Business	Yes	Yes	Yes
C = Consideration	Nil (Free of cost)	Nil (Free of cost)	Nil (Free of cost)
Supply?	Yes (As per Schedule I-Stock T/F between Deemed Distinct Person =Supply)	Yes (As per Schedule I-Stock T/F between Deemed Distinct Person =Supply)	Yes (As per Schedule I-Stock T/F between Deemed Distinct Person =Supply)
Inter State or Intra State?	Inter State Supply (Origin = MP) (Destination = UP)	Inter State Supply (Origin = MP) (Destination = UP)	Inter State Supply (Origin = MP) (Destination = UP)
Taxable Person? Exemption?	TEVA API (MP) No	TEVA API (MP) No	TEVA API (MP) No : (Only Life saving medicines are exempt)
Status Of GST	YES	YES	YES
Valuation?	Value as per Rule 28 (Declared Value)	Value as per Rule 28 (Declared Value)	Value as per Rule 28- Rank-1 = NO Rank-2 = 90% of P2 Rank-3 = OMV of Such powder / Similar / 110% of Cost / Best Judgement

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

- the **value of supply** of **services** by a supplier to a recipient who is a related person,
- by way of **providing corporate guarantee** to any banking company or financial institution on behalf of the said recipient,
- shall be deemed to be **1% of the amount** of such guarantee offered, or the actual consideration, whichever is higher.



Particulars	Case-1	Case-2
Supplier?	Race Club	Race Club
Recipient?	Mr. X	Totalisator
Goods or Service?	Goods	Goods
ABC Test: -		
A = Activity	Betting	Betting
B = Business	Yes	Yes
C = Consideration	Money (2,00,000)	Money (2,50,000)
Supply?	Yes	Yes
Taxable Person?	Race Club	Race Club
Exemption?	No	No
Status Of GST	YES	YES
Valuation?	AV = 2,00,000 [Betting amount shall not be treated as Inclusive of GST, i.e. Exclusive of GST]	AV = 2,50,000 [Betting amount shall not be treated as Inclusive of GST, i.e. Exclusive of GST]
Computation of GST?	AV * Rate of GST = 2,00,000*28% = 56,000	AV * Rate of GST = 2,50,000*28% = 70,000

Rule 31B: Value of supply in case of online gaming including online money gaming

Notwithstanding anything contained in this chapter,

- the value of supply of **online gaming, including supply of actionable claims** involved in online money gaming,
- shall be the **total amount paid or payable to or deposited with the supplier** by way of money or money's worth, including virtual digital assets, by or on behalf of the player:

Provided that

- any **amount returned or refunded** by the supplier to the player for any reasons whatsoever,
- including player not using the amount paid or deposited with the supplier for participating in any event,
- shall not be deductible from the value of supply** of online money gaming.

<p>Rule 31C: Value of supply of actionable claims in case of casino</p>	<p>Notwithstanding anything contained in this chapter,</p> <ul style="list-style-type: none"> ➤ the value of supply of actionable claims in casino ➤ shall be the total amount paid or payable by or on behalf of the player for – <p>(i) Purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or</p> <p>(ii) Participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required:</p> <p>Provided that</p> <ul style="list-style-type: none"> ➤ Any amount returned or refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, ➤ shall not be deductible from the value of the supply of actionable claims in casino. 				
<p>Rule 31B and Rule 31C</p>	<p>Explanation.- For the purpose of Rule 31B and Rule 31C,</p> <ul style="list-style-type: none"> ➤ Any amount received by the player by winning any event, including game, scheme, ➤ competition or any other activity or process, ➤ which is used for playing by the said player in a further event without withdrawing, ➤ shall not be considered as the amount paid to or deposited with the supplier by or on behalf of the said player.” 				
<p>Rule 32: Determination of value in respect of certain supplies</p>	<p>(1) The value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.</p> <p>(2) The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:-</p> <p>(a)</p> <table border="1" data-bbox="430 1549 1477 2031"> <tr> <td data-bbox="430 1549 755 1779"> <p>For a currency, when exchanged from, or to, Indian Rupees, (INR)</p> </td> <td data-bbox="755 1549 1477 1779"> <p>The value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency.</p> </td> </tr> <tr> <td data-bbox="430 1779 755 2031"> <p>Provided that in case where the Reserve Bank of India Reference Rate for a currency is not available,</p> </td> <td data-bbox="755 1779 1477 2031"> <p>The value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money:</p> </td> </tr> </table>	<p>For a currency, when exchanged from, or to, Indian Rupees, (INR)</p>	<p>The value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency.</p>	<p>Provided that in case where the Reserve Bank of India Reference Rate for a currency is not available,</p>	<p>The value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money:</p>
<p>For a currency, when exchanged from, or to, Indian Rupees, (INR)</p>	<p>The value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency.</p>				
<p>Provided that in case where the Reserve Bank of India Reference Rate for a currency is not available,</p>	<p>The value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money:</p>				

Rule 35: Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely,—

Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)

NOTIFICATION NO. 49/2023 – Central Tax

As per section 15(5) of CGST Act 2017, the Government, notifies the following supplies under the said sub-section, namely:—

- (i) Supply of online money gaming;
- (ii) Supply of online gaming, other than online money gaming; and
- (iii) Supply of actionable claims in casinos.

Clarifications

Circular No. 115/34/2019: Clarification on issue of GST on Airport levies

(1) PSF (Passenger Service Fee) and UDF (User Development Fee) being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus, airline is not responsible for payment of GST on UDF or PSF. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc) which is liable to pay GST on UDF and PSF.

(2) The airport operators shall pay GST

- **On the PSF and UDF**
- **collected by them from the passengers through the airlines.**
- **Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.**

(3) The collection charges paid by airport operator (AAI, DIAL, MIAL etc) to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DIAL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator

Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisation receiving donation or gifts from individual donors

Issue: Whether GST is applicable on donations or gifts received from individual donors by charitable organisation involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor.

Clarification: Some examples of cases where there would be no taxable supply are as follows:-

(a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.

(b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus where all the three conditions are satisfied namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement, GST is not leviable.

Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST

Personal guarantee by the Director of a company to the bank/ financial institutions

Q.1 Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not.

Ans. As per to section 15 -Explanation (a) of CGST Act, the director and the company are to be treated as related persons.

As per Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply **even if made without consideration**. Accordingly, the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies is **to be treated as a supply of service**, even when made without consideration.

In terms of Rule 28 of CGST Rules, the taxable value of such supply of service **shall be the open market value of such supply**.

As such, when no consideration can be paid for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/ transaction having any open market value.

Accordingly, the open market value of the said transaction/ supply may be treated as zero and therefore, taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.

There may, however, be cases where the director, who had provided the guarantee, is no longer

connected with the management but continuance of his guarantee is considered essential because the new management's guarantee is either not available or is found inadequate, or there may be other exceptional cases where the promoters, existing directors, other managerial personnel, and shareholders of borrowing concerns are paid remuneration/ consideration in any manner, directly or indirectly.

In all these cases, the taxable value of such supply of service shall be the remuneration/ consideration provided to such a person/ guarantor by the company, directly or indirectly.

corporate guarantee by a person on behalf of another related person, or by the holding company

Q 2 Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.

Ans. Where the corporate guarantee is provided by a company to the bank/financial institutions for providing credit facilities to the other company, where both the companies are related, the activity is to be treated as a supply of service between related parties as per provisions of Schedule I of CGST Act, even when made without any consideration.

Similarly, where the corporate guarantee is provided by a holding company, for its subsidiary company, those two entities also fall under the category of 'related persons'. Hence the activity of providing corporate guarantee by a holding company to the bank/financial institutions for securing credit facilities for its subsidiary company, even when made without any consideration, is also to be treated as a supply of service by holding company to the subsidiary company, being a related person, as per provisions of Schedule I of CGST Act.

In respect of such supply of services by a person to another related person or by a holding company to a subsidiary company, in form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value will be determined as per rule 28 of CGST Rules.

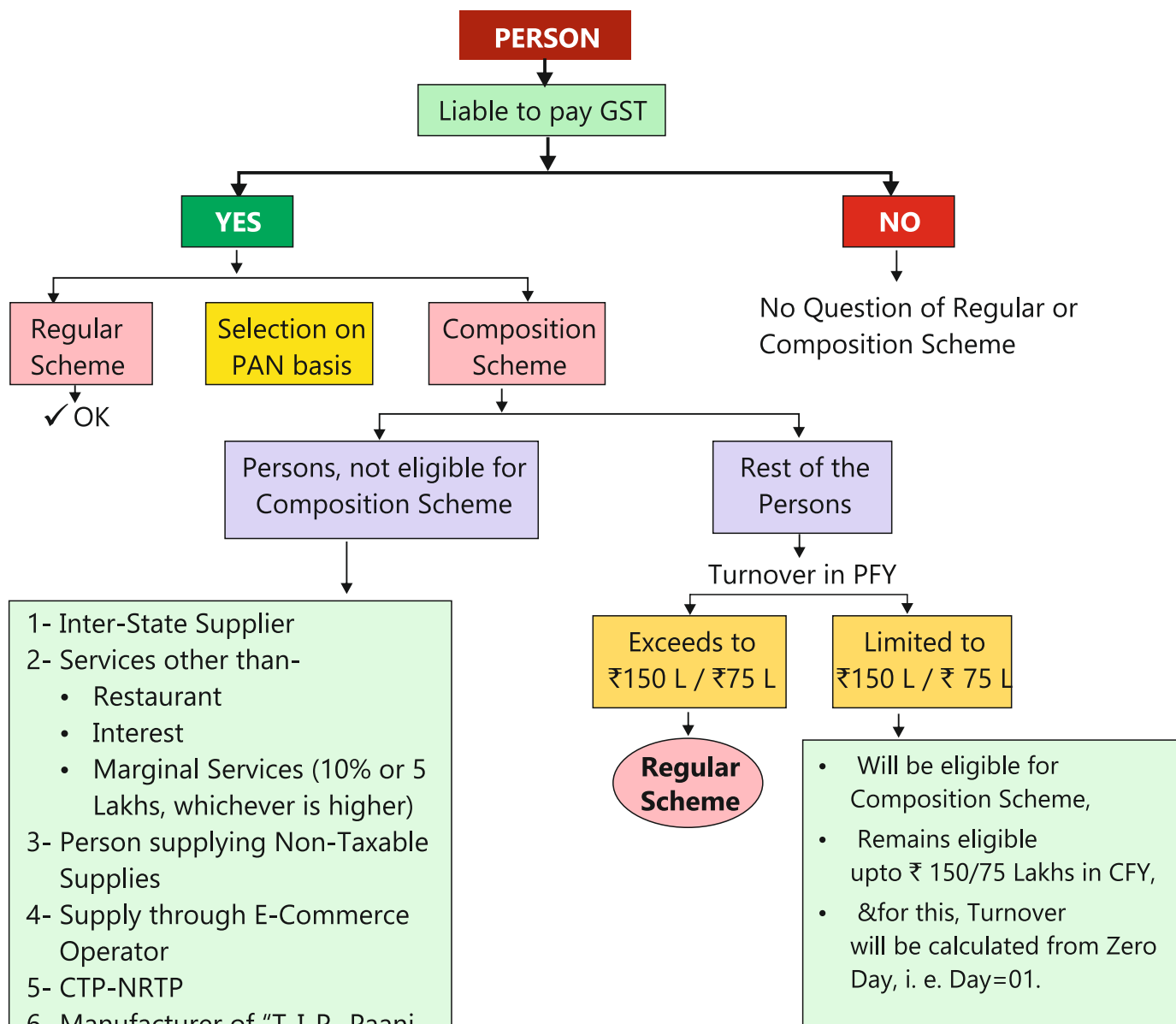
Considering different practices being followed by the field formations and taxpayers in determining such taxable value, in order to provide uniformity in practices and ease of implementation, sub-rule (2) has been inserted in rule 28 of CGST Rules vide Notification No. 52/2023 dated 26.10.2023, for determining the taxable value of such supply of services between related persons in respect of providing corporate guarantee.

Accordingly, consequent to insertion of the said sub-rule in rule 28 of CGST Rules, in all such cases of supply of services by a related person to another person, or by a holding company to a subsidiary company, in the form of providing corporate guarantee on their behalf to a bank/ financial institution,

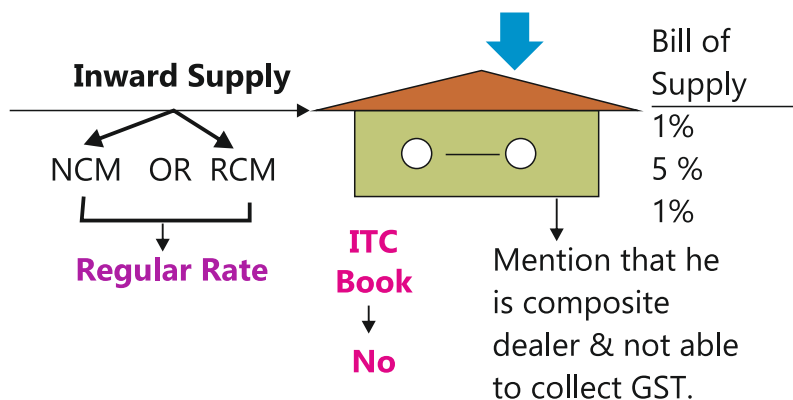
The taxable value of such supply of services, will henceforth be determined as per the provisions of Rule 28(2) of CGST Rules, irrespective of whether full ITC is available to the recipient of services or not.

It is clarified that the Rule 28(2) shall not apply in respect of the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies and the same shall be valued in the manner provided in S. No. (1) above.

Composition Scheme



Regular Scheme



- Payment: Quarterly by 18 th
- Statement: CMP 08 (Quarterly) by 18 th
- Return: GSTR 04 (Annually) by 30 th April of Next FY
- Books of Accounts: Lesser record maintenance.

Existing Registered Person: -

PFY	CFY			
Turnover in this period was limited to 150Lakhs	The person is eligible for Composition Scheme-			
	Turnover "NIL"	Turnover "10L/20L/40L"	Turnover 150L+	Turnover 200L (Year end)
	Composition Scheme = Yes		Regular Scheme = Yes	
	GST = Yes Amount = 150L*1% = 1.5Lakhs i.e Composite Rate without ITC		GST = Yes Amount = 50L*18% = 9Lakhs i.e. Regular Rate with ITC	

Other conditions of eligibility of Composition scheme

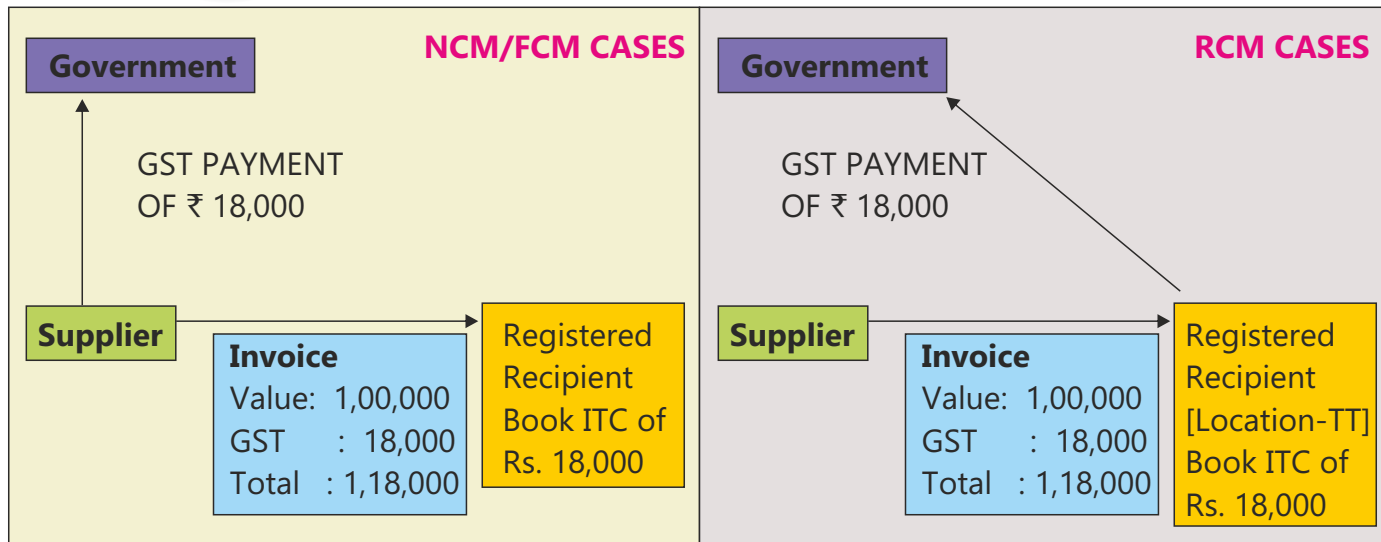
For Goods Focused Composition Scheme; Section 10 (1) (2)

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 or fly ash aggregate
Fly ash blocks
Bricks of Fossil meals or similar siliceous earths
Building bricks
Earthen or roofing tiles
NOTE: Moreover if any supplier engaged in making supply of above goods then he will not be eligible for Registration limit of 40 lakhs.

Ch 7 REVERSE CHARGE MECHANISM



BASIS	NCM/FCM	RCM
Net Revenue To Supplier	[1,18,000 – 18,000 GST] = 1,00,000	1,00,000
Cost To Receptient	[1,18,000 – 18,000 ITC] =1,00,000	[1,00,000 + GST 18,000 – 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.

What is Reverse Charge:

As per Section 2 "Reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9 (3), (4) or under section 5 (3), (4) of the Integrated Goods and Services Tax Act.

Notification No. 4/2017: Specified Goods under Reverse Charge

In exercise of the powers conferred by [section 9\(3\)](#) of the [Central Goods and Services Tax Act, 2017](#), the Central Government, hereby **specifies the supply of goods, in respect of which the central tax shall be paid on reverse charge basis by the recipient** of the intra-state supply of such goods as specified in and all the provisions of the said Act shall apply to such recipient, namely:—

SN	Description of supply of Goods	Supplier of goods	Recipient of supply
1.	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	Bidi wrapper leaves (Tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
4.	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A	Raw Cotton	Agriculturist	Any registered person
5.	Supply of lottery.	State Government, Union Territory or any local authority	Lottery distributor or selling agent.
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, Excluding Indian Railway State Government, Union territory or a local authority	Any registered person
7	Priority Sector Lending Certificate	Any registered person	Any registered person

Sale by government departments to unregistered person:

Issue: Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?



Clarification: It was noted that such supply to an unregistered person is also a taxable supply under GST but is not covered under RCM provisions.


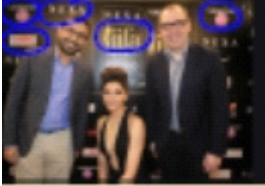

In this regard, it is clarified that the respective Government departments (i.e. Central Government, State Government, Union territory or a local authority)

- shall be liable to get registered and
- pay GST on intra-State and inter-State supply
- of used vehicles, seized and confiscated goods, old and used goods, waste and scrap
- made by them to an unregistered person

subject to the provisions of [sections 22](#) and [24](#) of the [CGST Act](#)




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>GST Rate 5% and no ITC to supplier [RCM or NCM as the case may be]</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 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 (b) Any society registered under the Societies Registration Act, 1860. (c) Any co-operative society established by or under any law; or (d) GSTIN holder (e) Anybody - corporate established, by or under any law; or (f) Any partnership firm whether registered or not under any law including association of persons; or (g) Any casual taxable person; located in the taxable territory.</p>
2	<p>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</p>  <p>Explanation: "Legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p>	<p>Any Business Entity located in the taxable territory.</p>

3	<p>Services supplied by an Arbitral Tribunal to a business entity.</p> 	<p>An arbitral tribunal.</p>	<p>Any Business Entity located in the taxable territory.</p>
4	<p>Services provided by way of sponsorship TO Any body-corporate or partnership firm.</p> 	<p>Any person</p>	<p>Any-body-corporate or partnership firm located in the taxable territory.</p> 
5	<p>Services supplied by the Central Government, State Government, Union territory or local authority TO a business entity excluding,—</p> <p>(1) Renting of immovable property, and</p> <p>(2) Services specified below—</p> <p>(I) Services by the Department of Posts and the Ministry of Railways (Indian Railways)</p> <p>(ii) Services in relation to an aircraft or a Vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) Transport of goods or passengers.</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any Business Entity located in the taxable territory.</p>
5A	<p>Services supplied by the Central Government, “[<u>excluding the Ministry of Railways (Indian Railways)</u>]” State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any person registered under the Central Goods and Services Tax Act, 2017.</p>
5AA	<p>Service by way of renting of residential dwelling</p>	<p>Any person</p>	<p>GSTIN Holder</p>

3. The lender temporarily lends the securities held by him to a borrower and charges lending fee for the same from the borrower. The borrower of securities can further sell or buy these securities and is required to return the lended securities after stipulated period of time. The lending fee charged from the borrowers of securities has the character of consideration and this activity is taxable.
4. Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately.
5. With effect from 1st October, 2019, the borrower of securities shall be liable to discharge GST under reverse charge mechanism (RCM). The nature of GST to be paid shall be IGST under RCM.

As per IGST LAW in addition to above following shall also be covered under: N/N: 10/2017 - Integrated Tax

S N	Category of Supply of Services	Supplier of service	Recipient of Service
1	<p>Import of services Any service supplied by any person who is located in a non-taxable territory to any person (other than non-taxable online recipient)</p>	<p>Any person located in a non-taxable territory</p> 	<p>Any person located in the taxable territory other than non-taxable online recipient</p> 
2	<p>Ocean Freight Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.</p> 	<p>A person located in non-taxable territory</p>	<p>Importer, located in the taxable territory. {Now discuss Mohit Minerals Case}</p>

Explanation: For purpose of this notification,—

- **The person who pays or is liable to pay freight** for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 **shall also be considered as a partnership firm or a firm.**
- Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament, State Legislatures, **Courts and Tribunals.**

DIRECTOR



S

Director

Administration

R

**Company /
Body Corporate**

W.T. D/M.D/Executive Director = Employee

PTD/Independent = Not an Employee

SERVICE

SUPPLY

MD/WTD = Employee - OUT from GST

Part time Director

Of Government Body = OUT from GST

Of Non Government Body = Continue to be taxed under GST

Now we will talk about PTD of Non Government Body

ORIGIN : Section : 2

:Destination : 12(2) Recipient ie Company Head Office Location

TAXABLE PERSON : Company. ie Director need not required
Registration [Section 23 (2)]

NO EXEMPTION

COMPUTATION : Director fee (Including Re-Imbursement)
GST Rate (18%) ie Company liable
to Pay GST (however ITC to Company will be available)

Always RCM

TIME OF SUPPLY: Payment Date
Or
61st day from invoice

E

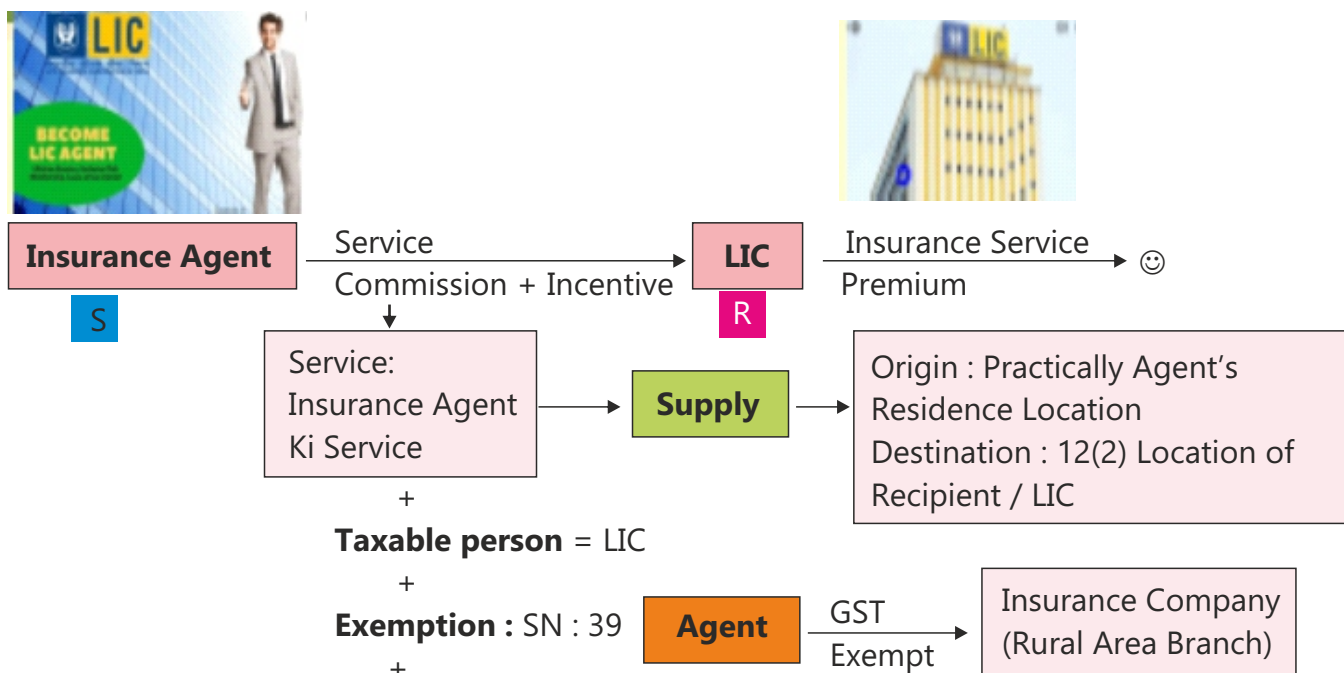
PROCEDURAL PART : to be done by the Company

Circular No. 201/13/2023: Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism:

It is hereby clarified that

- services supplied by a director of a company or body corporate
- to the company or body corporate in his private or personal capacity
- such as services supplied by way of renting of immovable property to the company or body corporate
- are not taxable under RCM.
- Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM.

INSURANCE AGENT



Computation:

Value	100000	
GST	18000	→ GST Department
TDS	(5000)	→ Central Government (Income Tax Depatt.)
Net Payment	<u>95000</u>	→ To Agent

NCM/RCM : Always RCM

Time of Supply + Payment date or 61st Day from invoice > **E**

Procedural Part : to be done by Insurance Company

Tax INVOICE/Bill of supply/Receipt Voucher: For supply of goods or services

Back Ground:	Section: 31 to 34 of CGST ACT, 2017 AND CGST RULES, 2017 [Rule 46 to 55]
Section 31	Who, when, how to issue invoice/ bill of supply, Revised Invoice etc
Section 32	Only a registered person can issue Invoice or collect GST
Section 33	GST will be recovered only as per law. Show off GST as Charged on tax invoice and on other documents
Section 34	Debit note and credit note

Section 31: who, when and how to issue invoice

Who is required to issue Invoice /Bill off supply.

Tax invoice:

Tax invoice is required to be issued by the following persons:

- A Registered supplier paying tax under regular scheme shall issue TAX INVOICE.
- **A Registered Receptient (RCM):** Recipient liable to pay GST under reverse charge need to issue an invoice.

Bill of supply:

- A Registered supplier making EXEMPTED supplies shall issue a BILL OF SUPPLY
- A Registered taxable Person Paying Tax under COMPOSITION SCHEME shall issue a BILL OF SUPPLY.

Note: Small value invoice /Bill of supply:

- Where supply is made to an unregistered person [B TO C]
- having value below ₹ 200
- and Receptient is not willing to take INVOICE.

Then the supplier need not to mandatorily to issue Invoice or Bill of supply, However supplier needs to issue a consolidated invoice /bill of supply at the end of the day and will keep that document himself.

Receipt Voucher: A registered Supplier shall,

- On receipt of advance payment with respect to any supply,
- issue a receipt voucher evidencing receipt of such payment.

ERP based Bill: No need of signature in case of computer generated documents.

Definitions

Continuous Supply of Goods [Section 2]	<p>Means</p> <ul style="list-style-type: none"> • a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, • under a contract, (whether or not by means of a wire, cable, pipeline or other conduit,) and • for which the supplier invoices the recipient on a regular or periodic basis and • Includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify.
Continuous Supply of Services [Section 2]	<p>Means</p> <ul style="list-style-type: none"> • a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, • under a contract, for a period exceeding 3 months • with periodic payment obligations and • includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify

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

Why E –Invoicing

- An invoice is very important document in the world of GST.
- On the basis of Invoice, output liability of a taxpayer / supplier is determined and ITC can be taken by the Receptient only on the basis of Invoice.
- Generally, A supplier will always try to evade Output GST and the recipient always try to take fake ITC on the basis of Invoice.
- So Government wants immediate information so that no scope of manipulation remains till filing of return.
- To overcome with such kinds of issues Government introduce various concept like Aadhaar linkage, 1% payment from E-cash Ledger , E – way bill etc. [But E-way has its own limitations like it is not applicable on services, Goods having value upto Rs. 50,000]
- So now finally Government introduced the concept of E- Invoicing. It provides real time information (At the time of issue of invoice) to Government, so that no scope of manipulation at later stage.
- ONE MORE THING E- INVOICE IS THE REPLACEMENT OF NORMAL INVOICE , DR/CR NOTES AND NOT OF BILL OF SUPPLY.

The invoice shall be prepared by such class of registered persons

- whose aggregate turnover in a financial year exceeds **Rs.5 Crore 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 GST 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.

Notification @ E Invoicing :- Hereby notifies registered person,

- ➔ Whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds **Rs.5 Crore 10 Crore**, as a class of registered person
 - who shall prepare invoice and other prescribed documents, in terms of [Rule 48\(4\)](#)
 - in respect of supply of goods or services or both
 - to a registered person [B to B supplies] or
 - for exports.

other than a **Special Economic Zone unit** and the followings

Insurance company, Banking company/NBFC/Financial Institution
Goods transport agency
Passenger Transporter
Cinema halls
OIDAR supplier
A government department, a local authority

Q. 1 Whether the exemption from mandatory generation of e-invoices is available for the entity as whole, or whether the same is available only in respect of certain supplies made by the said entity?

Ans. Certain entities/sectors have been exempted from mandatory generation of e-invoices

It is hereby clarified that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity. **Circular No. 186/18/2022**

Illustration: A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it

Q.2 Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued invoices in the manner prescribed under [rule 48 \(4\)](#) of the [CGST Rules, 2017](#) (i.e. in cases of e-invoice).

Ans. It is clarified that there is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under [Rule 48\(4\)](#) of the [CGST Rules](#) and production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.

Q.3 Whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/Government agencies/ local authorities/ PSUs which are registered solely as TDS Deductor?

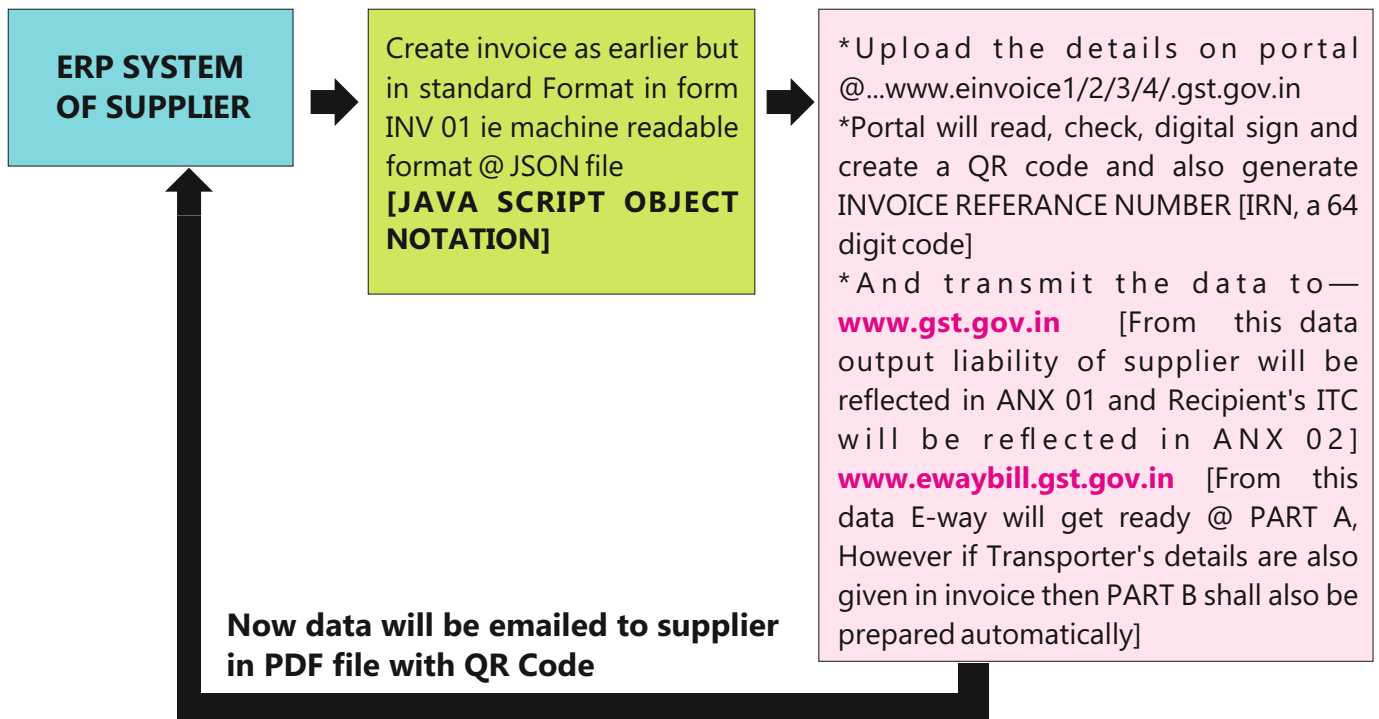
Ans. Registration of TDS Deductor is fall under section 24 of CGST Act, 2017 as Mandatory Registration. Therefore supplies to such persons will be called as B to B supplies.

Accordingly, the registered person, whose turnover exceeds the threshold for generation of e-invoicing, is **required to issue e-invoices** for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc.

Benefits of E- Invoice:

1. Curb tax evasion through check on fake ITC and Invoices
2. Automated Updation of GSTR 1/2A/2B and E way Bill.
3. Ease of compliance.
4. Enhance efficiency of tax administration.
5. Paperless work
6. Etc.

How the concept of E- Invoice will work



- After that PDF file / QR code will be given to transporter
- Officer will check it on the way with QR Code scanner (Specific Govt app available on e-invoice website)
- Such QR Code contains the details of supplier, Receptient, supply detail, IRN, Digital sign etc.

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,—

- (a) Name, address and GSTIN of the supplier;
- (b) A consecutive serial number and unique for a financial year;
- (c) Date of its issue;
- (d) Name, address and GSTIN or UIN of Recipient in case of B to B Transaction.
- (e) If such recipient is un-registered and where the value of the taxable supply is Rs. 50,000 or more then Name and address of the recipient and the address of delivery, along with the name of the State and its code.
- (f) If such recipient is un-registered and where the value of the taxable supply is less than Rs. 50,000 and the recipient requests that such details be recorded in the tax invoice then Name and address of the recipient and the address of delivery, along with the name of the State and its code,

Provided that “in cases involving supply of online money gaming or in cases”

Where any taxable service is supplied

- by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services
- to a recipient who is un-registered, irrespective of the value of such supply,
- a tax invoice issued by the registered person shall contain the **name of the state of the recipient and the same** name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient.

- (g) HSN code for goods or services;
- (h) Description of goods or services;
- (i) Quantity in case of goods and unit or Unique Quantity Code thereof;
- (j) Total value of supply of goods or services or both;
- (k) Taxable value of the supply of goods or services or both taking into account discount or abatement, if any;
- (l) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

Ch

9

TIME OF SUPPLY

List of Sections

Section 12:	Time of supply- in case of Goods
Section 13:	Time of supply- in case of Services
Section 14:	Time of supply in case of change in rate of GST

BACKGROUND

GST is payable on supply of goods or services.

- A supply consists of elements that can be separated in time, like purchase order / agreement, dispatch (of goods), delivery (of goods) or provision or performance of service, entry in the records, payment, and entry of the payment in the records or deposit in the bank.
- So, at which of these points of time does GST become payable?
- Does it become payable when an agreement to supply goods or services is made, or when the goods are shipped or the services are provided, or when the invoice is issued or when payment is made?
- What if the goods are shipped over a period of time?
- What if the service is provided over a period of time?
- Provisions relating to 'time of supply' provide answer to all such and other questions that arise on the timing of the liability to pay CGST and SGST/UTGST (intra-State supply) and IGST (inter-State supply) as time of supply fixes the point in time when the liability to pay tax arises. The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13.

Meaning of “Date of Payment” for supplier: Date of bookish entry by supplier or Date of Actual credit in supplier's bank, whichever is earlier.

Meaning of “Date of Payment” for Recipient: Date of bookish entry by Recipient or Date of Actual debit in recipient's bank, whichever is earlier.

Legal Text

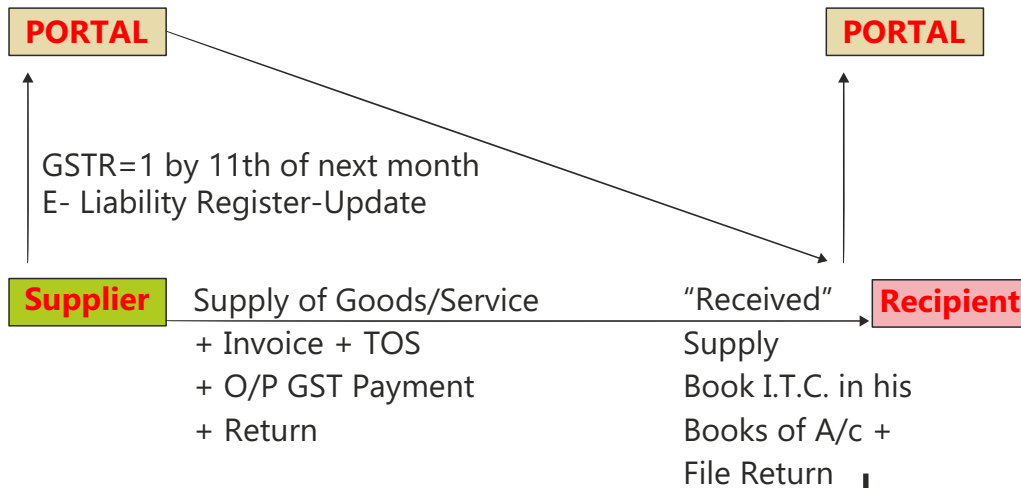
Section: 12 Time of supply of GOODS

(1) The **liability to pay tax on goods shall arise at the time of supply**, as determined in accordance with the provisions of this section.

<p>General Provision</p>	<p>(2) The time of supply of goods shall be:—</p> <p>Invoice : (a) The date of issue of invoice by the supplier or the last date on which he is required, under section 31, to issue the invoice with respect to the supply; or</p> <p>PAYMENT: (b) The date on which the supplier receives the payment (the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier) with respect to the supply.</p> <p style="text-align: right;">[WHICHEVER IS EARLIER]</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Notification No. 66/2017: TIME OF SUPPLY ON INVOICE BASIS ignoring advance payments--</p> <ul style="list-style-type: none"> The registered person who did not opt for the composition levy under section 10 other than the registered person making supply of specified actionable claims as defined in section 2(102A) of the said Act, "as the class of persons shall pay the central tax on the outward supply of GOODS at the time of supply as specified in section 12(2)(a) of the said Act including in the situations attracting the provisions of section 14 of the said Act. </div> <p>Relaxation: Where the supplier of taxable goods receives an amount up to ₹ 1,000 in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.</p> <p>Explanation 1.—For the purposes of clauses (a) and (b), "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.</p>
<p>In case of Reverse Charge</p>	<p>(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be:</p> <p>RECEIPTS OF GOODS (a) The date of the receipt of goods; or</p> <p>PAYMENT (b) The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or</p> <p>INVOICE+ 30 DAYS (c) The date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:</p> <p style="text-align: right;">[WHICHEVER IS EARLIEST]</p> <p>Note: Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of ENTRY in the books of account of the Recipient of supply.</p>

Ch 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-3B on time.
4	Supplier Need to file – Valid GSTR -3B on time. Rule 37 A: Where input tax credit has been availed by a registered person <ul style="list-style-type: none"> - in the return in FORM GSTR-3B for a tax period in respect of such invoice or debit note, - the details of which have been furnished by the supplier in GSTR:1/IFF - but the return in FORM GSTR-3B for the tax period corresponding to the said statement of outward supplies has not been furnished

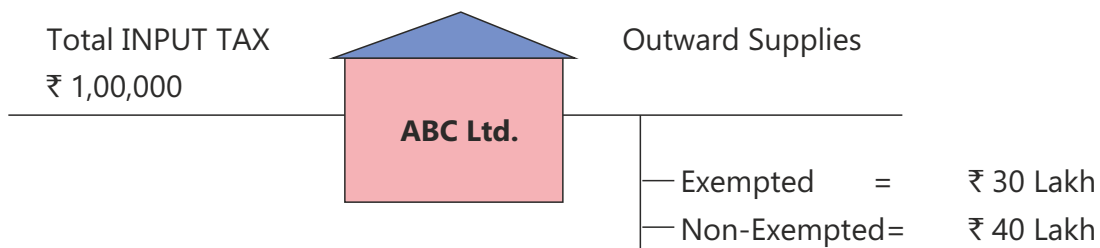
	<ul style="list-style-type: none"> - by such supplier till the 30th day of September following the end of financial year in which the input tax credit in respect of such invoice or debit note has been availed, - the said amount of input tax credit shall be reversed by the said registered person, in FORM GSTR-3B on or before the 30th day of November following the end of such financial year: <p>Provided that</p> <ul style="list-style-type: none"> - Where the said amount of input tax credit is not reversed by the registered person in a return in FORM GSTR-3B - on or before the 30th day of November following the end of such financial year during which such input tax credit has been availed, - such amount shall be payable by the said person along with interest thereon under section 50. <p>Provided further that</p> <ul style="list-style-type: none"> - Where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, <p>the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.</p>
5	<p>Bill Payment by "Recipient to supplier: should be made within 180 Days from invoice date. (For NCM supplies only)</p> <p>* 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 shall be paid by him added to output tax liability 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 ie payment made by him to the supplier (i.e. proportionately)</p> <p>*WHAT About 'FOC' supplies: (RBI Ki Agency) then the bill Amount shall be deemed to have been paid.</p> <p>*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	<p>INWARD Supply: USE / intended to be used for Business or Furtherance of business.</p>

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	
7. supply of Goods Lying in warehouse.	

Question Based on Section : 17 (1) + (2) + (3) + (4)

Note: In case of mix use first of all book whole common credit ie common credit will be transferred to E-credit ledger and after that Reverse to the extent of ineligible credit.

Q.1



Which Includes:- (**Note:** All above values are Exclusive of All TAXES.)

- * Non-Eligible Input Tax [u/s 17(5)] = ₹ 6000/- [not allowed]
- * Exclusive use in Exempted supplies ₹ 9000/- [not allowed]
- * Exclusive use in Non-Business purpose ₹ 5000/- [not allowed]
- * Exclusive use in Non-Exempted & Business purpose = ₹ 10,000/- [fully allowed]
- * Balance inward supplies (Input Tax) – used on MIX/Common Use.

i.e. Use in Exempted & Non-Exempted, Business & Non-Business Purpose = ₹ 70,000/-
 [Deemed itc related to non-business purpose = 70,000 * 5% = 3500 and itc related to exempted purpose : 70,000 * 30/70 = 30,000 ie total ineligible itc out of 70,000 = ₹ 33,500 so it shall be reversed.

Now take annualized figure: [ASSUMING that above data repeat for all the 12 months]

Total common credit 70,000 * 12 = 8,40,000

Ineligible credit to be reversed: 33500 * 12 = 4,02,000

Section: 17 Apportionment of credit and blocked credits

<p>Common usage of goods / services: Business and Non business purpose: ITC Restricted</p>	<p>(1) Where the goods or services or both are used by the registered person</p> <ul style="list-style-type: none"> ▪ partly for the purpose of any business and partly for other purposes, ▪ the amount of credit shall be restricted to so much of the input tax ▪ as is attributable to the purposes of his business.
<p>Common usage of goods/services: taxable (Inc. Zero rated) and exempted supplies: ITC Restricted</p>	<p>(2) Where the goods or services or both are used by the registered person</p> <ul style="list-style-type: none"> ➤ partly for effecting Non exempted supplies and partly for effecting exempt supplies under the said Acts, ➤ the amount of credit shall be restricted to so much of the input tax ➤ as is attributable to the said taxable supplies including zero-rated supplies. <p>(3) Value of Exempt supplies: The value of exempt supply shall be such as may be prescribed, and shall include supplies</p> <ul style="list-style-type: none"> ➤ on which the recipient is liable to pay tax on reverse charge basis, ➤ transactions in securities, ➤ sale of land and sale of completed building. <p>Explanation: Value of Exempt supply" shall not include the value of negative listed supplies. But following shall be added..</p> <ul style="list-style-type: none"> ➤ The value of Sale of Land and Completed Building and ➤ The value of Sale of Goods lying in Customs Warehouse. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Valuation: As per Rule 45:</p> <p>(a) The value of land and building: shall be taken as the same as adopted for the purpose of paying stamp duty; and</p> <p>(b) The value of security shall be taken as 1% of the sale value of such security.</p> </div> <p>(4) Additional option to banking or financial including NBFC sector: A banking company or a financial institution including a NBFC,</p> <ul style="list-style-type: none"> ➤ shall have the option to ➤ either comply with the provisions of sub-section (2), OR ➤ Avail of, every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse: and <p>(a) Lock in period will be same FY.</p> <p>(b) Restriction of 50% shall not apply to supply between deemed distinct.</p>

**NO ITC ie
Negative List of
ITC**

(5) Notwithstanding anything contained in section 16(1) and section 18(1), input tax credit shall not be available in respect of the following, namely:-

	ITC NOT Allowed	ITC Allowed
(a) Motor Vehicle max capacity 13 persons	Motor vehicles for transportation of persons having approved seating capacity of maximum 13 persons (including the driver),	However in some situations ITC shall be allowed when they are used for making the following taxable supplies, namely:- (A) further supply of such motor vehicles; or (B) transportation of passengers; or (C) imparting training on driving such motor vehicles;
(aa) Vessel and Aircraft	Vessels and aircraft,	However in some situations ITC shall be allowed when they are used— (i) for making the following taxable supplies, namely:- (A) further supply of such vessels or aircraft; or (B) transportation of passengers; or (C) imparting training on navigating such vessels; or (D) imparting training on flying such aircraft; (ii) for transportation of goods;
(ab)	Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):	However the input tax credit in respect of such services shall be available- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein; (ii) where received by • Manufacturer of such motor vehicles, vessels or aircraft; or

	(d) Building Materiel and construction services	Goods or services or both received by a taxable person for construction of an immovable property on his own account including when such goods or services or both are used in the course or furtherance of business.	Goods or services or both received by a taxable person for plant or machinery. Note: Construction Includes re-construction, renovation, additions or alterations.
	(e) Composition Dealer	Goods or services or both on which tax has been paid under section 10.	
	(f) NR	Goods or services or both received by a non-resident taxable person except on goods imported by him;	
	(fa) CSR Activities	Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility.	
	(g) Personal consumption	Goods or services or both used for personal consumption	
	(h) Goods Lost etc.	Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples	
	(i) Other	Any tax paid in accordance with assessment by officer under fraud cases.	
Supportive provision	<p>(6) "Plant and machinery" means Equipment, and machinery fixed to earth that are used for making outward supply. But following shall not be considered as plant and machinery ie it shall be treated as immovable property.....</p> <p>(i) Land, Building or Any other civil structures; (ii) Telecommunication towers; and (iii) Pipelines laid outside the factory premises.</p>		

	<p>After deducting D1 and D2 remaining Credit will be Eligible (C3)</p>	<p>(k) The remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C₃', where, $C_3 = C_2 - (D_1 + D_2)$. Note: the amount "C3" "D1" and "D2" shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B or through FORM GST DRC-03;</p>
	<p>Reversal of amount equal to D1 and D2</p>	<p>The amount equal to aggregate of 'D₁' and 'D₂' shall be reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03.</p>
	<p>(2) ITC determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September of next FY and-</p>	
	<p>Under Reversal Earlier then difference shall be liable to be reversed up to SEP of next FY with interest from 1st April of next FY till the date of payment</p>	<p>(Where the aggregate of the amounts calculated finally in respect of 'D₁' and 'D₂' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D₁' and 'D₂', such excess shall be reversed by the registered person upto September of next FY and the said person shall be liable to pay interest on the said excess amount at the rate specified section 50 (1) for the period starting from the first day of April of the succeeding financial year till the date of payment; or</p>
	<p>Excess reversal earlier then differential amount shall be claimed as ITC upto SEP of next FY</p>	<p>Where the aggregate of the amounts determined under sub-rule (1) in respect of 'D₁' and 'D₂' exceeds the aggregate of the amounts calculated finally in respect of 'D₁' and 'D₂', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.</p>
<p>Rule 43: Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases</p>	<p>(1) Subject to the provisions of section 16(3), the ITC in respect of capital goods, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,—</p>	

Calculate Monthly Common Credit TM	(e) The amount of ITC attributable to a tax period on common capital goods during their useful life, be denoted as 'T _m ' and calculated as- $T_m = T_c \div 60$ Explanation. - It is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.
Find out exempted related ITC [Te] @ Proportionately	(g) The amount of common credit attributable towards exempted supplies, be denoted as 'T _e ', and calculated as- $T_e = (E \div F) \times T_r$, Where, 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover IN THE STATE of the registered person during the tax period:
Exempted related ITC shall be added to OUTPUT tax liability with interest	(h) The amount T _e along with the applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.
Segregate Te	(i) The amount Te shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B .

Explanation: For the purposes of Rule 42 and this Rule, it is hereby clarified that the **aggregate value of exempt supplies** shall exclude:—

- (a) The value of services by way of accepting deposits, extending loans or advances where the consideration is represented by way of interest or discount,
(However in case of a banking company or a financial institution including a NBFC, engaged in supplying services by way of accepting deposits, extending loans or advances above service shall be called as exempted service); and
- (b) ~~The value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.~~
- (c) **The value of supply of Duty Credit Scrips.**

Explanation :- For the purpose of rule 42 and Rule 43,

- ⇒ the value of activities or transactions mentioned in Schedule III - paragraph 8 - sub-paragraph (a) [**Supply of warehoused goods to any person before clearance for home consumption;**] which is required to be included in the value of exempt supplies under the Explanation to section 17(3) of the Act
- ⇒ shall be the value of supply of goods from **Duty Free Shops at arrival terminal in international airports** to the incoming passengers.

The said provisions of law do not restrict availment of input tax credit by the recipient located in India if the place of supply of the said input service is outside India.

Thus, the recipient of service of transportation of goods shall be eligible to avail input tax credit in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in [section 16 and 17 of the CGST Act](#).

In the above illustration, X would be eligible to take input tax credit of IGST in respect of supply of services received by him from Z, subject to the fulfilment of other conditions laid down in [section 16 and 17 of the CGST Act](#).

Circular No. 195/07/2023: Availability of ITC in respect of warranty replacement of parts and repair services during warranty period.

Q.1 There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services.

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

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

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

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

Q.2 Whether in such cases, the manufacturer is required to reverse the input tax credit in respect of such replacement of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?

Ans. In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period.

Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is not required to reverse the input tax credit in respect of the said replacement parts or on the repair services provided.

Q.3 Whether GST would be payable on replacement of parts and/ or repair services provided by a

distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?

Ans. There may be instances where a distributor of a company provides replacement of parts and/or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor in respect of the said replacement and/or repair services from the customer.

In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/or repair services to the customer.

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

Q.4 In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the input tax credit in respect of such replacement of parts?

Ans:

(a) There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer.

In such a case, GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of [CGST Act. In such case, no reversal of input tax credit by the distributor is required in respect of the same.](#)

(b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty.

In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty.

(c) There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced.

Accordingly, the tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced.

Q.5 Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?

Ans. In such scenario, there is a supply of service by the distributor and the manufacturer is the recipient of such supply of repair services.

Hence, **GST would be payable on such provision of service** by the distributor to the manufacturer and the manufacturer would be entitled to avail the input tax credit of the same, subject to other conditions of [CGST Act](#).

Q.6 Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?

Ans.

- (a) If a customer enters in to **an agreement of extended warranty with the manufacturer at the time of original supply**, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.
- (b) However, in case **where a consumer enters into an agreement of extended warranty** at any time after the original supply, then the same is a separate contract and GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services)

Circular No. 199/11/2023: Clarification regarding taxability of services provided by an office of an organization in one State to the office of that organization in another State, both being distinct persons.

Let us consider a **business entity which has Head Office (HO) located in State-1** and a branch offices (BOs) **located in other States**. The HO procures some input services e.g. security service for the entire organisation from a security agency (third party). HO also provides some other services on their own to branch offices (internally generated services).

The issues that may arise with regard to taxability of supply of services between distinct persons in terms of [section 25\(4\)](#) of the [CGST Act](#) are being clarified as follows...

Q.1 Whether HO can avail the input tax credit (hereinafter referred to as 'ITC') in respect of common input services procured from a third party but attributable to both HO and Bos or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor (hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and Bos or exclusively to one or more Bos?

Ans. It is clarified that in respect of common input services procured by the HO from a third party but attributable to both HO and BOs or exclusively to one or more BOs, HO has an option to distribute ITC

in respect of such common input services by following ISD mechanism laid down in Section 20 of CGST Act read with rule 39 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'). However, as per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. HO can also issue tax invoices under section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act.

In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act.

Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned Bos.

Q.2 In respect of internally generated services, there may be cases where HO is providing certain services to the BOs **for which full input tax credit is available to the concerned BOs**. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under section 31 of CGST Act for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs **when full input tax credit is available to the concerned Bos**.

Ans. The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of CGST Rules, read with sub-section (4) of section 15 of CGST Act. As per clause (a) of rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The **second proviso to rule 28** of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, **if the recipient BO is eligible for full input tax credit**.

Accordingly, in cases **where full input tax credit is available to a BO**, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.

Further, in such **cases where full input tax credit is available to the recipient**, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.

Q.3 In respect of internally generated services provided by the HO to BOs, in cases where **full input**

tax credit is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to Bos.

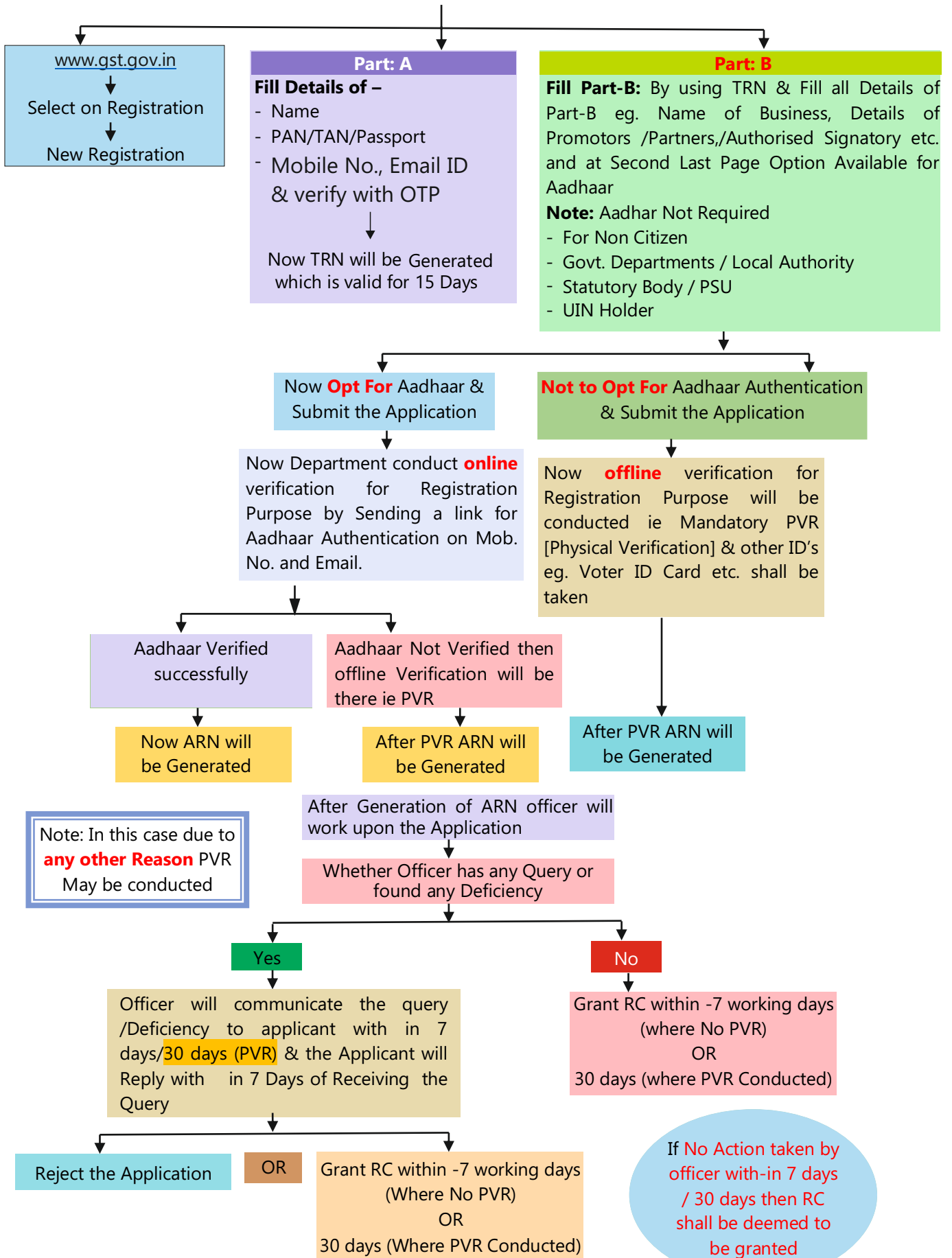
Ans. In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases **where full input tax credit is not available to the concerned BO**

<p>Who is required to take Registration?</p>	<p>Section: 22 Registration is required after Threshold Limit of Rs 10/20/40 Lakhs.</p> <p>Section: 23 No Registration</p> <p>Section: 24 Mandatory Registration</p> <p>[These 3 Sections already covered with the chapter: Taxable Person]</p>				
<p>When to take registration</p>	<p>Generally registration is required to be obtained within 30 days from the date on which he becomes liable to registration.</p> <p>In special cases:</p> <p>Casual Taxable Person and Non Resident:</p> <p>Application for RC: (5 Days in advance) The person shall apply for registration at least 5 DAYS PRIOR to commencement of business in and such person shall make taxable supplies only after issuance of RC.</p> <p>Period of RC: (90 +90 days) RC issued to such persons shall be valid for a period of 90 days +90 days OR as specified in application for reg. from the effective date of registration (whichever is earlier).</p> <p>Advance deposit of Tax: such person MAY deposit advance estimated tax liability for the period specified in application at the time of application for registration on the basis of TRN. However if applied for extension then SHALL deposit advance tax on estimation basis for such extended period. Such amount shall be credited in his E- cash Ledger account.</p>				
	<p>Circular No. 71/45/2018: Clarifications of issues under GST related to casual taxable person</p> <table border="1" data-bbox="396 1637 1487 1912"> <thead> <tr> <th data-bbox="396 1637 808 1694">Issue</th> <th data-bbox="808 1637 1487 1694">Clarification</th> </tr> </thead> <tbody> <tr> <td data-bbox="396 1694 808 1912">Which amount is required to be deposited by CTP either Gross Output GST or Net Output GST?</td> <td data-bbox="808 1694 1487 1912">Net Output GST ie. after considering the due eligible ITC which might be available to such taxable person.</td> </tr> </tbody> </table>	Issue	Clarification	Which amount is required to be deposited by CTP either Gross Output GST or Net Output GST?	Net Output GST ie. after considering the due eligible ITC which might be available to such taxable person.
Issue	Clarification				
Which amount is required to be deposited by CTP either Gross Output GST or Net Output GST?	Net Output GST ie. after considering the due eligible ITC which might be available to such taxable person.				



HOW TO OBTAINED GST REGISTRATION

Registration Process



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

EFFECT OF SUSPENSION

- * Shall not make any taxable Supply (can do Business but can' collect GST.
- * Not to Furnish Return t
- * 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 going On

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

PAY of Final Dues

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

Business is continued by other Person

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.

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 Availed 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
11. TDS Deductor /TCS collector –Now No longer Required to Deduct or collect
12. Non Compliance of Rules 10A (Bank details)

Grounds of Divorce Received By Wife Only

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

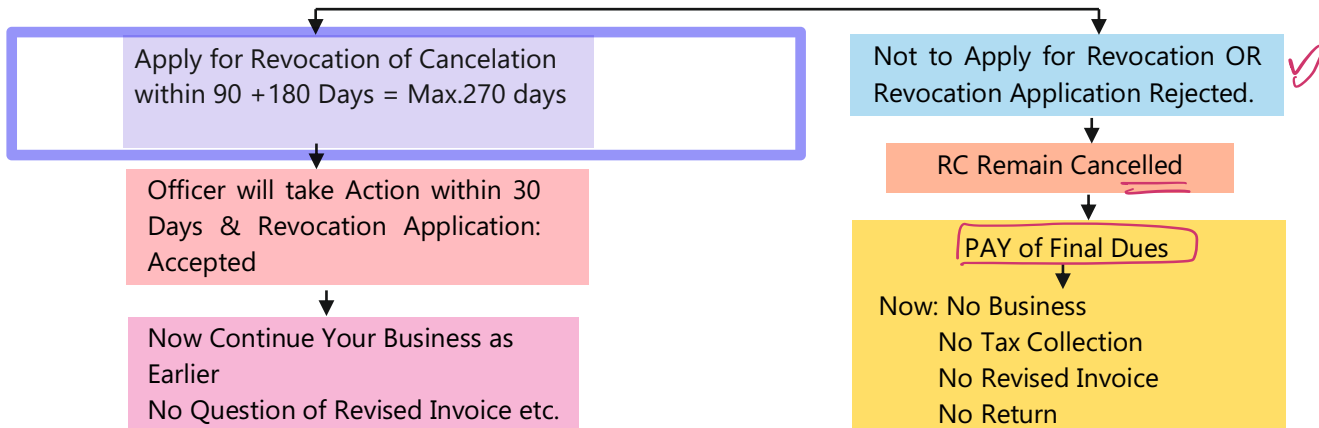
Reply was Satisfactory then officer shall Drop the proceedings & suspension order shall be with down.

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 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

REVOCAION/RESTORATION OF REGISTRATION



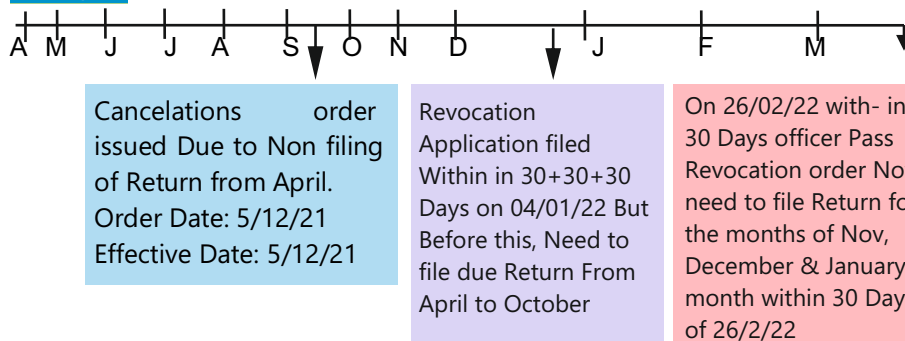
SPECIAL NOTE

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

Example



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

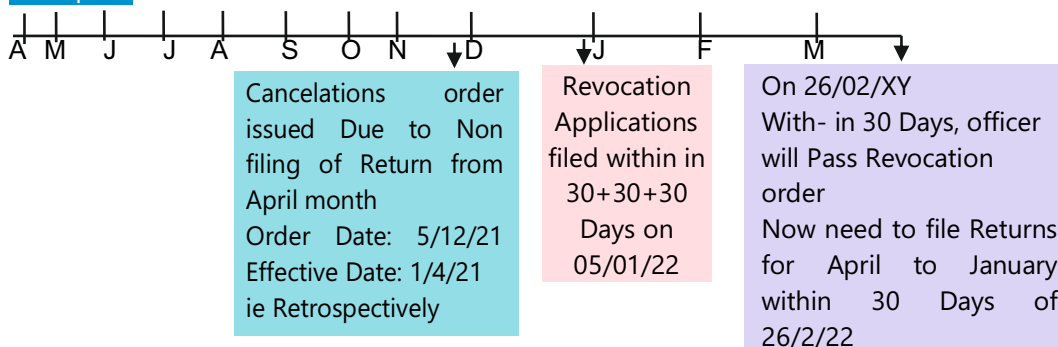
* Output GST on Transaction value u/s 15

[Whichever is Higher] xxx

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



How**Main document for registration:**

- ⇒ PAN (Generally)
- ⇒ TAN (In case of TAX DEDUCTOR/COLLECTOR)
- ⇒ Any other document (In case of NR eg. Self- Attested Copy of Passport)
- ⇒ Now **Aadhaar** mandatory for registration purpose at the time of registration otherwise registration will be granted only after physical verification of place of business.

- ⇒ **Aadhaar required for:**

- Individual;
- authorised signatory of all types;
- Managing and Authorised partner; and;
- Karta of a Hindu undivided family.
- Member of Association of Person.
- Etc.

- ⇒ **Aadhaar not required for:**

- ⇒ Not a citizen of India;
- ⇒ Government Departments/ establishment
- ⇒ A local authority;
- ⇒ A statutory body;
- ⇒ A Public Sector Undertaking;
- ⇒ UIN HOLDER

Registration process:**Part A of Application:**

- (i) Disclose PAN (to whom it is needed).
- (ii) Verification of above : by GST PORTAL, and shall also be verified through separate one-time passwords sent to the mobile number and e-mail address linked to the Permanent Account Number.
- (iii) Generation of Transaction reference number [TRN] by portal which is valid for 15 days.

Part B of Application:

- (i) File registration APPLICATION by using reference no.
- (ii) Acknowledgement [Application reference number i.e. ARN] by portal on mob no. and Email id.
- (iii) Note: Casual taxable person shall be given temporary id number[TRN] for making advance deposit of tax on estimation basis. After payment of advance tax ARN shall be generated and thereafter registration certificate shall be granted.



[(4A) Where an applicant,

- opts for authentication of Aadhaar number,
- he shall, while submitting the application undergo authentication of Aadhaar number and
- the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, **or 15 days from the submission of the application in Part B.**
- **whichever is earlier.**

Provided that, Every application made by a person,

- who has opted for authentication of Aadhaar number and
- is identified on the common portal, based on data analysis and risk parameters,
- shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or
- of such individuals whose are notified in case of company, Firm etc.
- along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01
- and the application shall be deemed to be complete only after completion of the process.

Note: The Central Government, hereby specifies that the above proviso shall **not apply in all** the States and Union territories **except the State of Gujarat** and the State of Puducherry.

(iv) The application forwarded to officer and the officer verifies the application along with **documents. Whether Officer is Satisfied**

YES

Then the officer GRANT registration within 7 [30] working days from the date of submission of application

NO

Then the officer intimate the deficiency within 7 [30] working days from the date of submission of application.

And applicant shall provide clarification or satisfy officer within 7 working days of receipts of information.

After this the officer is _

- Satisfied: ok grant registration within 7 working days.
- Not satisfied: Reject the application.

Deemed Registration: Where Registration is not granted by the Officer with in 7 Days or 30 days as specified above then Registration shall be deemed to be granted.

(v) A Registration certificate shall be issued in firm GST REG -6 mentioning principal place of business and additional places therein as declared in application form.

And the RC will be effective:

- From the date on which applicant liable for registration [if application made within time]
- Otherwise it will be effective from the date of GRANT of Registration.

Structure of RC: State wise PAN based GSTIN-----

§ **First** two digits: State code

§ **Next 10 digit** : PAN

§ **Next digit:** SN of Registration in same state on same PAN

§ **Next digit:** blank for further use

§ **Next digit:** Checksum digit (department use)

GSTIN: 09AALCA8207B1ZU

Cancellation of Registration



On Application: By registered taxable person OR by legal heirs (in case of death), manner and period as may be prescribed, having regard to: **[Application Along with the detail of inputs, work in progress, finished goods, capital goods]**

- ⇒ discontinuation of business,
- ⇒ transfer of business,
- ⇒ amalgamation,
- ⇒ demerger or otherwise dispose of,
- ⇒ change in constitution of business or
- ⇒ registered person no longer liable to registered.
- ⇒ **If taken voluntarily registration, now intend to opt out.**
- ⇒ A TDS deductor or TCS Collector – now no longer remain to deduct or collect.

BY Proper officer himself:

- ⇒ On contravention of act or rules, [eg. issue bogus invoices etc.]
- ⇒ Person paying tax under composition scheme has not furnished the return for a financial year beyond three months from the due date of furnishing the said return].
- ⇒ Any Registered person (other than immediate preceding) has not filed return for such continuous tax period as may be prescribed:
- ⇒ Person having reg. on voluntarily basis has not commenced business within 6 months from the date of registration,
- ⇒ Not to provide bank details with-in 45 days of registration,
- ⇒ Registration obtained by means of fraud etc.
- ⇒ Does not conduct any business from the declared place of business
- ⇒ Avails input tax credit in violation of the provisions of section 16 of the Act
- ⇒ Furnishes the details of outward supplies in **FORM GSTR-1** under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or
- ⇒ Violates the provision of Rule 86B.

- ⇒ There is a difference or anomalies reflected in Return filed under section 39 in between output GST and ITC claimed.

(A) THEN First of all suspension of Registration

- (1) In case a registered person has applied for cancellation of registration the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation.
- (2) In case the proper officer has reasons to believe that the registration of a person is liable to be cancelled he may, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation.

DONT'S during suspension Period

- ⇒ Shall not make any taxable supply
[ie the registered person shall not issue a tax invoice and, accordingly, not to charge tax on supplies made by him]
- ⇒ Shall not be required to furnish any return under section 39.
- ⇒ shall not be granted any refund under section 54.

(B) Cancellation of Registration

- (1) Where a person who has submitted an application for cancellation then
 - ⇒ the officer shall issue an order within a period of 30 days from the date of application submitted,
 - ⇒ cancel the registration,
 - ⇒ with effect from a date to be determined by him and [Prospectively or Retrospectively]
 - ⇒ notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).
- (2) **Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled**
 - ⇒ He shall issue a notice to such person requiring him to show cause, within a period of 7 working days from the date of the service of such notice, as to why his registration shall not be cancelled.
 - ⇒ Then reply to the show cause notice shall be furnished
 - ⇒ Now the proper officer shall issue an order within a period of 30 days from the date of the reply to the show cause
 - ⇒ to cancel the registration,
 - ⇒ with effect from a date to be determined by him and [Prospectively or Retrospectively]
 - ⇒ notify the taxable person, directing him to pay arrears of any tax, interest

or penalty including the amount liable to be paid under section 29(5)

Dropping of Cancellation Proceedings:

- Where reply of notice is found to be satisfactory, the proper officer shall drop the proceedings.
- Where suspension order was issued because of non submission of return and the person instead of **replying to the notice furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings of cancellation.**

Liability on cancellation

In respect of Inputs

- Every registered person whose registration is cancelled shall pay an amount,
- equivalent to the credit of input tax in respect of **inputs held in stock and inputs contained in semi-finished or finished goods held in stock or**
 - on the day immediately preceding the date of such cancellation
- OR
- **the output tax payable on such goods,**

In respect of Capital Goods

- The taxable person shall pay an amount --
- Equal to **the input tax credit taken on the said capital goods or plant and machinery** on the day immediately preceding the date of such cancellation, **reduced by such percentage points as may be prescribed**
- OR
- **The tax on the transaction value of such capital goods or plant and machinery under section 15,**
- [Whichever is higher]**

Mode of payment in both the cases--By way of debit in the E-Credit ledger or E-Cash ledger,

Revocation



Where registration is canceled by Proper Officer, any registered taxable person may apply for revocation of such cancellation within 90 days + 180 days of cancellation and Proper Officer may accept or **reject the application with in 30 days** (After giving SCN and opportunity of being heard).

Where registration is canceled because non filing of return then revocation application shall be files only after filing return and payment of tax, interest, penalties and late fee.

Moreover where registration is canceled with retrospective effect then first of all file application for revocation and after that need to file all due returns till revocation order with in 30 days.

Amendment in RC**Changes in Core fields: [Business Name Change, Address change, change in Directors/Partners etc.]**

Every RC/UIN holder shall inform the Proper Officer ANY changes in the information furnished at the time of application or thereafter.

However officer may approve within 15 working days or reject (after giving SCN and OPPORTUNITY OF BEING HEARD) such changes.

Changes in None core fields: [Change in Phone Number, E-mail id of authorised signatory]

Every RC/UIN holder shall inform the Proper Officer ANY changes in the information furnished at the time of application of thereafter.

MISC:

RC Display: Display RC in a prominent location at his principal and additional place (s) of business and shall display the registration number on the name board exhibited at entry of his principal place of business and any other place of business.

**All Documents/notices @ electronically and Digital signed:**

Each document filed online shall be signed by person specified. All orders and notices under this chapter shall be issued electronically by proper officer.

All applications/replies @ electronically and digitally signed: All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provisions of these rules shall be so submitted electronically with digital signature certificate or through e-signature as or through **e signature**.

Physical verification of business premises:

(1) Where the proper officer is satisfied that

- the **physical verification** of the place of business of a person is **required**
- **after the grant of registration,**
- he may get such verification of the place of business done and
- the **verification report** along with the other documents, **including photographs,**
- shall be uploaded on the common portal
- **within a period of 15 working days** following the date of such verification.

(2) Where the **physical verification** of the place of business of a person is required

- **before the grant of registration** in the circumstances specified in the proviso to Rule 9(1),
- the proper officer shall get such verification of the place of business done and

- ⇒ the **verification report** along with the other documents, **including photographs,**
- ⇒ shall be uploaded in on the common portal
- ⇒ **at least 5 working days prior to the completion** of the time period specified in the said proviso.

prescribed, by order, **either revoke cancellation of the registration or reject the application:**

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an **opportunity of being heard.**

CGST Rules, 2017 – Registration

Rule 8: Application for registration

(1) Every person who is liable to be registered under section 25(1) and every person seeking registration under section 25(3) except–

- (i) **Non-resident taxable person;**
- (ii) TDS deductor
- (iii) TCS Collector
- (iv) a person

➤ supplying **online information and database access** or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 or

➤ a person **supplying online money gaming** from a place outside India to a person in India referred to in section 14A under the IGST Act, 2017

shall, before applying for registration, declare his Permanent Account Number, State or Union territory in **Part A** of **FORM GST REG-01** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor.”

(2) (a) The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes and **shall also be verified through separate one-time passwords sent to the mobile number and e-mail address linked to the Permanent Account Number.**

(3) On successful verification of the Permanent Account Number, mobile number and e-mail address, a **temporary reference number** shall be generated and communicated to the applicant on the said mobile number and e-mail address.

(4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in **Part B** of **FORM GST REG-01**, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal.

(4A) Where an applicant, ~~{other than those who have been exempted from Aadhaar}~~

- opts for authentication of Aadhaar number,
- he shall, while submitting the application undergo authentication of Aadhaar number and
- the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, **or 15 days from the submission of the application in Part B.**
- **whichever is earlier.**

Provided that, Every application made by a person,

- who has opted for authentication of Aadhaar number and
 - is identified on the common portal, based on data analysis and risk parameters,
- ➔ shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or
- of such individuals whose are notified in case of company, Firm etc.
 - along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01
 - and the application shall be deemed to be complete only after completion of the process.

(4B) The Central Government may, specify the States or Union territories wherein the proviso of sub-rule (4A) shall not apply.

In pursuance of the powers conferred by [Rule 8\(4B\)](#).

- the Central Government, hereby specifies that
- the proviso to [Rule 8\(4A\)](#)

shall **not apply in all** the States and Union territories **except the State of Gujarat. and the State of Puducherry shall be inserted.**

(5) On receipt of an application under sub-rule (4) or sub-rule (4A)], an **acknowledgement** shall be issued electronically to the applicant in **FORM GST REG-02**.

(6) A person applying for registration as a **casual taxable person**

- shall be given a temporary reference number by the common portal for making advance deposit of tax in accordance with the provisions of [section 27](#) and
- the acknowledgement under sub-rule (5) shall be issued electronically only after the said deposit.

Rule 9 Verification of the application and approval

(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of 7 working days from the date of submission of the application.

Registration with- in 30 days of submission of application

Provided that where-

(a) A person, other than a person notified under section 25(6D),

- fails to undergo authentication of Aadhaar number as specified in Rule 8(4A) or
- does not opt for authentication of Aadhaar number; or

(aa) a person, who has undergone authentication of Aadhaar number as specified in Rule 8(4A), is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or

(b) The proper officer,

- **with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner,**
- **deems it fit to carry out physical verification of places of business,**

the registration shall be granted within 30 days of submission of application, after physical verification of the place of business **in the presence of the said person**, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.

(2) Where the application submitted under Rule 8

- is found to be deficient, either in terms of any information or
- any document required to be furnished under the said rule, or
- where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith,
- he may issue a notice to the applicant electronically in **FORM GST REG-03** within a period of **7 working days** from the date of submission of the application and
- the applicant shall furnish such clarification, information

Notice in 30 days:- Provided that where-

(a) a person, other than a person notified under sub-section (6D) of section 25,

- fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or
- does not opt for authentication of Aadhaar number; or

(aa) a person, who has undergone authentication of Aadhaar number as specified in Rule 8(4A), is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or

(b) the proper officer, with the approval of an officer authorised by the

Rule 10: Issue of registration certificate

- (1) Subject to the provisions of [Section 25\(12\)](#),
- Where the application for grant of registration has been approved under rule 9,
 - a **certificate of registration in FORM GST REG-06** showing the principal place of business and additional place or places of business shall be made available to the applicant on the common portal and a
 - GSTIN shall be assigned subject to the following characters, namely:-
 - (a) two characters for the State code;
 - (b) ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number;
 - (c) two characters for the entity code; and
 - (d) one checksum character.
- (2) The registration shall be **effective from the date on which the person becomes liable to registration** where the application for registration has been submitted within a period of 30 days from such date.
- (3) Where an application for registration has been submitted by the applicant after the expiry of 30 days from the date of his becoming liable to registration,
- the effective date of registration shall be
 - the **date of the grant of registration**
 - Under Rule 9 (1)(3)(5).
- (4) Every certificate of registration shall be **duly signed** or verified through electronic verification code by the proper officer under the Act.
- (5) **Where the registration has been granted under Rule 9(5)**,
- the applicant shall be communicated the registration number, and
 - the certificate of registration under sub-rule (1), duly signed or verified through electronic verification code,
- shall be made available to him on the common portal, within a period of 3 days after the expiry of the period specified in Rule 9(5).

Rule 10A. Furnishing of Bank Account Details

- After a certificate of registration in **FORM GST REG-06** has been made available on the common portal and a GSTIN has been assigned,
- the registered person,
 - except [TDS DEDUCTOR / COLLECTOR](#), REGISTRATION BY OFFICER IN CASE OF SERCH ETC.
- Shall within a period of 30 days from the **date of grant of registration**, or **before furnishing the details of outward supplies** of goods or

	<p>services or both under section 37 in FORM GSTR-1 or using IFF, whichever is earlier, furnish information with respect to details of bank account on the common portal.</p> <p>— shall as soon as may be, but not later than 45 days from the date of grant of registration or</p> <p>— the date on which the return required under section 39 is due to be furnished,</p> <p>— whichever is earlier,</p> <p>— furnish information with respect to details of bank account which is in name of the registered person and obtained on Permanent Account Number of the registered person, or any other information, as may be required on the common portal in order to comply with any other provision.</p> <p>Provided that in case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with the Aadhaar number of the proprietor.</p>
<p>Rule 11. Separate registration for multiple places of business within a State or a Union territory</p>	<p>(1) Any person</p> <ul style="list-style-type: none"> ➤ having multiple places of business within a State or a Union territory, ➤ requiring a separate registration for any such place of business under section 25 (2) ➤ shall be granted separate registration in respect of each such place of business ➤ subject to the following conditions, namely:— <ul style="list-style-type: none"> (a) Such person has more than one place of business as defined in section 2(85); <p>Explanation: Composition scheme @ PAN WISE: it is hereby clarified that</p> ➤ Where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, ➤ all other registered places of business of the said person shall become ineligible to pay tax under the said section. (b) Such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business; (c) All separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Rule 21A
Suspension of registration

- (1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.
- (3) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

“(2A) Where,-

(a) a **comparison of the returns**

- furnished by a registered person under section 39 with the details of outward supplies furnished in **FORM GSTR-1** or
- the details of inward supplies derived based on the details of outward supplies furnished by his **suppliers in their FORM GSTR-1**, or
- such other analysis,

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

(b) There is a **contravention of the provisions of Rule 10A** by the registered person,

- the **registration** of such person **shall be suspended** and
- the said person shall be intimated on the common portal, or by **sending a communication** to his e-mail address,
- **highlighting the said differences**, anomalies or non-compliances and
- asking him to explain, **within a period of 30 days**, as to why his registration shall not be cancelled.

~~(2A) Where, a comparison of the returns furnished by a registered person under section 39 with~~

~~(a) — The details of outward supplies furnished in **FORM GSTR-1**; or~~

~~(b) — The details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their **FORM GSTR-1**;~~

~~or such other analysis, as may be carried out on the recommendations of the~~

Council, show that

- ~~there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder,~~
- ~~leading to cancellation of registration of the said person,~~
- ~~his registration shall be suspended and~~
- ~~the said person shall be intimated in **FORM GST REG-31**,~~
- ~~electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time,~~
- ~~highlighting the said differences and anomalies and asking him to explain,~~
- ~~within a period of thirty days, as to why his registration shall not be cancelled.~~

(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2) or sub-rule (2A),

- Shall not make any taxable supply during the period of suspension [ie the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.] and
- shall not be required to furnish any return under section 39.

(3A) A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund under section 54, during the period of suspension of his 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.

"Provided also that where the registration has been suspended under sub-rule (2A)

- ⇒ for **contravention** of provisions of **Rule 10A** and
- ⇒ the **registration has not already been cancelled** by the proper officer under rule 22,
- ⇒ the **suspension** of registration shall be **deemed to be revoked**
- ⇒ **upon compliance** with the provisions of **Rule 10A**.

(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

Rule 22: Cancellation of registration

(1) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29,

- he shall issue a notice to such person in **FORM GST REG-17**, requiring him to show cause,
- within a period of 7 working days from the date of the service of such notice,
- as to why his registration shall not be cancelled.

(2) The reply to the show cause notice issued under sub-rule (1) shall be furnished in **FORM REG-18** within the period specified in the said sub-rule.

(3) Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled,

- the proper officer shall issue an order in **FORM GST REG-19**, within a period of 30 days from the date of application submitted under Rule 20(1) or, as the case may be, the date of the reply to the show cause issued under sub-rule (1) or under sub-rule (2A) of Rule 21A,,
- cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).

(4) Where the reply furnished under sub-rule (2) or in response to the notice issued under sub-rule (2A) of rule 21A is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in **FORM GST REG-20**.

Provided that Where suspension order was issued because of non submission of return and the person instead of **replying to the notice furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings of cancellation.**

(5) The provisions of sub-rule (3) shall, mutatis mutandis, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

**Rule 23:
Revocation of
cancellation of
registration**

(1) A registered person, whose registration is cancelled by the proper officer on his own motion,

- may subject to the provisions of Rule 10B, submit an application for Rule 54 for revocation of cancellation of registration, in **FORM GST REG-21**,
- to such proper officer,
- within a period of 90 days from the date of the service of the order of cancellation of registration]
- within a period of 30 days from the date of the service of the order of cancellation of registration or within such time period as extended by the Additional or Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30,
- at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Provided that such period may,

- on sufficient cause being shown,
- be extended by the Commissioner or an authorised officer,
- for a further period not exceeding 180 days.

Provided further that no application for revocation shall be filed,

- If the registration has been cancelled for the failure of the registered person to furnish returns,
- unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

Provided also that

- all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration
- shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration:

Provided also that

- Where the registration has been cancelled with retrospective effect,
- the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration
- within a period of 30 days from the date of order of revocation of cancellation of registration.

(2) (a) Where the proper officer is satisfied, for reasons to be recorded in

	<p>writing, that there are sufficient grounds for revocation of cancellation of registration,</p> <ul style="list-style-type: none"> • he shall revoke the cancellation of registration by an order in FORM GST REG-22 • within a period of 30 days from the date of the receipt of the application and communicate the same to the applicant. <p>(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in FORM GST REG-05, reject the application for revocation of cancellation of registration and communicate the same to the applicant.</p> <p>(3) The proper officer shall, before passing the order referred to in sub-rule (2)(b),</p> <ul style="list-style-type: none"> • Issue a notice in FORM GST REG-23 requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected • and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in FORM GST REG-24. <p>(4) Upon receipt of the information or clarification in FORM GST REG-24,</p> <ul style="list-style-type: none"> • the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of 30 days • from the date of the receipt of such information or clarification from the applicant.
<p>Rule 24 Migration of persons registered under the existing law</p>	<p>NOT RELEVANT</p>
<p>Rule 25: Physical verification of business premises in certain cases</p>	<p>(1) Where the proper officer is satisfied that</p> <ul style="list-style-type: none"> * the physical verification of the place of business of a person is required * after the grant of registration, * he may get such verification of the place of business done and * the verification report along with the other documents, including photographs, * shall be uploaded on the common portal * within a period of 15 working days following the date of such verification. <p>(2) Where the physical verification of the place of business of a person is required</p> <ul style="list-style-type: none"> * before the grant of registration in the circumstances specified in the

	<p>proviso to Rule 9(1),</p> <ul style="list-style-type: none"> * the proper officer shall get such verification of the place of business done and * the verification report along with the other documents, including photographs, * shall be uploaded in on the common portal * at least 5 working days prior to the completion of the time period specified in the said proviso. <p>Where the proper officer is satisfied that the physical verification of the place of business of a person is required</p> <ul style="list-style-type: none"> • due to failure of Aadhaar authentication before the grant of registration, or • due to not opting for Aadhaar authentication before the grant of registration, or • due to any other reason after the grant of registration; • he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of 15 working days following the date of such verification.
<p>Rule 26: Method of authentication.</p>	<p>NOT RELEVANT</p>

Ch 12 MANNER OF PAYMENT

Background

Inward Supply	: 1,00,000
GST	: 18,000
Total	: 1,18,000
(ITC = ₹18,000)	



Supplier

Outward supply	: 1,50,000
Output Tax	: 27,000
Total	: 1,77,000
OUTPUT GST	: 27,000
Less ITC	: 18,000
E cash Ledger	: 9,000

On GST portal, we have 3 Ledgers—

E- CASH LEDGER LEDGER (LIKE PAYTM WALLET)	E- CREDIT LEDGER	E- LIABILITY REGISTER
<p>We must have sufficient balance in e cash ledger on due date of filing of return. If it is not, then add sufficient amount in it. 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-- Part i: self assessed liability as per return Part ii: re-assessed liability by department</p>
<p>How to add...</p> <ol style="list-style-type: none"> Create a challan on gst portal which will remain valid for 15 days. Portal will generate c-pin (common portal identification number: 14 digit) Make payment of amount as given in challan @ online/offline. Note: online = NET BANKING, RTGS, NEFT, DEBIT/CREDIT CARD, IMPS etc. 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. 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. CIN will be communicated to gst portal by bank and the amount will be reflected in e cash ledger. 		<p>First of all, we will discharge part i liability and out of this A. Previous period liability first then, B. Current period liability after that discharge part ii liability.</p>

		Now file GSTR 3B and use itc (₹ 18,000) and e cash ledger (₹ 9000) to discharge liability of ₹ 27,000. Manner of using itc—									
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Section: 49 Payment of Tax, Interest, Penalty and Other Amounts

<p style="color: #800080; font-weight: bold;">Every deposit made to E-Cash Ledger Account and its utilization</p>	<p style="color: #800000; font-weight: bold;">Deposit:</p> <p>(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.</p> <p style="color: #800000; font-weight: bold;">Use/Adjust on filing Return:</p> <p>(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.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Q. Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST Laws?</p> <p>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.</p> </div>
<p style="color: #800080; font-weight: bold;">ITC shall be credited to E-Credit Ledger and its utilization</p>	<p style="color: #800000; font-weight: bold;">E-Credit Ledger:</p> <p>(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.</p> <p style="color: #800000; font-weight: bold;">Use/Adjust on filing Return:</p> <p>(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.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p style="color: #800000; font-weight: bold;">Q. Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?</p> <p>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</p> </div>



Section 52: Collection of tax at source

Applicability: of TCS

(1) **Every electronic commerce operator,**

- shall collect TCS @ 0.5% + 0.5% = 1%
- **of the NET VALUE of TAXABLE supplies made through it by other suppliers**
- **Only where the CONSIDERATION with respect to such supplies is to be collected by the operator.**

Note: Maximum Rate that can be 1%+1% = 2%

Note: If consideration Not flow through ECO then TCS concept will not be applicable.

NET VALUE: Net Value of taxable supplies” shall mean supplies made during **any month** by all registered persons through the operator--

The aggregate value of taxable supplies of goods or services	Include
Less: Services notified under section 9(5) [HMT-Restaurant]	Exclude
Less: Taxable Supplies Returned during the said month.	Exclude
Less: Supplies where consideration is not collected by ECO	Exclude

Payment by 10th of next month

(2) The amount of TCS shall be paid to the Government by the operator within 10 days of Collection Month.

Statement by 10th of next month and rectification if any

(3) Every operator who collects TCS

- ⇒ shall furnish a **statement, electronically, containing the details of**
 - **Outward supplies effected through it,**
 - Returned Supplies including the supplies through it, and
 - The amount of TCS collected during a month,
- ⇒ within 10 days after the end of such month.

Note: The Commissioner may, extend the time limit for furnishing the statement.

(4) If Any operator suo moto after furnishing a statement,

- discovers any omission or incorrect particulars therein,
- he shall rectify such omission or incorrect particulars, along with interest.

Last date of Rectification: No such rectification shall be allowed after

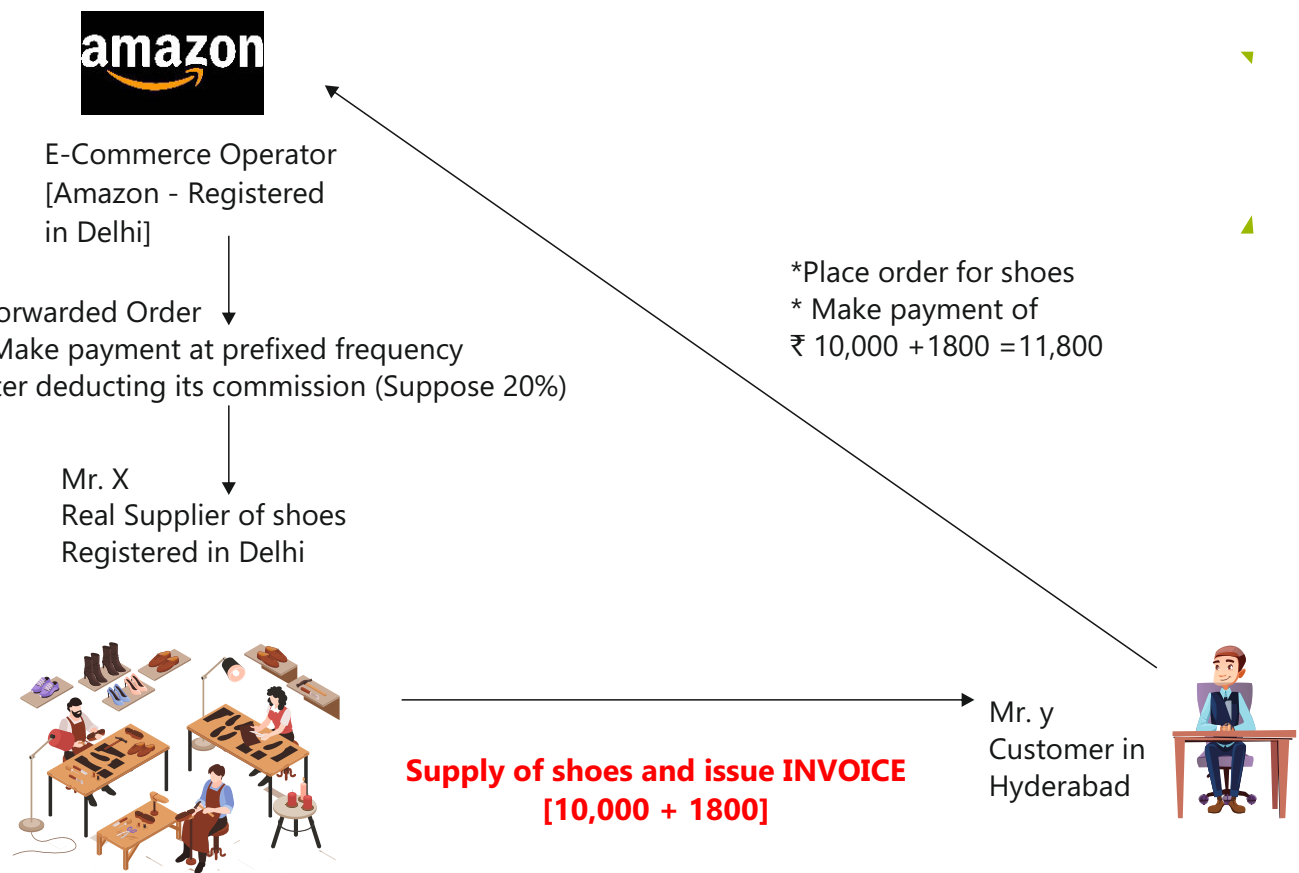
- 30th November of next FY or
- the **actual date** of furnishing of the relevant annual statement,
- whichever is earlier.

operator and declared as additional places of business by such suppliers,
 (12) Such operator shall furnish the required information within 15 working days of the date of Receipt of such notice.
 (13) Any person who fails to furnish the information required by the notice served shall, be liable to a penalty which may up to ₹ 25, 000.

Last date to file Statement @ 3 years

"(14) The operator shall not be allowed to furnish a statement after the expiry of a period of 3 years from the due date of furnishing the said statement:
 Provided that the Government may, allow an operator or a class of operators to furnish a statement , even after the expiry of the said period of 3 years from the due date of furnishing the said statement."

Analysis of TCS



Note: Where only Orders are processed (not payment) then TCS concept will not be applicable.

		<ul style="list-style-type: none"> * Annual Return by 31st dec. of Next Year in GSTR 09 <p><u>In the capacity of TCS COLLECTOR</u></p> <ul style="list-style-type: none"> * GSTR 08 For TCS of 100 by 10th of Next Month * Annual Statement by 31st dec. of Next Year in GSTR 9B
Others		<ul style="list-style-type: none"> *Matching, Communication of discrepancy and Added in output liability. * Payment with interest in case of Mismatch. *Notice to operator, Reply with in 15 days and Penalty up to Rs. 25,000

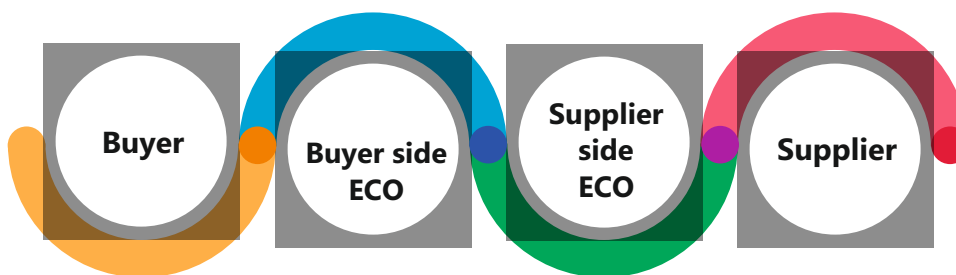
Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction in the context of Open Network for Digital Commerce (ONDC)

In the current platform-centric model of e-commerce, **the buyer interface and seller interface are operated by the same ECO**. This ECO collects the consideration from the buyer, deducts the TCS under [Sec 52](#) of the [CGST Act](#), credits the deducted TCS amount to the GST cash ledger of the seller and passes on the balance of the consideration to the seller after deducting their service charges.

In the case of the ONDC Network or similar other arrangements, there can be multiple ECOs in a single transaction - one providing an interface to the buyer and the other providing an interface to the seller.

In this setup, buyer-side ECO could collect consideration, deduct their commission and pass on the consideration to the seller-side ECO. So, clarity has been sought as to which ECO should deduct TCS and make other compliances.

Issue 1: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?



Clarification: The compliances including collection of TCS, is to be done **by the supplier-side ECO who finally releases** the payment to the supplier for a particular supply made by the said supplier through him.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, **the Seller-side ECO** will release the payment to the supplier after deduction of his fees/commissions **and therefore will also be required to collect TCS**, as applicable and pay the same to the Government.

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with [section 52](#) of [CGST Act](#) with respect to this particular supply.

Issue 2: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances under [section 52](#) including collection of TCS?



Clarification: In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

e.g. Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO. In this scenario, the Buyer-side ECO will also be required to collect TCS, as applicable, pay the same to the Government.

NOTIFICATION NO. 36/2023

The Central Government, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the persons paying tax under section 10 of the said Act namely: -

- (i) The electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;
- (ii) The electronic commerce operator shall collect tax at source under section 52 of the said Act in respect of supply of goods made through it by the said person and pay to the Government; and
- (iii) The electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

Differences between TDS and TCS

TDS u/s 51	TCS u/s 52
Supplier = other than Government Receipient = Government	Supplier = E commerce Operator Receipient = the person who supplies goods through E commerce operator
Number of transaction involved =1	Number of transaction involved =2
Rate of TDS Maximum: 1%+1%= 2% As of now: 1%+1%= 2%	Rate of TCS Maximum: 1%+1%= 2% As of now: 0.5%+0.5%= 1%
Return in GSTR 07	Return in GSTR 08
Annual Statement = NO	Annual Statement = YES in GSTR 9B
Late payment of TDS attract interest @18% PA	Late payment of TCS attract interest @18% PA

Rule- 87

(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:

Provided that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment shall not apply to deposit to be made by –

- (a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
- (b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
- (c) Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit:

Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in [section 14](#) or a person supplying online money gaming from a place outside India to a person in India as referred to in [section 14A](#), of the [IGST Act, 2017](#) May also make the deposit under sub-rule (2) through international money transfer through Society for Worldwide Interbank Financial Telecommunication payment network, from the date to be notified by the Board.

Explanation.– For the purposes of this sub-rule, it is hereby clarified that for making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.

(4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal.

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

- (6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.
- (7) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.
- (8) Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in **FORM GST PMT-07** through the common portal to the bank or electronic gateway through which the deposit was initiated.

Provided that where the bank fails to communicate details of Challan Identification Number to the Common Portal,

- the Electronic Cash Ledger may be updated
- on the basis of e-Scroll of the Reserve Bank of India
- in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.

- (9) Any amount deducted under section 51 or collected under section 52, and claimed in by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger.
- (10) Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.
- (11) If the refund so claimed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in **FORM GST PMT-03**.
- (12) A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.
Explanation 1.- The refund shall be deemed to be rejected if the appeal is finally rejected.
Explanation 2.- For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.
- (13) 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 integrated tax, central tax, State tax or Union territory tax or cess in **FORM GST PMT-09**.

	<p>(14) A registered person may, on the common portal,</p> <ul style="list-style-type: none"> • 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: <p>Provided that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.</p>
<p>Rule 88 Identification number for each transaction</p>	<p>(1) A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.</p> <p>(2) The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.</p> <p>(3) A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).</p>
<p>Rule 88B Manner of calculating interest on delayed payment of tax</p>	<p>(1) In case,</p> <ul style="list-style-type: none"> • 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. <p>(2) In all other cases,</p> <ul style="list-style-type: none"> • 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. <p>(3) In case,</p> <ul style="list-style-type: none"> • 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.

Q.1 In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

Ans. Since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under Rule 88B of CGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit.

Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under section 50 of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit.

However, when the balance of ITC, under the heads of IGST, CGST and SGST of electronic credit ledger taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in electronic credit ledger under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per [Section 50\(3\) of CGST Act](#).

Q.2 Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest under Rule 88B of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.

Ans. ITC in respect of compensation cess on supply of goods and services can be utilised only towards payment of compensation cess leviable on supply of goods and services.

Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.

Accordingly, **credit of compensation cess available in electronic credit ledger cannot be taken into account** while considering the balance of electronic credit ledger for the purpose of calculation of interest under [Rule 88B of CGST Rules](#).

Rule 88C. Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return

- (1) Where
 - the tax **payable as per GSTR:1 /IFF**
 - **exceeds the amount of tax payable as per GSTR:3B**
 - by such amount and such percentage, as Notified

The said registered person

 - shall be **intimated of such difference** and
 - a copy of such intimation shall also be sent to his e-mail address
 - highlighting the said difference and directing him to-
 - (a) **Pay the differential tax liability**, along with interest under section 50, or
 - (b) **Explain the aforesaid difference** in tax payable on the common portal, within a period of 7 days.
- (2) The registered person shall, upon receipt of the intimation, either,-
 - (a) Pay the amount of the differential tax liability, fully or partially, along with interest under section 50, or
 - (b) Furnish a reply, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, within the period specified in the said sub-rule.
- (3) Where
 - any amount specified in the intimation **remains unpaid** within the period specified in that sub-rule and

- where **no explanation or reason is furnished** by the registered person in default or
 - where the explanation or reason furnished by such person is not found to be acceptable by the proper officer,
- the said amount shall be recoverable in accordance with the provisions of section 79.

**Rule 88D:
Manner of
dealing with
difference in
ITC available
in GSTR 2B
and that
availed in
return**

- (1) Where the amount of input tax credit availed by a registered person in the return for a tax period or periods furnished by him in **FORM GSTR-3B exceeds the input tax credit** available to such person in accordance with the auto-generated statement containing the details of input tax credit in FORM GSTR-2B
- in respect of the said tax period or periods, as the case may be, by such amount and such percentage, as may be recommended by the Council,
 - the said registered person shall be intimated of such difference in Part A of FORM GST DRC- 01C, and
 - a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to—
- (a) Pay an amount equal to the excess input tax credit availed in the said FORM GSTR-3B, along with **interest payable under section 50**, through FORM GST DRC-03, or
- (b) **Explain the reasons** for the aforesaid difference in input tax credit on the common portal, within a period of 7 days.
- (2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in the said sub-rule, either,
- (a) **pay an amount** equal to the excess input tax credit, fully or partially, along with interest payable under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of FORM GST DRC-01C, electronically on the common portal, or
- (b) **furnish a reply**, electronically on the common portal, incorporating reasons in respect of the amount of excess input tax credit that has still remained to be paid, if any, in Part B of FORM GST DRC-01C, within the period specified in the said sub-rule.
- (2) Where any amount specified in the intimation referred to in sub-rule (1)
- **remains to be paid within** the period specified in the said sub-rule and
 - where **no explanation or reason** is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer,
 - the said amount shall be liable to be demanded in accordance with the provisions of **section 73 or section 74**, as the case may be.”.

Ch 13 Return

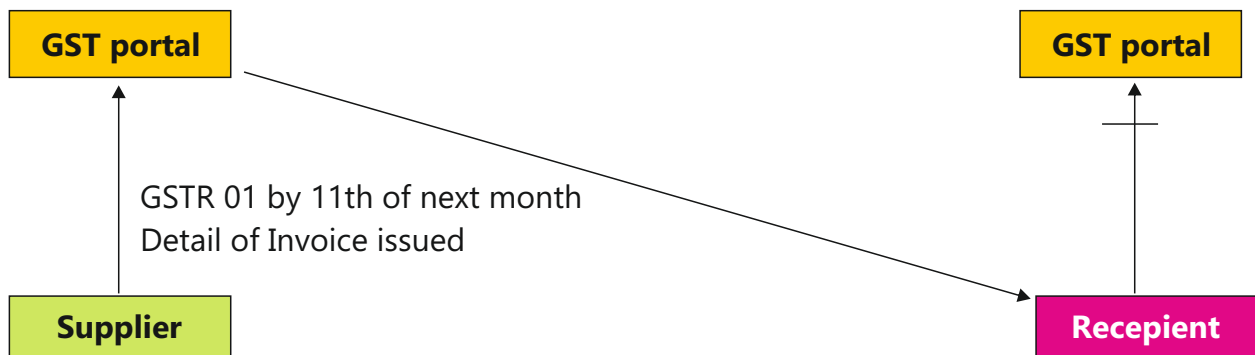
Sections List

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	ITC Statement on Portal
GSTR 3B	Return
GSTR 04	Annual statement @ composite dealer
GST-CMP: 08	Quaterly 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

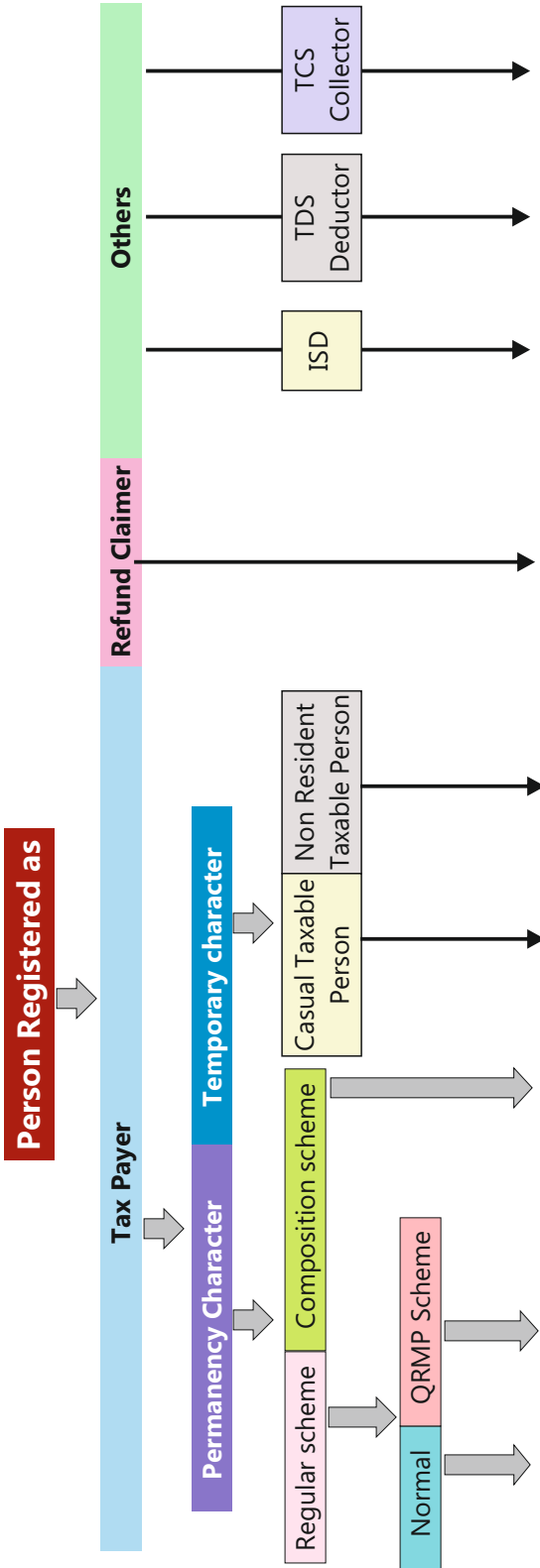
For Regular and composite supplier			FOR Special category no need to file these forms
Aggregate Turnover	Annual Return Form 9/9A u/s 44	Reconciliation statement @ self-certified u/s 44	CTP, NRTP, Refund claimer TDS deductor, TCS collector, ISD and Govt. Departments.
Upto 2 cr	Exempted by way of notification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



Statements	GSTR 01 @ Monthly, by 11 th of next month	GSTR 01 /IFF @ Monthly /Quarterly by 13 th of next month	GST-CMP 08 @ Quarterly By 18 th of Next month	GSTR 01 @ Monthly, by 11 th of next month	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance
PAYMENT	Monthly By 20 th of next month	Monthly by 25 th of next month	Quarterly By 18 th of next month	Monthly By 11 th of next month	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance
Periodic Return	GSTR 3B @ Monthly By 20 th of next month	GSTR 3B @ Quarterly By 22 nd /24 th of next month	GSTR 04 @ Annually By 30 th April of next FY	GSTR 3B @ Monthly By 20 th of next month	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance
Annual Return [Where T/O Exceeds 5 cr]	GSTR 09 @Annually by 31 st Dec. of next FY	GSTR 09 @Annually by 31 st Dec. of next FY	GSTR 9A @Annually by 31 st Dec. of next FY	.....NA.....	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance	PREPAID @ 5 Days in Advance
Reconciliation Statement [Where T/O Exceeds 5 cr]	GSTR 9C @Annually by 31 st Dec. of next FY	GSTR 9C @Annually by 31 st Dec. of next FY	GSTR 9C @Annually by 31 st Dec. of next FY	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....	.....NA.....

Some other Points:

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.																					
Late fees	Periodic and Final Return	Any registered taxable person who fails to furnish the-details of outward 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	Any registered taxable person who fails to furnish the return required under section 44 by the due date 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.																				
	Maximum Late Fees payable under section 47 for delayed filing	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #e8f5e9;"> <th>Form</th> <th>Description</th> <th>Late Fess under CGST</th> </tr> </thead> <tbody> <tr> <td rowspan="4" style="background-color: #e8f5e9;">Form GSTR 01 and 3B</td> <td style="background-color: #e8f5e9;">Nil Return</td> <td style="background-color: #e8f5e9;">Rs.250</td> </tr> <tr> <td style="background-color: #e8f5e9;">Aggregate Turnover in PFY limited to Rs. 1.5 Cr</td> <td style="background-color: #e8f5e9;">Rs.1000</td> </tr> <tr> <td style="background-color: #e8f5e9;">Aggregate Turnover in PFY more than Rs. 1.5 Cr but upto Rs. 5 cr</td> <td style="background-color: #e8f5e9;">Rs.2,500</td> </tr> <tr> <td style="background-color: #e8f5e9;">Others</td> <td style="background-color: #e8f5e9;">Rs. 5,000</td> </tr> <tr> <td rowspan="2" style="background-color: #e8f5e9;">Form GSTR 4</td> <td style="background-color: #e8f5e9;">Nil</td> <td style="background-color: #e8f5e9;">Rs.250</td> </tr> <tr> <td style="background-color: #e8f5e9;">Others</td> <td style="background-color: #e8f5e9;">Rs.1000</td> </tr> <tr> <td style="background-color: #e8f5e9;">Form GSTR 7</td> <td style="background-color: #e8f5e9;">Delayed Furnishing</td> <td style="background-color: #e8f5e9;">Rs. 25 per day for delayed period [Maximum: Rs. 1,000]</td> </tr> </tbody> </table>	Form	Description	Late Fess under CGST	Form GSTR 01 and 3B	Nil Return	Rs.250	Aggregate Turnover in PFY limited to Rs. 1.5 Cr	Rs.1000	Aggregate Turnover in PFY more than Rs. 1.5 Cr but upto Rs. 5 cr	Rs.2,500	Others	Rs. 5,000	Form GSTR 4	Nil	Rs.250	Others	Rs.1000	Form GSTR 7	Delayed Furnishing	Rs. 25 per day for delayed period [Maximum: Rs. 1,000]
Form	Description	Late Fess under CGST																				
Form GSTR 01 and 3B	Nil Return	Rs.250																				
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	Aggregate Turnover in PFY more than Rs. 1.5 Cr but upto Rs. 5 cr	Rs.2,500																				
	Others	Rs. 5,000																				
Form GSTR 4	Nil	Rs.250																				
	Others	Rs.1000																				
Form GSTR 7	Delayed Furnishing	Rs. 25 per day for delayed period [Maximum: Rs. 1,000]																				

Late fees for specified class of persons

Class of registered persons	Amount
Registered persons having an aggregate turnover of up to Rs 5 cr. in the relevant financial year.	Rs 25 per day, subject to a maximum of an amount calculated at 0.02% of turnover in the State or Union territory.
Registered persons having an aggregate turnover of more than Rs 5 cr. and up to Rs 20 cr. in the relevant financial year.	Rs 50 per day subject to a maximum of an amount calculated at 0.02 per cent. of turnover in the State or Union territory.

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.

- (iv) A registered person shall not be allowed to furnish GSTR 1 for a tax period after the expiry of a period of 3 years from the due date of furnishing the said details:
 Provided that the Government may, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under sub-section (1), even after the expiry of the said period of 3 years.

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

The GSTR:1 furnished by the registered persons under section 37 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.

The auto-generated statement shall consist of:

- 1) Details of inward supplies in respect of which ITC may be available.
- 2) Details of supplies in respect of which ITC CAN NOT be available either wholly or partially where

Where Return not submitted by Supplier on Time

Non payment of tax by supplier

Short payment of tax by supplier

Excess credit availed by supplier

Supplier not to follow Rule of 1%.

Any other reason

SECTION 39: FILING OF PERIODIC RETURN

<p>(i) GSTR:3/3B</p>	<p>Every registered person, other than (Other than Non Resident, Composite Dealer, ISD, TDS Deductor, TCS Collector)</p> <ul style="list-style-type: none"> • 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: <p>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]</p>
<p>(ii) GST-CMP:08</p>	<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.
<p>(iii) GSTR:5</p>	<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>
<p>ISD @ monthly frequency by 13th [section 51] [FORM GSTR: 6]</p>	<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>
<p>TDS Deductor @ monthly frequency by 10th [sec 51] [FORM GSTR: 7]</p>	<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	Every registered person who is required to furnish a return under subsection (1), [other than the person SPECIFIED PERSONS under QRMP] 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.
QRMP Holder	<p>SPECIFIED PERSONS under QRMP - 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.

(vii) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of 3 years from the due date of furnishing the said return:

Provided that the Government may, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of 3 years.

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

<p>By every registered person except notified [GSTR: 9, 9A]</p>	<p>(1) Every registered person, other than</p> <ul style="list-style-type: none"> o an Input Service Distributor, o a person paying tax under section 51 or section 52, o a casual taxable person and o a non-resident taxable person <p>shall furnish an annual return</p> <ul style="list-style-type: none"> • 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] <p>However Commissioner may, exempt any class of registered persons from filing annual return under this section:</p>
<p>GSTR 9C</p>	<p>Every registered person, other than</p> <ul style="list-style-type: none"> o an Input Service Distributor, o a person paying tax under section 51 or section 52, o a casual taxable person and o 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>

<p>Relaxation from GSTR 9/9A/9C</p>	<p>Relaxation to Government Department: 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." <p>Notification No. 32/2023 - It is hereby exempts the registered person whose aggregate turnover in the financial year 2022-23 is upto Rs. 2 cr, from filing annual return for the said financial year.</p>
<p>Maximum Time to file</p>	<p>A registered person shall not be allowed to furnish an annual return for a financial year after the expiry of a period of 3 years from the due date of furnishing the said annual return:</p> <p>Provided that the Government may, allow a registered person or a class of registered persons to furnish an annual return for a financial year, even after the expiry of the said period of 3 years</p>

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:

<p>Section: 46 Notice to return defaulter</p>	<p>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]</p>	
<p>Section: 47 Late fees</p>	<p>Periodic and Final Return</p>	<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.

	<table border="1"> <tr> <td data-bbox="454 275 727 615">Annual Return</td> <td data-bbox="727 275 1477 615"> <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 • 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. </td> </tr> </table>	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 • 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.
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 • 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: 59 Form and manner of furnishing details of outward supplies [FORM: GSTR 1]</p>	<ol style="list-style-type: none"> (1) Every registered person, <ul style="list-style-type: none"> - other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 ie OIDAR supplier - shall furnish such details in FORM GSTR-1 for the month or the quarter. (2) The registered persons required to furnish return for every quarter under proviso to section 39(1) ie QRMP <ul style="list-style-type: none"> - may furnish the details of such outward supplies of goods or services or both to a registered person, for the first and second months of a quarter, up to a cumulative value of Rs.50 lakh in each of the months,- - using invoice furnishing facility [IFF] electronically on the common portal, by 13th of next month. (3) The details of outward supplies furnished using the IFF, for the first and second months of a quarter, shall not be furnished in FORM GSTR-1 for the said quarter. (4) The details of outward supplies of goods or services or both furnished in FORM GSTR-1 shall include the—
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(a) Invoice wise details of all –

Inter-State and intra-State supplies	Made to the registered persons [B to B]
Inter-State supplies with invoice value more than Rs.2,50,000	Made to the unregistered persons [B to C]
Debit and credit notes , if any, issued during the month	For invoices issued previously.

(b) Consolidated details of all -

Intra-State supplies	made to unregistered persons for each rate of tax [B to C]
State wise inter -State supplies with invoice value upto Rs.2,50,000	made to unregistered persons for each rate of tax [B to C]
Debit and credit notes , if any, issued during the month	For invoices issued previously

(5) The details of outward supplies of goods or services or both furnished using the IFF shall include the –

Invoice wise details of inter State and intra-State supplies	made to the registered persons [B to B]
Debit and credit notes, if any, issued during the month for such invoices issued previously.”.	made to the registered persons [B to B]

(6) Restrictions on filing GSTR-1

Notwithstanding anything contained in this rule, -

(a) If taxable person has not furnished the return in FORM GSTR-3B for preceding month;	Then he shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 ,
(b) A registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, ie QRMP if he has not furnished the return in FORM GSTR-3B for preceding tax period;	shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility,

	<p>(c) A Registered person, to whom an intimation has been issued under the provisions of Rule 88C(1) in respect of a tax period,</p>	<p>shall not be allowed to furnish GSTR 01/IFF for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid.</p>
	<p>(d) a registered person, to whom an intimation has been issued on the common portal under Rule 88D (1) in respect of a tax period or periods,</p>	<p>shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period,</p> <p>-unless he has either paid the amount equal to the excess input tax credit as specified in the said intimation or</p> <p>- has furnished a reply explaining the reasons in respect of the amount of excess input tax credit that still remains to be paid, as required under the provisions of Rule 88D(2);</p>
	<p>(e) A registered person</p>	<p>shall not be allowed to furnish FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the details of the bank account as per the provisions of rule 10A.</p>
<p>Rule 60: Form and manner of ascertaining details of inward supplies [FORM: GSTR 2]</p>	<p>(1)The details of outward supplies furnished by the supplier in FORM GSTR-1 or using the IFF</p>	<ul style="list-style-type: none"> • Shall be made available electronically to the concerned registered persons (recipients) • in Part A of FORM GSTR-2A, in FORM GSTR-4A and in FORM GSTR-6A as the case may be.
	<p>(2) The details of invoices furnished by an non-resident taxable person in his return in FORM GSTR-5</p>	<ul style="list-style-type: none"> • Shall be made available to the recipient of credit • in Part A of FORM GSTR 2A
	<p>(3) The details of invoices furnished by an Input Service Distributor in his return in FORM GSTR-6</p>	<ul style="list-style-type: none"> • Shall be made available to the recipient of credit • in Part B of FORM GSTR 2A.

<p>Rule 64 Form and manner of submission of return by persons providing online information and data base access or retrieval services and by persons supplying online money gaming from a place outside India to a person in India</p>	<p>Every registered person</p> <ul style="list-style-type: none"> ➤ either providing online money gaming from a place outside India to a person in India, or ➤ providing online information and data base access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or to a registered person other than a non-taxable online recipient, ➤ shall file return in FORM GSTR-5A on or before the 20th day of the month succeeding the calendar month or part thereof.
<p>Rule 64: Form and manner of submission of return by persons providing online information and database access or retrieval services [FORM: GSTR-5A]</p>	<p>Every registered person providing online information and data base access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act, 2017 person in India other than a registered person shall file return in FORM GSTR-5A on or before the 20th day of the month succeeding the calendar month or part thereof.</p>
<p>Rule 65: Form and manner of submission of return by an Input Service Distributor [FORM: GSTR 6]</p>	<p>Every Input Service Distributor shall, on the basis of details contained in FORM GSTR-6A, and where required, after adding, correcting or deleting the details, furnish electronically the return in FORM GSTR-6, containing the details of tax invoices on which credit has been received and those issued under section 20.</p>
<p>Rule 66: Form and manner of submission of return by a person required to deduct tax at source [FORM: GSTR 7]</p>	<ul style="list-style-type: none"> (1) Every registered person required to deduct tax at source under section 51 shall furnish a return in FORM GSTR-7. (2) The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A and FORM-GSTR- 4A on the common portal after the due date of filing of FORM GSTR-7. (2) The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the deductee on the common portal after filing of FORM GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation. (3) The certificate referred to in section 51(3) shall be made available electronically to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished under sub-rule (1).

Rule 67: Form and manner of submission of statement of supplies through an e-commerce operator [FORM: GSTR 8]

(1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in **FORM GSTR-8** electronically, containing details of supplies effected through such operator and the amount of tax collected as required under section 52(1).

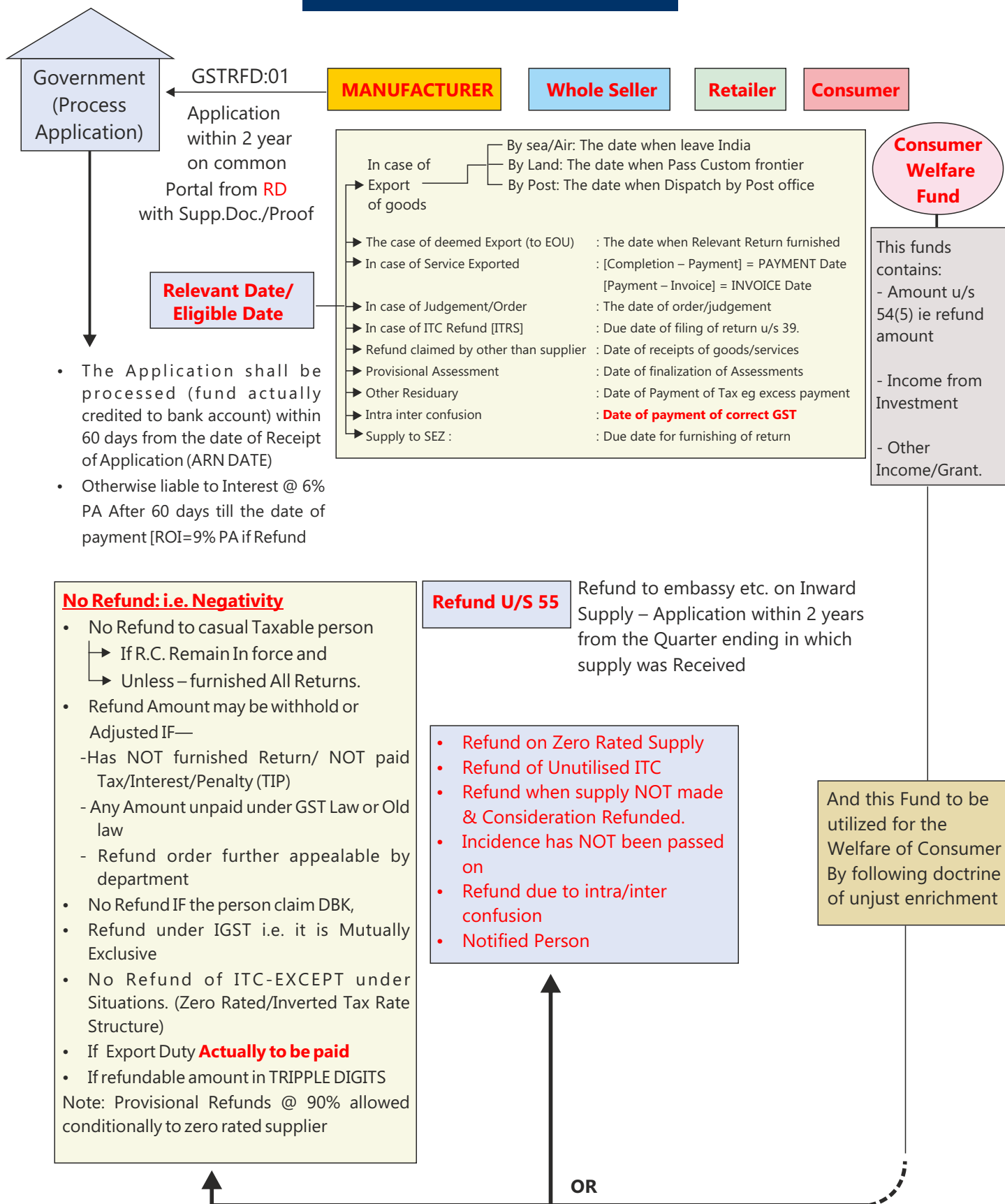
(2) ~~The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers~~ The details of tax collected at source under section 52(1) furnished by the operator shall be made available electronically to each of the registered suppliers on the common portal after filing of **FORM GSTR-8** for claiming the amount of tax collected in his electronic cash ledger after validation.

**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.)
- (2) Deemed Supply
- (3) Inverted Tax Rate Structure.
- (4) Refund of Excess Amount Deposited in E-Cash Ledger.
- (5) Refund to C.T.P./N.R.
- (6) First of all Provisional Assessment ₹ = 70,000/- & later on finalization @ ₹ 50,000/- Refund of ₹ 20,000/-
- (7) 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 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> 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 as may be prescribed.</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,</p> <ul style="list-style-type: none"> - 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 from the last day of the quarter in which such supply was received.
<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>Provided that no refund of unutilised input tax credit shall be allowed in cases other than—</p> <ul style="list-style-type: none"> (i) Zero rated supplies made without payment of tax; (ii) Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council: <p><u>No such Refund if goods attract Export duty (eg. leather Articles etc.):</u> Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:</p> <p><u>No such refund of ITC if claims DBK or Refund of IGST (ie mutual Exclusive):</u> Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of DRAWBACK in respect of central tax OR claims REFUND of the integrated tax paid on such supplies.</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>

	<p>(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;</p> <p>(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> <p>Explanation: 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>Supportive document to claim Refund: so as to prove of not passing of incidence and other documents: for claiming amount of refund of ₹ 2,00,000 or more</p>	<p>(4) The application shall be accompanied by–</p> <p>(a) Such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and</p> <p>(b) Such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:</p> <p>Provided that where the amount claimed as refund is less than `2,00,000 it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.</p>
<p>Amount of REFUND transferred to consumer welfare fund, (if Nothing prove contrary) OR to applicant</p>	<p>(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.</p> <p>Refund on Provisional basis: (6) Notwithstanding anything contained in sub-section (5),</p> <ul style="list-style-type: none"> ➤ the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, ➤ other than such category of registered persons as may be notified by the Government on the recommendations of the Council, ➤ refund on a provisional basis, 90% of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and ➤ thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

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| | <p>(e) In the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;</p> <p>(f) In the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;</p> <p>(g) In the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and</p> <p>(h) In any other case, the date of payment of tax.</p> |
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Section 55: Refund in certain cases

The Government may, on the recommendations of the Council, by notification, specify:

- Any **Specialised agency** of the **United Nations Organisation** or
- Any **Multilateral Financial Institution** and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947,
- Consulate or **Embassy** of foreign countries and any other person or class of persons as may be specified in this behalf,

who shall, subject to such conditions and restrictions as may be prescribed, **be entitled to claim a refund of taxes paid on the NOTIFIED supplies of goods or services or both received by them.**

Section: 56 Interest on delayed Refunds

If any tax ordered to be refunded under section 54(5) to any applicant **is not refunded within 60 days from the date of receipt of application** under subsection (1) of that section, **interest at such rate not exceeding 6%** as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund for the period of **delay beyond 60 days** from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed" **from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:**

Provided that where any claim of refund arises from **an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality** and the same is not refunded **within 60 days** from the date of receipt of application filed consequent to such order, interest at such rate **not exceeding 9%** as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund **from the date immediately after the expiry of 60 days from the date of receipt of application** till the date of refund.

Explanation: For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under section 54(5), the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

Section 57: Consumer Welfare Fund

The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,-

- (a) The amount referred to in section 54(5);
- (b) Any income from investment of the amount credited to the Fund; and
- (c) Such other monies received by it,

in such manner as may be prescribed.

Section 58: Utilisation of Fund

(1) All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.

(2) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

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 in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the –

- (a) supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorised operations, as endorsed by the specified officer of the Zone;
- (b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone:

Provided Further that in respect of supplies regarded as deemed exports, the application may be filed by,—

- (a) the recipient of deemed export supplies; or
- (b) the supplier of deemed export supplies in cases where the

recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

Provided also that refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed **only after the last return required to be furnished by him has been so furnished" in the last return required to be furnished by him.**

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;

- (d) a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;
- (e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;
- (f) a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer, in a case where the refund is on account of supply of goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer;
- (g) a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports;
- (h) a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;
- (i) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment;
- (j) a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;
- (k) a statement showing the details of the amount of claim on account of excess payment of tax **and interest, if any, or any other amount paid.**
- “(ka) a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or

	<p>be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.</p> <p>(4A) The Central Government shall disburse the refund based on the consolidated payment advice issued under sub-rule (4).</p> <p>(5) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (1A) or sub-rule (2) is not payable to the applicant under sub-section (8) of section 54, he shall make an order in FORM GST RFD-06 and issue a payment order in FORM GST RFD-05, for the amount of refund to be credited to the Consumer Welfare Fund.</p>
<p>Rule 93: Credit of the amount of rejected refund claim</p>	<p>(1) Where any deficiencies have been communicated under sub-rule (3) of rule 90, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.</p> <p>(2) Where any amount claimed as refund is rejected under rule 92, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in FORM GST PMT-03.</p> <p>Explanation: For the purposes of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.</p>
<p>Rule 94: Order sanctioning interest on delayed refunds</p>	<p>(1) Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a [Payment order] in FORM GST RFD-05, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.</p> <p>(2) The following periods shall not be included in the period of delay under sub-rule (1), namely:-</p> <p>(a) Any period of time beyond 15 days of receipt of notice in FORM GST RFD-08 under Rule 92(3), that the applicant takes to-</p> <p>(i) Furnish a reply in FORM GST RFD-09, or</p> <p>(ii) Submit additional documents or reply;</p> <p>and</p> <p>(b) Any period of time taken either by the applicant for furnishing the correct details of the bank account to which the refund is to be credited or for validating the details of the bank account so furnished, where the amount of refund sanctioned could not be credited to the bank account furnished by the applicant.</p>

Rule 95: Refund of tax to certain persons

- (1) Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued under section 55 shall apply for refund in **FORM GST RFD-10** once in every quarter, electronically on the common portal or otherwise, either directly or through a Facilitation Centre notified by the Commissioner, along with a statement of the inward supplies of goods or services or both in **FORM GSTR-11**.
 - (2) An acknowledgement for the receipt of the application for refund shall be issued in **FORM GST RFD-02**.
 - (3) The refund of tax paid by the applicant shall be available if-
 - (a) **The inward supplies of goods or services or both were received from a registered person against a tax invoice.**
 - (b) name and Goods and Services Tax Identification Number or Unique Identity Number of the applicant is mentioned in the tax invoice; and
 - (c) such other restrictions or conditions as may be specified in the notification are satisfied.
- “Provided** that where
- UIN [Unique Identity Number] of the applicant is not mentioned in a tax invoice,
 - the refund of tax paid by the applicant on such invoice shall be available
 - only if the **copy of the invoice**, duly attested by the authorized representative of the applicant, is submitted along with the refund application in **FORM GST RFD-10**.
- (4) The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.
 - (5) Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.

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 avilment 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**.~~

	<p>(8) The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.</p> <p>(9) The application for refund of integrated tax paid on the services exported out of India shall be filed in FORM GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89.</p> <p>(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have—</p> <p>(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or has been availed; or</p> <p>(b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017 or notification No. 79/2017-Customs, except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.</p> <p>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.</p>
<p>Rule 96A: Export of goods or services under bond or Letter of Undertaking</p>	<p>1) Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of—</p> <p>(a) 15 days after the expiry of three months or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India; or</p> <p>(b) 15 days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India.</p> <p>2) The details of the export invoices contained in FORM GSTR-1 furnished on the common portal shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be</p>

Circular No. 197/09/2023

<p>1. Refund of accumulated input tax credit under Section 54(3) on the basis of that available as per FORM GSTR 2B</p>	<p>It is further clarified that as the said amendments in section 16(2) (aa) of CGST Act and Rule 36(4) of CGST Rules have been brought into effect from 01.01.2022, therefore, the said restriction on availability of refund of accumulated input tax credit for a tax period on the basis of the credit available as per FORM GSTR-2B for the said tax period or for any of the previous tax periods, shall be applicable for the refund claims for the tax period of January 2022 onwards.</p> <p>However, in cases where refund claims for a tax period from January 2022 onwards has already been disposed of by the proper officer before the issuance of this circular, in accordance with the extant guidelines in force, the same shall not be reopened because of the clarification being issued by this circular.</p>
<p>2. Manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules consequent to Explanation inserted in sub-rule (4) of Rule 89</p>	<p>it is clarified that consequent to Explanation having been inserted in Rule 89(4), the value of goods exported out of India to be included while calculating "adjusted total turnover" will be same as being determined as per the Explanation inserted in the said sub-rule.</p>
<p>3. Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of Rule 96A(1)</p>	<p>The above clarifications imply that as long as goods are actually exported or as the case may be, payment is realized in case of export of services, even if it is beyond the time frames as prescribed in Rule 96A(1), the benefit of zero-rated supplies cannot be denied to the concerned exporters. Accordingly, it is clarified that in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of section 54(3) of the CGST Act, if otherwise admissible.</p> <p>It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, as the case may be, the said exporters would be entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of services, within the time frame prescribed in clause (a) or (b), as the case may be, of Rule 96A(1). It is further being clarified that no refund of the interest paid in compliance of Rule 96A(1) shall be admissible.</p> <p>It may further be noted that the refund application in the said scenario may be made under the category "Excess payment of tax". However, till</p>

the time the refund application cannot be filed under the category "Excess payment of tax" due to non-availability of the facility on the portal to file refund of IGST paid in compliance with the provisions of Rule 96A(1) of CGST Rules as "Excess payment of tax", the applicant may file the refund application under the category "Any Other" on the portal.

ASSESSMENT

1. **Assessment KYA HOTA HAI ?:** Determination of tax liability as per law



It Includes:

- Self- assessment (Section 59)
- Provisional Assessment (Section 60)
- Re- assessment (Section 61)

- Best – Judgement assessment
 - Non filer (Section: 62)
 - Non registrant (63)

Summary/Quick assessment (Section 64)

2. **Assessment KAB HOTA HAI ?:** At the “TIME OF SUPPLY” (Section 12,13,14)

3. **Assessment KAISE HOTA HAI?:** $GST = AV \times ROT * (ROE \text{ if any})$ (Under Section 15 plus Valuation Rules)

4. **Assessment KYON HOTA HAI?:** To Know the amount of GST/CESS

5. **Assessment KAUN KARTA HAI?:** - Assessee Himself
 - Department Officer

Section 59: SELF ASSESSMENT

Every Registered person (Section 22/24)

+

Shall Self assess the tax liability

+

And accordingly file valid return (Under Section 39): GSTR – 3/4/5/6/7 etc.



SECTION 61 RE-ASSESSMENT OR SCRUTINY

Tax paid & return filed (Under Section 39)



GST Officer may – Scrutinized the same



Intimate discrepancies by notice



Assessee reply (30 days) + Extension



Officer ↗ Satisfied - OK

Not Satisfied – Then GST Officer will take further action

- Audit
- Special Audit
- Investigation
- SCN/DO etc.



BEST JUDGEMENT Can be done without SCN Under Section 73/74



Section 62

In Case of Non Filer

Non filling of return
Under Section 39/45

Notice related to return
Under Section 46

Still return not filed

Best Judgement
(Time Limit – 5 Years from D/D of annual return)

Now further action of the person

Return file & All
in 60 days

Still not filed
6months- No return → CANCELLATION of RC

(Interest and late fee
Still payable)

Note: Summary thereof shall be uploaded electronically.

Section 63

Non Registrant

RC – Not Obtained

or

RC – Taken but surrendered/cancelled

As of now status is Non -Registered

Best Judgement

Within 5 year from D/D of annual Return

Opportunity of being heard.

Provided that

- Where the registered person fails to furnish a valid return within 60 days of the service of the assessment order
- he may furnish the same within a further period of 60 days on payment of an additional late fee of Rs 100 for each day of delay beyond 60 days of the service of the said assessment order and
- in case he furnishes valid return within such extended period,
- the said assessment order shall be deemed to have been withdrawn,
- but the liability to pay interest under section 50(1) or to pay late fee under section 47 shall continue.

GST Liability u/s 73/74: Rs. 10 Lakh
 Interest (Automatic): u/s 50 xxx
 Penalty u/s : 73/74: xxx

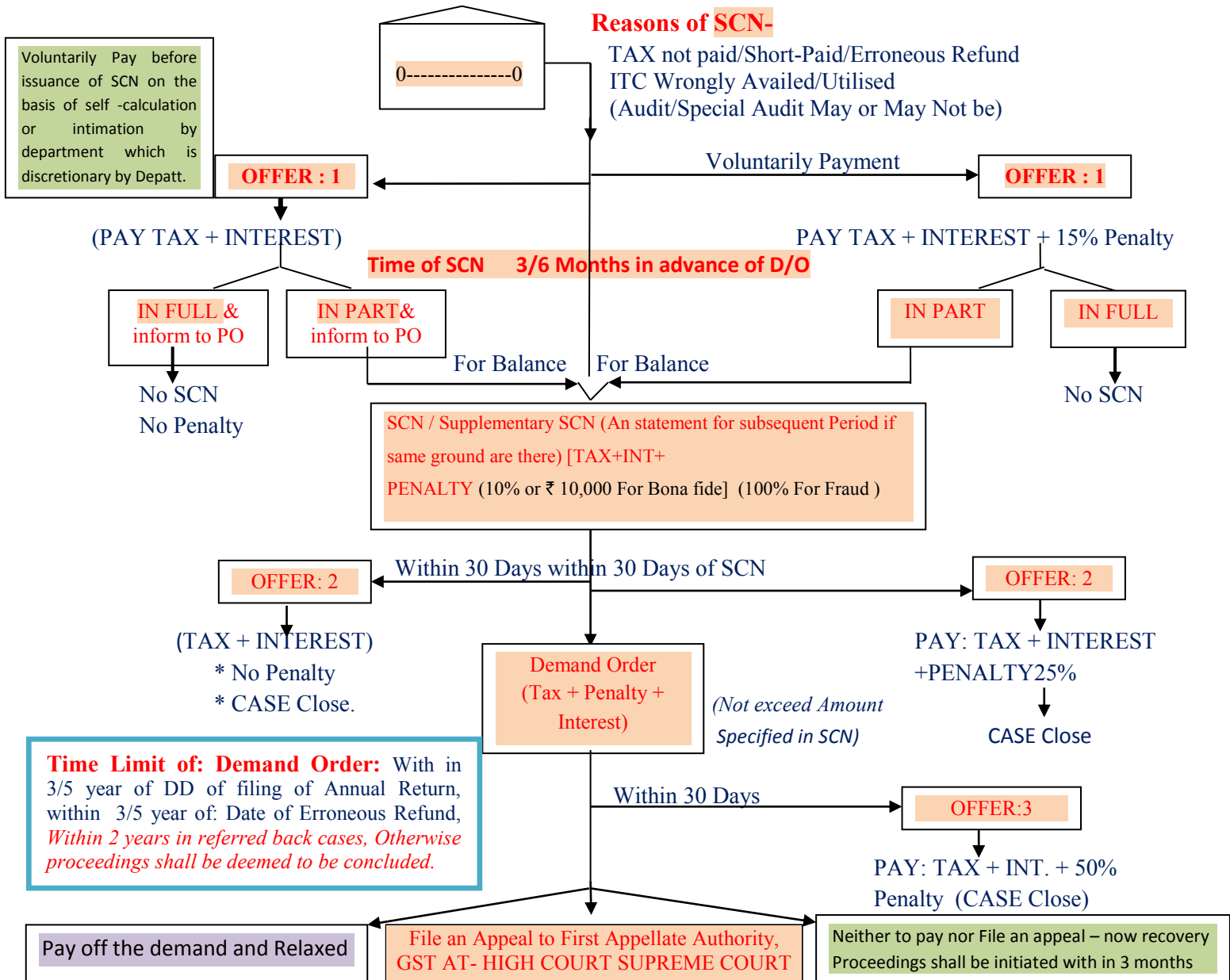
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Demand and Recovery

BONAFIDE CASES

MALAFIDE CASES



CGST Rules, 2017

Rule 142: Notice and order for demand of amounts payable under the Act

(1) The proper officer shall serve, along with the

(a) Notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01**,

(b) Statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable.

(1A) The proper officer **MAY**

- before service of notice to the person chargeable with tax, interest and penalty,
- under Section 73(1) or Section 74(2), as the case may be, communicate the details of any tax, interest and penalty as ascertained by the said officer,
- in **Part A** of **FORM GST DRC-01A**.

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act [whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A),] he shall inform the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in **FORM GST DRC-04**.

(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in **Part B** of **FORM GST DRC-01A**.]

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), or where the person concerned makes payment of the amount referred to in sub-section (1) of section 129 within "7 days of the notice issued under Section 129(3) but before the issuance of order under the said sub-section (3) he shall intimate the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an **intimation order** in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 or the reply to any notice issued under any section whose summary has been uploaded electronically in **FORM GST DRC-01** under sub-rule (1) shall be furnished in **FORM GST DRC-06**.

(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty as the case may be, payable by the person concerned. ~~payable by the person chargeable with tax.~~

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in **FORM GST DRC-08**.]

Rule 142B: Intimation of certain amounts liable to be recovered under section 79 of the Act.-

(1) Where, in accordance with section 75 read with rule 88C, or otherwise, any amount of tax or interest has become recoverable under section 79 and the same has remained unpaid, the proper officer shall intimate, electronically on the common portal, the details of the said amount in FORM GST DRC-01D, directing the person in default to pay the said amount, along with applicable interest, or, as the case may be the amount of interest, within seven days of the date of the said intimation and the said amount shall be posted in Part-II of Electronic Liability Register in **FORM GST PMT-01**.

(2) The intimation referred to in sub-rule (1) shall be treated as the notice for recovery.

(3) Where any amount of tax or interest specified in the intimation referred to in sub-rule (1) remains unpaid on the expiry of the period specified in the said intimation, the proper officer shall proceed to recover the amount that remains unpaid in accordance with the provisions of rule 143 or rule 144 or rule 145 or rule 146 or rule 147 or rule 155 or rule 156 or rule 157 or rule 160.

Rule 143: Recovery by deduction from any money owed

Where any amount payable by a person (hereafter referred to in this rule as “the defaulter”) to the Government under any of the provisions of the Act or the rules made thereunder is not paid, the proper officer may require, in **FORM GST DRC-09**, a specified officer to deduct the amount from any money owing to such defaulter in accordance with the provisions of clause (a) of sub-section (1) of section 79.

Explanation.-For the purposes of this rule, “specified officer” shall mean any officer of the Central Government or a State Government or the Government of a Union territory or a local authority, or of a Board or Corporation or a company owned or controlled, wholly or partly, by the Central Government or a State Government or the Government of a Union territory or a local authority.

Rule 144: Recovery by sale of goods under the control of proper officer

(1) Where any amount due from a defaulter is to be recovered by selling goods belonging to such person in accordance with the provisions of clause

(b) of sub-section (1) of section 79, the proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.

(2) The said goods shall be sold through a process of auction, including e-auction, for which a notice shall be issued in **FORM GST DRC-10** clearly indicating the goods to be sold and the purpose of sale.

(3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(5) The proper officer shall issue a notice to the successful bidder in **FORM GST DRC-11** requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount, the proper officer shall transfer the possession of the said goods to the successful bidder and issue a certificate in **FORM GST DRC-12**.

Rule 159: Provisional attachment of property

(1) Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in **FORM GST DRC-22** to that effect mentioning therein, the details of property which is attached.

(2) The Commissioner shall send a copy of the order of attachment in **FORM GST DRC-22** to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect or on expiry of a period of one year from the date of issuance of order under sub-rule (1), whichever is earlier, and a copy of such order shall also be sent to the person whose property is being attached under section 83.

(3) Where the property attached is of perishable or hazardous nature, and if the person, whose property has been attached pays an amount equivalent to the market price of such property or the amount that is or may become payable by such person, whichever is lower, then such property shall be released forthwith, by an order in **FORM GST DRC-23**, on proof of payment.

(4) Where such person fails to pay the amount referred to in sub-rule (3) in respect of the said property of perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by such person.

(5) Any person whose property is attached may, file an objection in **FORM GST DRC-22A** to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in **FORM GST DRC-23**.

(6) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in **FORM GST DRC-23**.

Rule 152: Recovery from company in liquidation

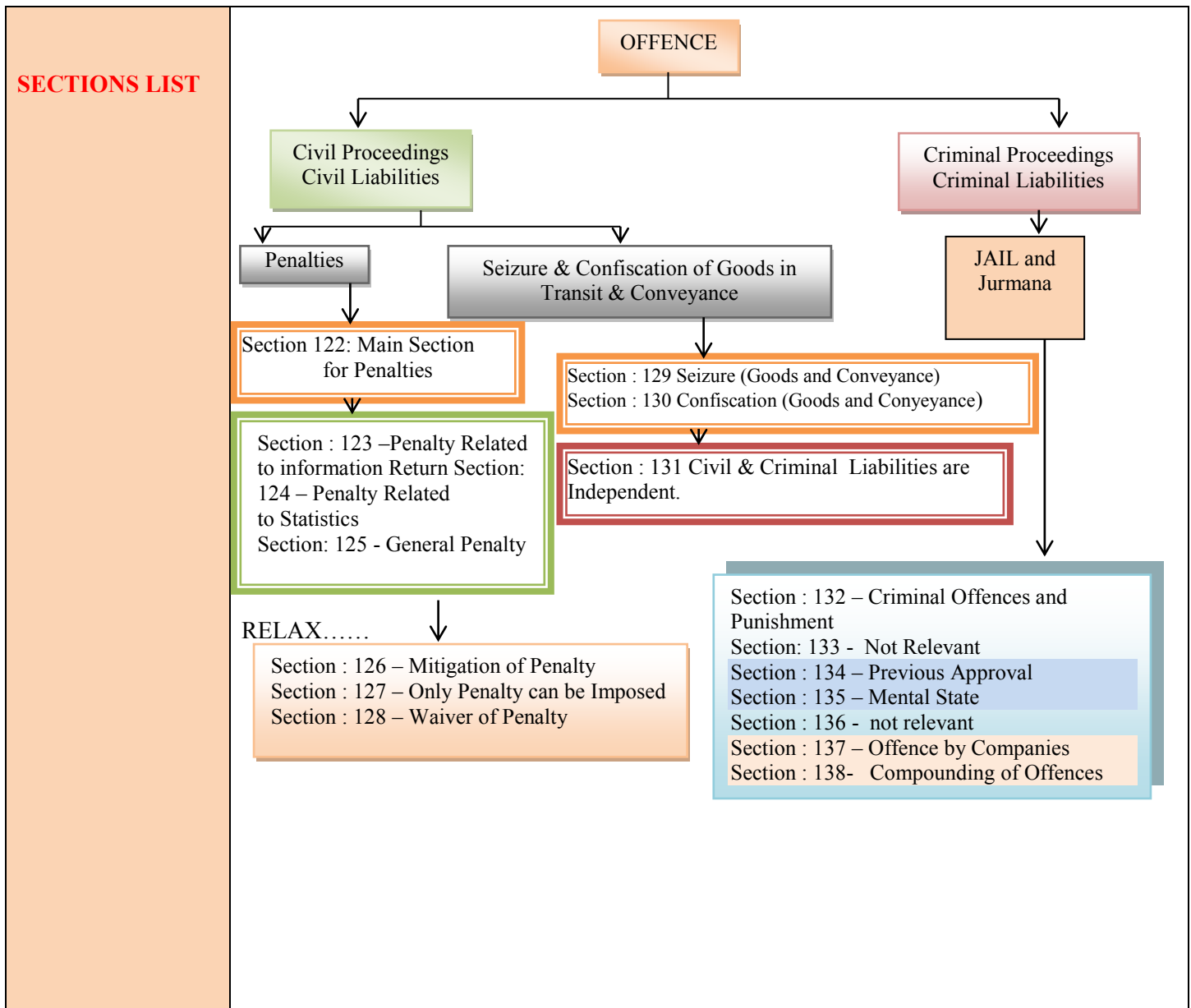
Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in **FORM GST DRC -24**.

Rule 152: Continuation of certain recovery proceedings

The order for the reduction or enhancement of any demand under section 84 shall be issued in **FORM GST DRC- 25**.

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Penalties



Section 122: Penalty for certain offences

Nature of offences and penalties thereof

- (1) Where a **taxable person** who—
- (i) supplies any goods or services or both **without issue of any invoice or issues an incorrect or false invoice** with regard to any such supply;
 - (ii) **issues any invoice or bill without supply** of goods or services or both in violation of the provisions of this Act or the rules made thereunder;
 - (iii) collects any amount as tax but fails to pay the same to the Government **beyond a period of 3 months from the date on which such payment becomes due**;
 - (iv) collects any tax in contravention of the provisions of this Act **but fails to pay the same to the Government beyond a period of 3 months** from the date on which such payment becomes due;
 - (v) **fails to deduct the tax** in accordance with the provisions of section 51(1), or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;
 - (vi) **fails to collect tax** in accordance with the provisions of section 52(1), or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;
 - (vii) **takes or utilises input tax credit without actual** receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;
 - (viii) **fraudulently obtains refund of tax** under this Act;
 - (ix) **takes or distributes input tax credit in contravention of section 20**, or the rules made thereunder;
 - (x) **falsifies or substitutes financial records or produces fake accounts or documents** or furnishes any false information or return with an intention to evade payment of tax due under this Act;
 - (xi) is liable to be registered under this Act but **fails to obtain registration**;
 - (xii) **furnishes any false information** with regard to registration particulars, either at the time of applying for registration, or subsequently;
 - (xiii) **obstructs or prevents any officer** in discharge of his duties under this Act;
 - (xiv) **transports any taxable goods without the cover of documents** as may be specified in this behalf;
 - (xv) **suppresses his turnover** leading to evasion of tax under this Act;
 - (xvi) **fails to keep, maintain or retain books** of account and other documents in accordance with the provisions of this Act or the rules made thereunder;
 - (xvii) **fails to furnish information or documents** called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;

(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;

(xix) issues any invoice or document by using the registration number of another registered person;

(xx) tampers with, or destroys any material evidence or document;

(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ₹10,000 or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(1A) Any person

- Who retains the benefit of a transaction covered under clauses [Subsection (1)]
- (i) [Supply without Invoice]
- (ii) [Invoice without Supply]
- (vii) [ITC without taking Supply]
- (ix) [Wrong distribution of ITC by ISD]
- at whose instance such transaction is conducted,
- shall be liable to a penalty
- of an amount Equivalent to the tax evaded or
- input tax credit availed of or passed on.

(1B) Any electronic commerce operator who—

- (i) Allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;
 - (ii) Allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or
 - (iii) fails to furnish the correct details in the statement to be furnished under section 52(4) of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,
- shall be liable to pay a penalty of Rs 10,000, OR an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.

Specific penalty
 (₹ 10,000 or
 10/100%)
 whichever is
 higher

- (2) Any registered person who supplies any goods or services or both on which:
- any tax has not been paid or short-paid or erroneously refunded, or
 - where the input tax credit has been wrongly availed or utilised,-

	<p>(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ` 10,000 or 10% of the tax due from such person, whichever is higher;</p> <p>(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ` 10,000 or the tax due (ie 100% of tax) from such person, whichever is higher.</p>
<p>Penalty for Secondary party <i>(up to ` 25,000)</i></p>	<p>(3) Any person who—</p> <p>(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);</p> <p>(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;</p> <p>(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;</p> <p>(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;</p> <p>(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account,</p> <p>shall be liable to a penalty which may extend to ` 25,000</p>

Section 123: Penalty for failure to furnish information return

If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of ` **100 for each day of** the period during which the failure to furnish such return continues:

Provided that the penalty imposed under this section shall not exceed ` 5000

Section 124: Fine for failure to furnish statistics

If any person required to furnish any information or return under section 151,-

- (a) **Without reasonable cause fails to furnish** such information or return as may be required under that section, or
- (b) **Wilfully furnishes or causes to furnish** any information or return which he knows to be false,

he shall be punishable with a fine which may extend to ` **10,000** and in case of a continuing offence to a further fine which may extend to ` **100 for each day** after the first day during which the offence continues subject to a maximum limit of ` **25,000**

Section 131: Confiscation or penalty not to interfere with other punishments

Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973,

- no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder
- **shall prevent the infliction of any other punishment**
- to which the person affected thereby is liable under the provisions of this Act or under any other law.

PUNISHMENT

Section 132: Punishment for certain offences

Circumstances for punishment and punishment thereof

- (1) Whoever commits **or causes to commit and retain the benefits arising out of,** any of the following offences, namely:-
- (a) supplies any goods or services or both **without issue of any invoice,** in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
 - (b) **issues any invoice or bill without supply** of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
 - (c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;**
 - ~~(c) avails input tax credit using such invoice or bill referred to in clause (b);~~
 - (d) **collects any amount as tax but fails to pay the same** to the Government beyond a period of **3 months** from the date on which such payment becomes due;
 - (e) **evades tax, fraudulently avails input tax credit** or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
 - (f) **falsifies** or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
 - ~~(g) obstructs or prevents any officer in the discharge of his duties under this Act;~~
 - (h) **acquires possession of,** or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
 - (i) **receives or** is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
 - ~~(j) tampers with or destroys any material evidence or documents;~~
 - ~~(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or~~

	<p>(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (f) and clauses (h) and (i) clauses (a) to (k) of this section, shall be punishable—</p> <p>(i) In cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds ` 5 crore, with imprisonment for a term which may extend to five years and with fine;</p> <p>(ii) In cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds ` 2 crore, but does not exceed ` 5 crore,, with imprisonment for a term which may extend to 3 years and with fine;</p> <p>(iii) in the case of "an offence specified in clause (b), any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds ` 1 crore, but does not exceed ` 2 crore,, with imprisonment for a term which may extend to one year and with fine;</p> <p>(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to 6 months or with fine or with both.</p>
<p>Subsequent time offence [imprisonment may extend upto 5 years with fine]</p>	<p>(2) Where any person</p> <ul style="list-style-type: none"> ■ convicted of an offence under this section is again convicted of an offence under this section, ■ then, he shall be punishable for the second and for every subsequent offence ■ with imprisonment for a term which may extend to five years and with fine.
<p>Minimum imprisonment 6 months except in special cases as considered by court</p>	<p>(3) The imprisonment referred to in sub-section (1)(i)(ii)(iii) and sub-section (2)</p> <ul style="list-style-type: none"> ■ shall, in the absence of special and adequate reasons ■ to the contrary to be recorded in the judgment of the Court, ■ be for a term not less than 6 months.
<p>Offences will be in nature of NON COGNIZABLE AND BAILABLE</p>	<p>(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,</p> <ul style="list-style-type: none"> ■ all offences under this Act, ■ except the offences referred to in sub-section (5) ■ shall be non-cognizable and bailable.
<p>Certain offences will be in nature of COGNIZABLE AND NON BAILABLE</p>	<p>(5) The offences</p> <ul style="list-style-type: none"> ■ specified in sub-section (1)(a)(b)(c)(d) and ■ punishable under clause (i) of that sub-section ■ shall be cognizable and non-bailable.

Prior approval mandatory for prosecution

(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Section 133: Liability of officers and certain other persons

Punishment for certain offences

(1) Where any person:

- Engaged in connection with the collection of **statistics under section 151** or
- **compilation or computerization thereof** or if any officer of central tax having access to information specified under section 150(1), or
- if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force,

he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ` 25,000 or with both.

Prior sanction of Government/commissioner for punishment to a person

(2) Any person—

- (a) Who is a **Government servant** shall not be prosecuted for any offence under this section **except with the previous sanction of the Government;**
- (b) Who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Section 134: Cognizance of offences

No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.

Section: 135 Presumption of culpable Mental State

In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, **the court shall presume the existence of such mental state** but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.-For the purposes of this section,—

- (i) The expression “**culpable mental state**” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;

guilty	<ul style="list-style-type: none"> ■ shall be deemed to be guilty of that offence and ■ shall be liable to be proceeded against and punished accordingly and ■ the provisions of sub-section (2) shall, <i>mutatis mutandis</i>, apply to such persons.
Prove innocent	<p>(4) Nothing contained in this section</p> <ul style="list-style-type: none"> ■ shall render any such person liable to any punishment provided in this Act, ■ if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. <p>Explanation:For the purposes of this section,—</p> <p>(i) “Company” means a body corporate and includes a firm or other association of individuals; and</p> <p>(ii) “Director”, in relation to a firm, means a partner in the firm.</p>

Section 138: Compounding of offences

Compounding by commissioner	<p>(1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:</p> <p>Provided that nothing contained in this section shall apply to—</p> <p>(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132.</p> <p>(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;</p> <p>(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;</p> <p>(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;</p> <p>(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;</p> <p>(d) a person who has been convicted for an offence under this Act by a court;</p> <p>(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and</p> <p>(f) any other class of persons or offences as may be prescribed:</p>
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	<p>Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:</p> <p>Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.</p>
Compounding amount	<p>The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than 25% of the tax involved and the maximum amount not being more than 100% of the tax involved. ₹10,000 or 50% of the tax involved, whichever is higher, and the maximum amount not being less than ₹30,000 or 150% of the tax, whichever is higher.</p>
Pay amount and Relax	<p>(3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.</p>

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Section 162: Procedure for compounding of offences

(1) An applicant may, either before or after the institution of prosecution, make an application under sub-section (1) of section 138 in **FORM GST CPD-01** to the Commissioner for compounding of an offence.

(2) On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application, or any other information, which may be considered relevant for the examination of such application.

(3) The Commissioner, after taking into account the contents of the said application, may, by order in **FORM GST CPD-02**, on being satisfied that the applicant ~~has co-operated in the proceedings before him and~~ has made full and true disclosure of facts relating to the case, allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within ninety days of the receipt of the application.

(3A) The Commissioner shall determine the compounding amount under sub-rule (3) which is follows-

S. No.	Offence	Compounding amount if offence is punishable under section 132(1)(i)	Compounding amount if offence is punishable under of section 132(1)(ii)
1	Offence specified in section 132(1)(a) of the Act	Up to 75% of the amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken,	Up to 60% of the amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken,
2	Offence specified in section 132 (1)(c) of the Act	subject to minimum of 50% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.	subject to minimum of 40% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.
3	Offence specified in section 132(1)(d) of the Act		
4	Offence specified in section 132(1)(e) of the Act		
5	Offence specified in section 132(1)(f) of the Act	Amount equivalent to 25% of tax evaded.	Amount equivalent to 25% of tax evaded.
6	Offence specified in clause (h) of sub-section (1) of section 132 of the Act		
7	Offence specified in section 132(1)(i) of the Act		
8	Attempt to commit the offences or abets the commission of offences mentioned in section 132(1)(a), (c) to (f) and (h) and (l) of the Act	Amount equivalent to 25% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.	Amount equivalent to 25% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.

Provided that where the offence committed by the person falls under more than one category specified in the Table above the compounding amount, in such case, shall be the amount determined for the offence for which higher compounding amount has been prescribed.

(4) The application shall not be decided under sub-rule (3) without affording an opportunity of being heard to the applicant and recording the grounds of such rejection.

(5) The application shall not be allowed unless the tax, interest and penalty liable to be paid have been paid in the case for which the application has been made.

(6) The applicant shall, within a period of thirty days from the date of the receipt of the order under sub-rule (3), pay the compounding amount as ordered by the Commissioner and shall furnish the proof of such payment to him.

(7) In case the applicant fails to pay the compounding amount within the time specified in sub-rule

(6), the order made under sub-rule (3) shall be vitiated and be void.

(8) Immunity granted to a person under sub-rule (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provisions the Act shall apply as if no such immunity had been granted.

Rule 163. Consent based sharing of information.-

(1) Where a registered person opts to share the information furnished in—

(a) FORM GST REG-01 as amended from time to time;

(b) Return in FORM GSTR-3B for certain tax periods;

(c) FORM GSTR-1 for certain tax periods, pertaining to invoices, debit notes and credit notes issued by him, as amended from time to time,

with a system referred to in section 158A(1) the requesting system shall obtain the consent of the said registered person for sharing of such information and shall communicate the consent along with the details of the tax periods, where applicable, to the common portal.

(2) The registered person shall give his consent for sharing of information under sub-rule (1)(C) only after he has obtained the consent of all the recipients, to whom he has issued the invoice, credit notes and debit notes during the said tax periods, for sharing such information with the requesting system and where he provides his consent, the consent of such recipients shall be deemed to have been obtained.

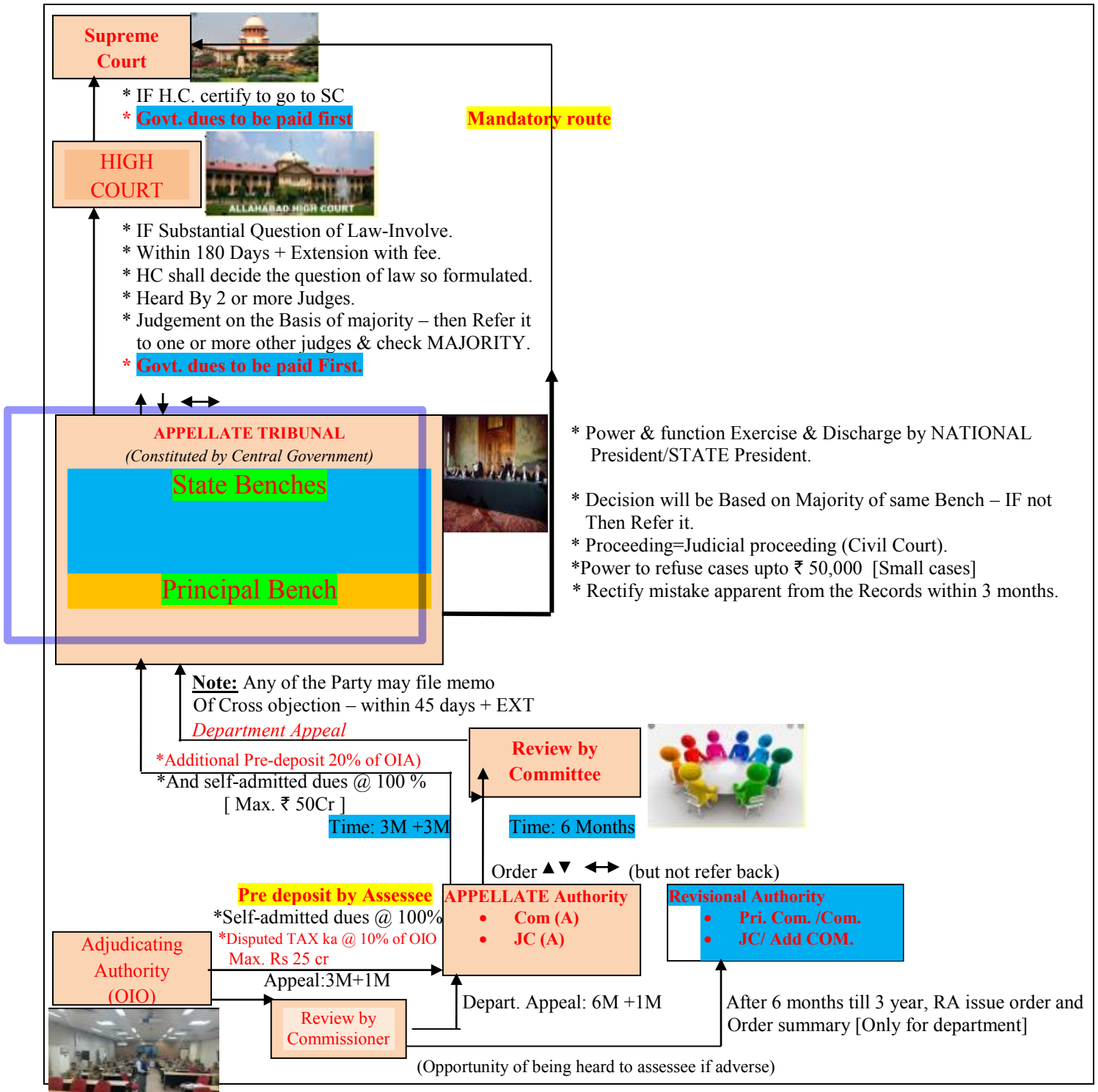
(3) The common portal shall communicate the information referred to in sub-rule (1) with the requesting system on receipt from the said system-

(a) the consent of the said registered person, and

(b) the details of the tax periods or the recipients, as the case may be, in respect of which the information is required.

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Appeals



Section 109: Constitution of Appellate Tribunal and Benches thereof [Substituted]

GST Appellate Tribunal by CG	(1) The Government shall, by notification, establish with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.
Power Exercised by Principal and State Bench	(2) The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches constituted under sub-section (3) and sub-section (4).
Principal Bench [New Delhi]	(3) The Government shall, by notification, constitute a Principal Bench of the Appellate Tribunal at New Delhi which shall consist of the President, a Judicial Member, a Technical Member (Centre) and a Technical Member (State).
State Benches	(4) On the request of the State, the Government may, by notification, constitute such number of State Benches at such places and with such jurisdiction as may be recommended by the Council, which shall consist of two Judicial Members, a Technical Member (Centre) and a Technical Member (State).
Appeal against Order Of AA /RA	(5) The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority: Provided that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.
Case Transfer	(6) The President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.
Vice-President of State Benches	(7) The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.
Cases upto 50 lakh Heard by Single Member	(8) Appeals, where the tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed Rs. 50 lakh and which does not involve any question of law may, with the approval of the President, be heard by a single Member, and in all other cases, shall be heard together by one Judicial Member and one Technical Member.
In case of difference in opinion	(9) If, after hearing the case, the Members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,— (a) Where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;

	<p>(b) Where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench,</p> <p>and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.</p>
Transfer of members	<p>(10) The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench:</p> <p>Provided that a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.</p>
No act or proceedings shall be invalid	<p>(11) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.</p>

Section 110: President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc. [NOT RELEVANT]

Section 111: Procedure before Appellate Tribunal [NOT RELEVANT]

Section 114: Financial and administrative powers of President

The President shall exercise such financial and administrative powers over the Appellate Tribunal as may be prescribed.

The President shall exercise such ~~financial and administrative powers~~ over the National Bench and Regional Benches of the Appellate Tribunal.

However the President shall have the authority to ~~delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President.~~

Section 115: Interest on refund of amount paid for admission of appeal

Where an amount paid by the appellant

- under section 107(6) or section 112(8)
- is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal,
- interest at the rate specified under **section 56**
- **shall be payable in respect of such refund**
- from the date of payment of the amount till the date of refund of such amount.

Section 116: Appearance by Authorised Representative

Appearance through Authorised Representative	<p>(1) Any person appear by an authorised representative before an officer or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act.</p> <p>Otherwise than when required under this Act to appear personally for examination on oath or affirmation.</p>
Who can be an Authorised Representative	<p>(2) “Authorised representative” shall mean, being—</p> <p>(a) his relative or regular employee; or</p> <p>(b) an advocate who is entitled to practice in any court in India,</p> <p>(c) any chartered accountant, a cost accountant or a company secretary, who holds a COP or</p> <p>(d) a retired officer of the Commercial Tax Department, who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than 2 years:</p> <p>however such officer shall not be entitled to appear before any proceedings under this Act for a period of 1 year from the date of his retirement or resignation; or</p> <p>(e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.</p>

<p>Who can NOT be an Authorised Representative</p>	<p>(3) No person,—</p> <p>(a) who has been dismissed or removed from Government service; or</p> <p>(b) who is convicted of an offence connected with any proceedings or</p> <p>(c) who is found guilty of misconduct by the prescribed authority;</p> <p>(d) who has been adjudged as an insolvent,</p> <p>shall be qualified to represent any person under sub-section (1)—</p> <p>(i) for all times in case of persons referred to in clauses (a), (b) and (c); and</p> <p>(ii) for the period during which the insolvency continues in the case of a person referred to in clause (d).</p>
<p>Common provision</p>	<p>(4) Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.</p>

Section 117: Appeal to High Court

<p>Appeal to High Court against order of Appellate Tribunal (State bench/Area Bench)</p>	<p>(1) Any person</p> <ul style="list-style-type: none"> ■ aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal ■ may file an appeal to the High Court and ■ the High Court may admit such appeal, ■ if it is satisfied that the case involves a substantial question of law.
<p>Appeal within 180 days</p>	<p>(2) An appeal under sub-section (1) shall be filed within a period of 180 days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:</p> <p>however the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.</p>
<p>Hearing on substantial question of law</p>	<p>(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:</p> <p>(4) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.</p>

May determine the issue as not determined/wrongly determined by Appellate Tribunal	(5) The High Court may determine any issue which— (a) has not been determined by the State Bench or Area Benches ; or (b) has been wrongly determined by the State Bench or Area Benches , by reason of a decision on such question of law as herein referred to in sub-section (3).
Heard by judges: at least 2 (Majority prevail)	(6) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court , and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.
If no such majority then involve other judges and check majority	(6) Where there is no such majority, <ul style="list-style-type: none"> ■ the Judges shall state the point of law upon which they differ and ■ the case shall, then, be heard upon that point only, ■ by one or more of the other Judges of the High Court and ■ such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.
Effect on the basis of certified copy	(8) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

Section 118: Appeal to Supreme Court

Appeal to supreme	An appeal shall lie to the Supreme Court- (a) From any order passed by the Principal Bench “National Bench or Regional Bench” of the Appellate Tribunal; or (b) From any judgment or order passed by the High Court in an appeal made under section 117.
Effect of judgement	Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

Section 119: Sums due to be paid notwithstanding appeal, etc.

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court,

- sums due to the Government as a result of an order passed by the Principal Bench ~~National or Regional Benches~~ of the Appellate Tribunal under section 113(1) or
- an order passed by the State Bench ~~or Area Benches~~ of the Appellate Tribunal under section 113(1) or
- an order passed by the High Court under section 117, as the case may be,

shall be payable in accordance with the order so passed.

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Rule 108: Appeal to the Appellate Authority

(1) An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in **FORM GST APL-01**, along with the relevant documents, electronically, ~~either electronically or otherwise as may be notified by the Commissioner~~, and a provisional acknowledgement shall be issued to the appellant immediately.

Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-01, along with the relevant documents, only if-

- (i) The Commissioner has so notified, or
- (ii) The same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately.

(2) The grounds of appeal and the form of verification as contained in **FORM GST APL- 01** shall be signed in the manner specified in rule 26.

(3) Where the decision or order appealed against is uploaded on the common portal, a **final acknowledgment, indicating appeal number**, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:

Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant **shall submit a self-certified copy of the said decision or order within a period of 7 days** from the date of filing of FORM GST APL-01 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:

Provided further that where the said self-certified copy of the decision or order is not submitted within a period of 7 days from the date of filing of FORM GST APL-01, **the date of submission of such copy shall be considered as the date of filing of appeal.**

Rule 109: Application to the Appellate Authority

(1) An application to the Appellate Authority under **section 107(2)** shall be filed in **FORM GST APL-03**, along with the relevant documents, electronically ~~either electronically or otherwise as may be notified by the Commissioner~~ and a provisional acknowledgment shall be issued to the appellant immediately.

“Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-03, along with the relevant documents, only if-

- (i) the Commissioner has so notified, or
- (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately and in such case, a provisional acknowledgement shall be issued to the appellant immediately.

(2) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, **shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf** and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal under sub-rule (1):

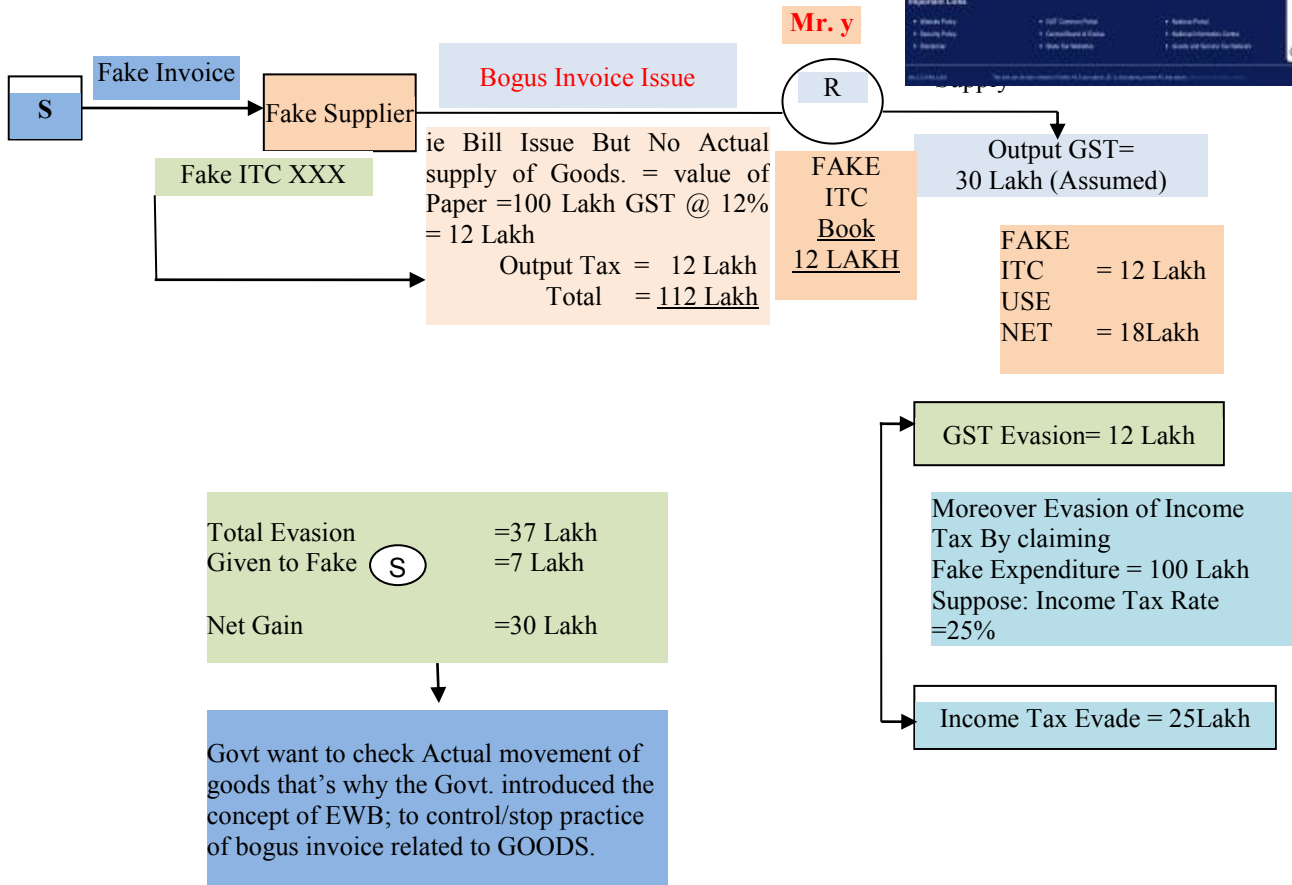
22

E-Way Bill

- (1) Why EBW
- (2) Where EBW [Circumstances where EWB required]
[Value based / Mandatory]
- (3) Who, When and how to prepare EBW
- (4) Life of EWB & Extension
- (5) Check Mechanism
- (6) Misc



Why EBW?



Rule 138F:
Information to be furnished in case of intra-State movement of gold, precious stones, etc. and generation of e-way bills thereof

(1) Where-

(a) a Commissioner of State tax or Union territory tax mandates furnishing of information regarding intra-State movement of goods specified [gold, precious stones, etc], in accordance with Rule 138F(1) of the State or Union territory Goods and Services Tax Rules, and

(b) the consignment value of such goods exceeds such amount, not below Rs 2 Lakhs, as may be notified by the Commissioner of State tax or Union territory tax, in consultation with the jurisdictional Principal Chief Commissioner or Chief Commissioner of Central Tax, or any Commissioner of Central Tax authorised by him,

Notwithstanding anything contained in Rule 138, every registered person who causes intra-State movement of such goods, -

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an un-registered person,

shall, before the commencement of such movement within that State or Union territory, furnish information relating to such goods electronically, as specified in Part A of FORM GST EWB-01, against which a unique number shall be generated:

Provided that where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency.

(2) The information as specified in PART B of FORM GST EWB-01 shall not be required to be furnished in respect of movement of goods referred to in the sub-rule (1) and after furnishing information in Part-A of FORM GST EWB-01 as specified in sub-rule (1), the e-way bill shall be generated in FORM GST EWB-01, electronically on the common portal.

(3) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in FORM GSTR-1.

(4) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-waybill, the e-way bill may be cancelled, electronically on the common portal, within twenty-four hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

(5) Notwithstanding anything contained in this rule, no e-way bill is required to be generated-

(a) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;

(b) where the goods are being transported-

(i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or

(ii) under **customs supervision** or under customs seal.

(6) The provisions of Rule 138 (10)(11)(12), Rule 138A, Rule 138B, Rule 138C, Rule 138D and Rule 138E shall, mutatis mutandis, apply to an e-way bill generated under this rule.

Explanation.- For the purposes of this rule,

- the consignment **value of goods**
- shall be the value, determined
- in accordance with the provisions of **section 15,**
- declared in an invoice, a bill of supply or a **delivery challan**, as the case may be,
- issued in respect of the **said consignment** and
- also includes the CGST, SGST or UTGST charged in the document and
- shall exclude the value of exempt supply of goods
- where the invoice is issued in respect of **both exempt and taxable supply of goods.**

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Ethics under GST

(i) Meaning of Ethics

Moral Principle	<p>The Oxford Dictionary defines the term “Ethics” as the moral principle that governs a person's behavior or how an activity is conducted. Ethics provides a framework for</p> <ul style="list-style-type: none"> ■ distinguishing between right and wrong, ■ guiding decision- making, and ■ determining what is considered morally acceptable in a given context.
Reduced tax evasion	<p>Ethics are fundamental to the effective functioning of any taxation system;</p> <ul style="list-style-type: none"> ■ This also holds true for the GST regime in India. ■ Ethical conduct contributes to increased regulatory compliance and ■ reduced tax evasion which in turn leads to increased Government revenue collection. This tax revenue can be used for public welfare and development projects.
Trustworthy tax environment and Less Litigations	<ul style="list-style-type: none"> ■ It also helps in creating a fair, transparent, and trustworthy tax environment and reduces uncertainty that supports economic growth and development. ■ Unethical practices like issuing bogus invoice without underlying supply, wrongful availment of ITC, etc. not only undermine the tax revenues, but also create an uneven playing field for honest taxpayers. <p>Ethical behavior may also reduce tax-related disputes and litigations</p>

(ii) Role of Chartered Accountant in ensuring ethics under GST

<p>General</p>	<p>The professional behaviour of a Chartered Accountant is governed by a set of ethical guidelines and principles - known as Code of Ethics - laid down by the ICAI.</p> <ul style="list-style-type: none"> ■ Every Chartered Accountant has to abide by this code of ethics. ■ It encourages the Chartered Accountants to be honest, fair, and professional in their working and advocates to follow the rules to ensure that they are doing the right thing for their clients and the public at large. <p>The fundamental principles are: integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.</p> <p>The Chartered Accountants Act, 1949 prescribes the disciplinary action if a Chartered Accountant is found guilty of any Professional or Other Misconduct.</p> <p>A Chartered Accountant</p> <ul style="list-style-type: none"> ■ needs to follow ethical conduct while discharging his professional duties ■ under the GST law, ■ namely, compliance functions, furnishing certifications/reports and advisory roles, by adhering to a set of principles and practices that promote integrity, transparency, and compliance.
<p>Second Schedule - Part I - clause (7)</p>	<p>A Chartered Accountant in practice would be deemed to be guilty of professional misconduct under Second Schedule - Part I - clause (7) of the Chartered Accountant Act, 1949, if he does not exercise due diligence, or is grossly negligent in the conduct of his professional duties.</p>
<p>Second Schedule - Part I - clause (8)</p>	<p>Further, as per Second Schedule - Part I - clause (8) to the Chartered Accountants Act, 1949,</p> <ul style="list-style-type: none"> ■ a chartered accountant in practice shall be deemed to be guilty of professional misconduct, ■ if he fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion.
<p>Maintain professional knowledge and skill</p>	<p>He should maintain professional knowledge and skill at the level required</p> <ul style="list-style-type: none"> ■ to ensure that a client or employer receives competent professional service based on latest applicable provisions of GST law. ■ In case of any violation of law in performing the compliance, certifications/ reporting and advisory functions, ■ he shall also be liable to applicable penalty and prosecution (in some cases) under GST law.

<p>Crucial role</p>	<p>Chartered Accountants play a crucial role</p> <ul style="list-style-type: none"> ■ in ensuring GST compliance within their clients' organizations. ■ This involves assisting in the process of obtaining registration, structuring the transactions and conditions stipulated in agreements for making /receiving supply, optimizing tax positions, ensuring the necessary GST compliances including e-way bill, payment of taxes, TDS/TCS compliances, compliances with anti-profiteering provisions and timely filing of periodic returns.
<p>Responsibilities</p>	<p>Generally, Chartered Accountants are responsible</p> <ul style="list-style-type: none"> ■ for ensuring the maintenance of accurate and detailed records of all GST-related transactions. ■ This includes invoices, receipts, and other relevant documents. ■ Such meticulous record-keeping is a legal requirement as well as an ethical duty of the Chartered Accountant. <p>Another major responsibility of a Chartered Accountant in the realm of GST</p> <ul style="list-style-type: none"> ■ is to act as a tax advisor to their clients. ■ This entails a comprehensive understanding of the client's business operations and goals. <p>Chartered Accountants must assess the impact of GST</p> <ul style="list-style-type: none"> ■ on various aspects of the business, ■ including supply chain, pricing strategies and financial reporting.
<p>Practicing CA</p>	<p>A Chartered Accountant, who holds a certificate of practice and who has not been debarred from practice,</p> <ul style="list-style-type: none"> ■ can also appear on behalf of his client before a GST officer, GST Appellate Authority or GST Appellate Tribunal ■ in connection with any proceedings under GST law, ■ as an authorised representative of the client.
<p>Closing</p>	<p>Furthermore, Chartered Accountants play a vital role in the GST ecosystem</p> <ul style="list-style-type: none"> ■ by providing certifications that affirm compliance with GST laws and regulations. ■ These certifications are mandatory in specific situations and are required to ensure compliance with GST regulations. <p>They primarily aim at curbing the unethical practices and</p> <ul style="list-style-type: none"> ■ preventing the leakage of revenue. ■ Thus, it is the duty of every Chartered Accountant to exercise utmost care and due diligence while granting these certifications. <p>While providing said certification,</p> <ul style="list-style-type: none"> ■ the Chartered Accountant has to comply with the ethical requirements of the Code of Ethics issued by the ICAI,

- the relevant applicable requirements of the Standard on Quality Control (SQC 1), Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements.

The certifications/reports required to be furnished by a Chartered Accountant under GST law have been explained in detail hereunder:

Certifications/reports to be furnished by a Chartered Accountant required under the GST law

Certification of the amount of ITC claimed at the time of registration/voluntary registration or switching to regular tax paying status or coming into tax-paying status [Sub-section (1) of section 18 read with rule 40]

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

Section No.	Persons eligible to take credit	Goods entitled to ITC	
		Inputs held in stock/ capital goods	as on
Section 18(1)(a)	Person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock	The day immediately preceding the date from which he becomes liable to pay tax
Section 18(1)(b)	Person who is not required to register, but obtains voluntary registration	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock	The day immediately preceding the date of registration
Section 18(1)(c)	Registered person who ceases to pay composition tax and switches to regular scheme	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods	The day immediately preceding the date from which he becomes liable to pay tax under regular scheme
Section 18(1)(d)	Registered person whose exempt supplies become taxable supplies	Inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and capital goods exclusively used for such exempt supply	The day immediately preceding the date from which such supply becomes taxable

In all the above cases,

- the registered person has to make an electronic **declaration in Form ITC-01** on the common portal,
- **clearly specifying the details** relating to the inputs held in stock, inputs contained in semi- finished or finished goods held in stock and capital goods.
- The **declaration is to be filed within 30 days** (extendable by Commissioner/Commissioner of State GST/Commissioner of UTGST) from the date when the registered person becomes eligible to avail ITC.
- If the claim of ITC pertaining to CGST, SGST/UTGST, IGST put together exceeds ` 2,00,000, the **declaration** needs **to be certified by a practicing Chartered Accountant** or Cost Accountant.

A Chartered Accountant is

- required to examine the books of accounts and other relevant documents / records of the taxpayer and
- to provide a reasonable assurance
- that the amounts declared in the Form GST ITC- 01
- have been accurately drawn from the books of accounts and other relevant documents / records of the taxpayer and is claimed as ITC.

Certification that the sale, merger, demerger, amalgamation, lease or transfer of business done with a specific provision for the transfer of liabilities [Section 18(3) read with Rule 41]

In case of **sale, merger, demerger, amalgamation**, transfer or change in ownership of business etc.,

- the **ITC that remains unutilized** in the electronic credit ledger of the registered person can be transferred
- to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution.
- The registered person should furnish the details of change in constitution in Form **ITC - 02 on the common portal**.
- Further, he needs to submit **a certificate from practicing Chartered Accountant** or Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities.

A Chartered Accountant is **required to examine the books of accounts** and other relevant documents / records of the taxpayer **and to provide a reasonable assurance** that the sale, merger, demerger, amalgamation, lease or transfer or business has been done with a specific provision for the transfer of liabilities.

Certification that in case of refund claim exceeding ` 2 lakh by the applicant, there is no unjust enrichment [Section 54 read with rule 89(2)(m)]

A certificate in **Annexure 2 of Form GST RFD-01**

- is to be **issued by** a Chartered accountant or Cost Accountant
- **to the effect that the incidence of tax**, interest or any other amount claimed as refund
- **has not been passed** on to any other person (i.e., there is no unjust enrichment in the case of the applicant)
- in a case where the amount of refund claimed **exceeds ` 2 lakh**.

The certification by the Chartered Accountant

- should be based on **meticulous examination** of the books of accounts and other relevant documents / records supporting the refund claim

- thereby providing a **reasonable assurance** that the incidence of tax, interest or any other amount claimed as refund, has not been passed on to any other person.

Certification of the amount of ITC to be reversed on cancellation of registration or on switching to composition levy/exit from tax-paying status, in respect of inputs for which tax invoices are not available [Section 29(5)/section 18(4)]

Section 29(5) requires reversal of ITC on cancellation of registration of a registered person. Similarly, section 18(4) **requires reversal of ITC** when a registered person who has availed ITC **switches to composition levy** or when his supplies get wholly exempted from tax.

ITC on inputs

- should be reversed **proportionately** on the basis of **corresponding invoices** on which credit had been availed on such inputs.
- **If invoices are not available**, ITC can be reversed on the basis of the prevailing market price of such goods on the date of switch over/exemption/cancellation of registration.
- The details so furnished on the basis of prevailing **market value need to be duly certified** by a practicing Chartered Accountant or Cost Accountant.

The certification by the Chartered Accountant

- should be based on **meticulous examination** of the books of accounts and other relevant documents / records of the taxpayer
- thereby providing a **reasonable assurance** as regards the correctness of the quantum of the amount of ITC to be reversed
- in case where **the tax invoices** related to the inputs held in stock are **not available**.

Audit report under section 66

Section 66 provides that if at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that –

- the value** (of goods and/or services) has **not been correctly declared**; or
- the **credit availed is not within the normal limits**,

he may, with the prior approval of the Commissioner,

- issue a direction to the registered person **to get his records including books of account** examined and audited
- by a Chartered Accountant or a Cost Accountant
- as may be **nominated by the Commissioner** and specified in the said direction.

The Chartered Accountant or Cost Accountant

- shall submit a report of such audit duly signed and certified by him
- within the **period of 90 days** to the said Assistant Commissioner
- mentioning therein such other particulars as may be specified:

The Assistant Commissioner may extend the said period 90 days by a **further period of 90 days** –

- ❑ on an application made to him in this behalf by the registered person or the Chartered Accountant or Cost Accountant; or
- ❑ for any material and sufficient reason.

The expenses of the examination and audit of records including the remuneration of such Chartered Accountant or Cost Accountant, **shall be determined and paid by the Commissioner** and such determination shall be final. On conclusion of special audit, the registered person shall be informed of the findings of special audit.

Upon the conclusion of special audit under section 66, **the registered person is communicated the proposed tax, interest and other liabilities**, if any, along with the audit findings and the registered person is called upon to discharge the liabilities.

In case the registered person discharges the liabilities as proposed, no further action is taken. Otherwise, the authorities may initiate the proceedings against the registered person **under sections 73 or 74 for determination of the tax liability** of the person audited.

A Chartered Accountant must approach

- the Special Audit with an **unbiased and impartial mindset, free from any external influences or conflicts of interest**.
- This ensures that the **audit findings are based on factual evidence** and professional judgment, rather than personal biases.
- He should **first go through the terms of reference provided by the GST authorities** to understand the scope and objectives of the special audit.
- This document **outlines the specific areas** and tax periods to be audited.
- He should conduct a comprehensive **review of all relevant documents**, including financial statements, invoices, transaction records, and any other documentation provided by the taxpayer.
- This ensures that the audit findings are **based on accurate and reliable information**. He should take steps to identify and mitigate any potential conflicts of interest that may arise during the special audit.
- This includes refraining from engaging in any activities or relationships that could compromise their objectivity or independence.
- If a conflict of interest does arise, **it should be promptly disclosed to the relevant parties**.

Attestation

Apart from the aforesaid specific roles defined in the GST Law for Chartered Accountants,

- there may be specific scenarios
- where the **attested documents**, certificates issued by the Chartered Accountants
- **are relied** during the proceedings under GST Law by the tax authorities and also judicial forums, as a general practice **while dealing with the GST Law related disputes**.

Case Studies

Case Studies have been incorporated to exemplify some of the ethical considerations that a Chartered Accountant should bear in mind when issuing various certificates/reports under relevant GST provisions as well as while giving GST related advise to the client, ensuring GST compliances at the same time. This is intended to encourage the students to act ethically while discharging any GST related function and abstain themselves from inadvertently indulging in any unethical practices. We have discussed the significant implications that would arise under the GST law in such cases¹. Students may also refer the relevant provisions of demands and recovery, offences, penalties and prosecution under the GST law for ascertaining the consequences of the unethical practices being followed. Further, a Chartered Accountant in practice may be deemed to be guilty of the professional misconduct in such cases, primarily under clause (7)/ clause (8) of Part I of the Second Schedule to the Chartered Accountant Act, 1949, in such cases.

Case Study 1 Facts of the case

M/s L and Co., a partnership firm with two partners – Mr. X and Mr. Y, is registered under GST in Kolkata, West Bengal. It is engaged in supplying the materials used for construction related activity. Mr. X and Mr. Y are friends and each of them also have their own separate sole proprietorship firms engaged in supplying construction material; these firms are registered under GST. Mr. A² is the tax consultant of the firm - M/s L and Co.

Mr. X gets an offer from a customer - M/s W Pvt. Ltd., (hereinafter referred to as WPL) - to issue some supply related bills to meet the budget allocated to WPL by their management in relation to civil works. Mr. X shall earn a commission of 20% of the value of supply charged in the supply bills accepted by WPL. Mr. X agrees to share 50% of his earnings with Mr. Y for undertaking the above project. M/s L and Co. needs a bank loan for expanding its business operations and the supply bills issued to WPL will inflate the turnover of M/s L and Co. Mr. X and Mr. Y sought advice from their tax consultant Mr. A as to how to execute the above project for the supply bills to be issued to WPL. Based on the guidance provided by Mr. A, it is executed as follows:

- ❑ M/s L and Co. shall issue supply related bills for steel, jelly stone and cement for ` 280 lakh to Mr. X wherein the delivery site shall be of WPL (Bill to Ship to Model).
- ❑ Mr. X shall avail and utilise the input tax credit (ITC) on the bill of ` 280 lakh and shall separately enter into a contract with WPL for supply of steel, jelly stone and cement (to be used for construction of foundation of Plant and Machinery) for ` 280 lakh. Further, Mr. X, in his individual capacity, shall issue labour work related bills for ` 40 lakh for the assembly and erection work relating to construction of foundation of Plant and Machinery undertaken at the site of WPL, without actually providing any service. WPL will avail and utilise the ITC on the bills of ` 280 lakh and ` 40 lakh used for underlying supply of goods.
- ❑ All inventory registers are updated duly by M/s L and Co. without any actual movement/supply of the material and some e-way bills are also generated on behalf of Mr. X for the supplies made to the work site of WPL.

Mr. A assures Mr. X and Mr. Y that:

- ❑ Inventory registers are up to date for material movement.
- ❑ Compliances pertaining to e-way bill have been taken care of.
- ❑ Money shall be duly realised as per the bills issued.

Mr. X approached his friend - Mr. P, a practicing Chartered Accountant, for seeking his help in above arrangement. However, Mr. P makes Mr. X conversant with the following GST implications that may arise in above arrangement:

1 Based on view taken in Circular No. 171/03/2022 GST dated 06.07.2022

2 Mr. A is not a Chartered Accountant.

GST implications

- 1. Issue of invoice by M/s L and Co. to Mr. X:** Since there has only been an issuance of tax invoice by the registered person - M/s L and Co. - to registered person 'Mr. X' without the underlying supply of steel, jelly stone and cement, therefore, such an activity does not satisfy the criteria of "supply", as defined under section 7. As there is no supply by M/s L and Co. to Mr. X in respect of such tax invoice in terms of the provisions of section 7, no tax liability arises against M/s L and Co. for the said transaction, and accordingly, no demand and recovery is required to be made against M/s L and Co. under the provisions of section 74 in respect of the same. The registered person - M/s L and Co. - shall, however, be liable for penal action under section 122(1)(ii) for issuing tax invoices without actual supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii).
- 2. Issue of invoice by Mr. X to WPL:** The registered person - Mr. X has availed and utilized fraudulent ITC on the basis of the tax invoice issued in contravention of the provisions of section 16(2)(b), without receiving the supply of steel, jelly stone and cement. Further, there was no supply of steel, jelly stone and cement and labour work related services by Mr. X to WPL. Thus, in respect of the said transactions, no tax was required to be paid. In these specific cases, no demand and recovery of either ITC wrongly/ fraudulently availed by Mr. X in such case or tax liability in respect of the said outward transaction by Mr. X to WPL is required to be made from Mr. X under the provisions of section 74. However, in such cases, Mr. X shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), 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. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions.

WPL will be liable for the demand and recovery of the ITC availed and utilised by it, along with penal action under section 74 along with applicable interest under provisions of section 50, for taking/ utilizing ITC without actual receipt of steel, jelly stone and cement and without receiving the assembly and erection services, used for underlying supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions.

- 3. GST implications on Mr. A:** Mr. A who advised for designing the above business practice shall also be liable to a penalty in terms of the provisions of 122(3) since in the given case, he has aided or abetted the offences specified above. This offence is also punishable with imprisonment subject to specified conditions.

Mr. P apprised Mr. X that if any Chartered Accountant advises Mr. X on above arrangement, then he will also be punishable with penalty in terms of the provisions of 122(3) for aiding/abetting the offences specified above and may also be punishable with imprisonment subject to specified conditions. Further, he may also be held guilty of professional misconduct.

Case Study 2 Facts of the case

Doodle LLC is an entity registered in Germany and is engaged in providing online services across multiple countries including India. The service offerings include certain services which are covered within the purview of online information and database access or retrieval services i.e. OIDAR services liable to GST in India. Since Doodle LLC does not have any place of business in India, it appointed one of its employee - Mr. X³ as its authorized representative for all the purposes in India which includes undertaking GST compliances and also as an authorized signatory for any other regulatory compliances in India. Mr. X is a partner in XYZ & Associates LLP. Post appointment of Mr. X, following chain of events unfolded:

3 Mr. X is not a Chartered Accountant.

1. Mr. X, being an authorized representative of Doodle LLC, made an application for registration as an OIDAR service provider in India and undertook other GST compliances. Subsequently, Mr. X started filing the monthly GST returns and made payment of applicable GST in India on behalf of Doodle LLC. In lieu of such services, Mr. X was being remunerated a fixed sum on monthly basis as professional fee. The appointment of Mr. X was in his personal capacity and not a professional service contract with his partnership firm - XYZ & Associates LLP. However, for recovery of amount of fixed monthly remuneration from Doodle LLC, the invoices as 'export of services' were issued by Mr. X in the name of his partnership firm. The corresponding refund benefit was claimed by the partnership firm of Mr. X for input tax credit against such export of service invoices.
2. Doodle LLC appointed influencers in India to promote its services in India. The tax invoices of such influencers were received by Mr. X in name of XYZ & Associates LLP and input tax credit was availed by the partnership firm for such services. Said ITC was utilised for further supply of services. However, the actual service recipient in such case was Doodle LLC.
3. Subsequently, Doodle LLC was required to submit certain affidavits and accounting records before the office of the Enforcement Directorate. Being an authorized representative/ signatory of Doodle LLC, Mr. X approached Mr. P, a practicing Chartered Accountant, to prepare the affidavits and accounting records which included critical financial information and data of Doodle LLC. He elaborated the entire arrangement among Doodle LLC, Mr. X and XYZ & Associates LLP to Mr. P. He further requested Mr. P to certify and attest such records, which would be prepared and compiled by Mr. P in capacity of a practicing Chartered Accountant for submission before Enforcement Directorate.

Mr. P apprised Mr. X of the following GST implications:

GST implications

1. Incorrect issuance of invoice for export of services and claim of refund of input tax credit on the basis of such export of service related invoices

Mr. X was appointed as authorized representative and signatory of Doodle LLC in his personal capacity to undertake the compliances enumerated under the GST law in India. However, the consideration for such services was received at the behest of invoices issued in the name of his partnership firm. Further, such invoices were issued as 'export of service' invoices and corresponding refund of input tax credit was claimed by the firm of Mr. X. This act of Mr. X alongwith his firm is punishable as follows:

- Since Mr. X supplied services to Doodle LLC without any invoice, he shall also be liable for the demand and recovery of tax on said supply, along with penal action under section 74. Even if the contention is made that invoice was issued for such services by the firm of Mr. X, the same shall be treated as an incorrect invoice or false invoice as both, Mr. X and XYZ & Associates LLP are separate persons as per GST Law.
- Since both, Mr. X and XYZ & Associates LLP are different persons, the invoice issued by the firm shall be construed as issuance of invoice without supply of services viz. an offence punishable under section 122(1)(ii).
- Incorrect refund was claimed by XYZ & Associates LLP for input tax credit on the basis of incorrect invoice for export of services to Doodle LLC. This is an offence under section 122(1)(viii).
- All the above offences may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

2. Availment of input tax credit without actual receipt of services

XYZ & Associates LLP received invoices from the influencers who were actually providing services to Doodle LLC. Further, the input tax credit related to such invoices was availed by XYZ & Associates LLP in contravention of the provisions of section 16. Accordingly, the input tax credit availed and utilised by XYZ & Associates LLP for further supply of services is incorrect. Thus, XYZ & Associates LLP will be liable for the demand and recovery of the said

ITC, along with penal action under section 74 alongwith interest under section 50 as the actual service recipient was Doodle LLC and not XYZ & Associates LLP.

This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

3. GST implications on Mr. X

Mr. X was fully involved in wrongdoings in terms of the business transactions of Doodle LLC in India. Further, he was the authorized representative and signatory of Doodle LLC in India. Mr. X is liable to penalty under section 122(1A) and section 122(3) since he is involved in aiding and abetting the offences committed hereunder at his instance and has also derived monetary benefits from such practices. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

If a Chartered Accountant takes up the assignment offered by Mr. X and also attests/certifies the Doodle LLC's accounting records that would be prepared by him, for submission before the Enforcement Directorate in India, he may be held guilty of professional misconduct.

Case Study 3 Facts of the Case:

ABC & Associates LLP (ABC), a firm of Chartered Accountants, was empanelled with the Commissioner of GST for appointment as Special Auditor under section 66.

X Ltd., a registered person under GST, was selected by the Office of the Commissioner for special audit under section 66 for a financial year on account of irregularities noticed during scrutiny of returns. ABC was nominated by the Office of the Commissioner for special audit of X Ltd. Assume that the following events unfolded in relation to the appointment and audit procedure:

1. The appointment of special auditor was based on the undertaking furnished by the firm that the partners of the firm or any of their relatives are not directly or indirectly related to the auditee. However, while submitting the declaration in relation to such appointment, if ABC fails to disclose the fact that spouse of one of the partners of ABC is working under full time employment as a Head of Tax Department of the auditee i.e. X Ltd., what will be its implications?
2. Material discrepancies in the valuation of stock transfer to related parties by the auditee were noticed by ABC. If ABC fails to disclose these material discrepancies in the audit report submitted to the Office of Commissioner, what will be its implications?
3. The input tax credit claim by X Ltd. i.e. the auditee, under Form GST ITC- 01, was certified by one of the associate firms of ABC in favour of X Ltd. Such certificate was based on incorrect facts and against the eligibility criteria for input tax credit as per section 18. However, if ABC fails to exercise the due diligence and the certificate is taken on record by ABC as an audit procedure and is relied upon at the time of finalization of audit report and submission of findings, what will be its implications?
4. ABC receives a consideration of ` 5 lakh from X Ltd. in the name of special audit conducted.

GST implications

Following implications may arise in the above cases:

1. False undertaking submitted before the Office of Commissioner GST and the audit engagement undertaken on the basis of such undertaking

The essential terms of the appointment as special auditor included that the partners or any of the relatives of the partners are not directly or indirectly linked to X Ltd. i.e. the auditee. If the spouse of one of the partners of ABC is working as Head of Tax Department of the auditee. Non-disclosure of said fact in the undertaking and other engagement documents and accepting such engagement tantamount to submission of false undertaking by a

Chartered Accountant firm to the Government Authorities. Further, a question may be raised about the independence of the audit team considering the fact that spouse of one of the partners of the firm is holding a key position in X Ltd. i.e. the auditee.

2. Non-reporting of material discrepancies noticed during the audit procedure and reliance upon incorrect certificates and information

ABC audit team did not exercise due diligence to ascertain that the input tax credit availed by X Ltd. is not in compliance with the GST provisions. Instead, ABC relied on the certificate issued by its own associate firm which justified the incorrect input tax credit claim by X Ltd. In such a scenario both ABC and the associate firm, which issued the certificate to justify the input tax credit claim, were aiding and abetting X Ltd. in wrongful availment of credit, which is an offence punishable with penalty under 122(3). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions. Further, ABC as well as its associate firm may be held guilty of professional misconduct.

3. Receiving consideration for special audit from the auditee

The consideration for special audit under section 66 is payable by the Office of Commissioner and cannot be directly recovered from the auditee. In the present case the receipt of ₹ 5 lakh from the X Ltd., i.e. the auditee by ABC is an offence under GST provisions. The same is liable to penalty under general penalty under section 125 apart from other penal provisions under the GST Law. Further, this will also have an impact on the independence of the auditor – ABC.

Case Study 4 Facts of the Case:

A Ltd. is engaged in the business of manufacturing cotton yarn, wherein cotton is the principal raw material in the manufacturing process. The price of cotton varies depending upon the market conditions and is dependent on various external factors. Mr. X⁴ is tax consultant of A Ltd. Mr. X advises A Ltd. on GST compliances.

In order to meet expansion related expenditure, A Ltd. sought a term loan and working capital loan from banks. As per the bank, the turnover and profitability criteria of A Ltd. were not meeting the benchmarks of bank for sanction of any loan facility. Accordingly, following actions were undertaken by Mr. X being the tax consultant of A Ltd.:

1. A separate entity i.e. B Ltd. was incorporated and the Directors of A Ltd. were appointed as Directors in B Ltd. This ensured that the control of B Ltd. remains with the Directors of A Ltd. Further, B Ltd. obtained GST registration as a manufacturer of yarn wherein Mr. X assisted B Ltd. in obtaining such GST registration. Mr. X obtained registration providing fake documents for registration.
2. Subsequently, A Ltd. started issuing tax invoices for supply of yarn to B Ltd. However, there was no actual movement of goods by A Ltd. to B Ltd. The tax invoices were issued and the same were reported in the GST returns by A Ltd. Further, B Ltd. availed the input tax credit of all such tax invoices reported by A Ltd. The finished goods related to such tax invoices were sold in the local market by A Ltd. in cash without charging any GST and without issuance of tax invoice.
3. B Ltd. issued tax invoices for provision of certain services to A Ltd. in form of testing of cotton, repairs and maintenance of machinery installed at A Ltd. apart from other services. However, no such services were actually provided by B Ltd. to A Ltd. The input tax credit appearing in the books of B Ltd. (which was availed on the basis of fake yarn invoices) was utilized by B Ltd. at the time of discharging GST liability in relation to the alleged tax invoices issued against provision of services to A Ltd.
4. Further, B Ltd. issued tax invoices for sale of yarn (allegedly purchased from A Ltd.) to other group entities to ensure that the stock of yarn becomes zero in the books of accounts at the year end. The tax invoices were issued at a rate lowered by 90% of the actual tax invoice received from A Ltd. contending that the quality of yarn had deteriorated during the storage.

4 *Mr. X is not a Chartered Accountant.*

- Mr. X was aware of the aforesaid actions of A Ltd. and B Ltd. Further, the GST returns were filed by Mr. X for both the companies.
- A Ltd. approached Mr. P, a practicing Chartered Accountant to issue relevant certificates to the bank certifying the turnover of A Ltd. and B Ltd. as genuine turnover to ensure that the required loan amount is sanctioned to A Ltd. A Ltd. elaborated the entire arrangement made by it with regard to B Ltd.

Mr. P apprised A Ltd. of the following GST implications that may arise in the given case:

GST implications

1. GST registration of B Ltd. sought on the basis of fake documents

As per section 122(1)(xii), furnishing of false information with regard to registration particulars is an offence liable to penalty under GST Law. Thus, B Ltd is liable to penalty under section 122(1)(xii).

2. Issuance of tax invoice without actual supply of goods or services

Following instances happened wherein there was no actual supply of goods or services, however, tax invoice was issued:

- Fake issuance of tax invoice for supply of yarn by A Ltd. to B Ltd. (Para 2)
- Fake issuance of tax invoice for supply of services by B Ltd. to A Ltd. (Para 3)
- Fake issuance of tax invoice for supply of goods by B Ltd to group entities (Para 4)

The aforesaid actions are liable for penal action under section 122(1)(ii) for issuing tax invoices without actual supply of goods and services. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

3. Fraudulent input tax credit availment

B Ltd. availed fraudulent input tax credit of the goods (yarn) which were not at all received by B Ltd. and the same was used in discharge of the tax liability related to invoices issued without any underlying supply of goods or services.

B Ltd. has availed and utilized fraudulent ITC on the basis of the said tax invoice, in contravention of the provisions of section 16(2)(b), without receiving the supply of goods and accordingly. In this case, there was no supply of by B Ltd. to A Ltd. 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 Ltd. in such case or tax liability in respect of the said outward transaction by B Ltd. to A Ltd. is required to be made from B Ltd. under the provisions of section 74. However, in such cases, B Ltd. shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), 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.

This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

4. Incorrect information in GST returns and falsification of books of accounts

The GST returns filed by A Ltd. and B Ltd. were not backed by correct information in terms of supply of goods and services. Knowing that there was no supply of goods or services and input tax credit is not available, the returns were filed by both the companies. The books of accounts and financial records were also falsified in terms of information related to sales and inventory. This act of furnishing incorrect information in GST return and falsifying financial records is an offence under section 122(1)(x). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

5. GST implications on Mr. X

Mr. X, being a consultant of A Ltd., had adequate knowledge of the fraud and wilful misrepresentation of the facts in terms of maintaining the financial records and submission of information in GST returns. In fact, Mr. X himself was filing the GST returns and was aware of the fake invoices and ineligible input tax credit availment by the companies. Mr. X shall be liable to a penalty in terms of the provisions of 122(3) since in the given case, he has aided or abetted the offences specified above. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

If a Chartered Accountant undertakes the assignment of issuing relevant certificates to the bank thereby certifying the turnover of A Ltd. and B Ltd., he may be held guilty of professional misconduct. Further, he shall also be liable to a penalty in terms of the provisions of 122(3). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

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Supplementary/ MISC.: Provisions

Section 144: Presumption as to documents in certain cases

Where any document—

- (i) is *produced by any person* under this Act or any other law for the time being in force; or
- (ii) *has been seized* from the custody or control of any person under this Act or any other law for the time being in force; or
- (iii) *has been received from any place outside India* in the course of any proceedings under this Act or any other law for the time being in force,

and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall—

- (a) Unless the contrary is proved by such person, **presume—**
 - (i) The truth of the contents of such document;
 - (ii) That the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;
- (b) Admit the document in evidence **notwithstanding that it is not duly stamped**, if such document is otherwise admissible in evidence.

- (g) Any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or
- (h) Any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or
- (i) Any Particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or
- (j) Any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
- (k) Any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or
- (l) Any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

Section 158A Consent based sharing of information furnished by taxable person

(1) Notwithstanding anything contained in sections 133, 152 and 158,

The following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

(a) Particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

(b) The particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

(c) Such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of—

(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and

(b) The recipient, in respect of details furnished under clause (b) of sub-section (1)(C), and under clause (c) of sub-section (1) only where such details include identity information of the recipient,

in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return.

NOTIFICATION NO. 33/2023- Central Tax

In exercise of the powers conferred by section 158A of the CGST Act, 2017 and section 20 of the IGST Act, 2017, the Central Government, hereby notifies "Account Aggregator" as the systems with which information may be shared by the common portal based on consent under Section 158A of the CGST Act, 2017.

Explanation: For the purpose of this notification,

- "Account Aggregator" means a non-financial banking company which undertakes the business of an Account Aggregator
- in accordance with the policy directions issued by the Reserve Bank of India
- under section 45JA of the Reserve Bank of India Act, 1934 and
- defined as such in the Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016.

Section 159: Publication of Information in Respect of persons in certain cases

(1) If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may cause to be published such name and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation: In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.

Section 160: Assessment proceedings, etc., not to be Invalid on certain Grounds

(1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

(2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such

CBIC - 190354/195/2023

Whether 'same line of business' in case of passenger transport service and renting of motor vehicles includes leasing of motor vehicles without operators.

Services of **transport of passengers** by any motor vehicle and **renting of motor vehicle** designed to carry passengers with operator, where the cost of fuel is included in the consideration charged from the service recipient attract GST at the **rate of 5% with input tax credit** of services in the same line of business.

Same line of business means "*service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle*".

It is hereby clarified that input services in the same line of business **include transport of passengers OR renting of motor vehicle** with operator and not leasing of motor vehicles without operator which attracts GST and/or compensation cess at the same rate as supply of motor vehicles by way of sale.

Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.

Doubts were raised on the applicability of GST on **supply of electricity by the real estate companies, malls, airport operators etc., to their lessees or occupants.**

It is clarified that whenever electricity is being supplied **bundled with renting of immovable property and/or maintenance of premises**, as the case may be, it forms a part of composite supply and shall be taxed accordingly.

The principal supply is renting of immovable property and/or maintenance of premise, as the case may be, and the supply of electricity **is an ancillary supply** as the case may be. Even if electricity is billed separately, the supplies will constitute a composite supply and therefore, the rate of the principal supply i.e., **GST rate on renting of immovable property and/or maintenance of premise, as the case may be, would be applicable.**

However, where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers etc., **as a pure agent**, it will not form part of value of their supply.

Further, where they charge for electricity on actual basis that is, they charge the same amount for electricity from their lessees or occupants as charged by the State Electricity Boards or DISCOMs from them, **they will be deemed to be acting as pure agent for this supply.**

Whether job work for processing of "Barley" into "Malted Barley" attracts GST @ 5% as applicable to "job work in relation to food and food products" or 18% as applicable on "job work in relation to manufacture of alcoholic liquor for human consumption.

References have been received to clarify whether services by way of job work for conversion of barley into malt attracts GST at 5% prescribed for "job work in relation to all food and food products OR

at the rate of 18% prescribed for "**services by way of job work in relation to manufacture of alcoholic liquor for human consumption**"

Malt is a food product. It can be directly consumed as part of food preparations or can be used as an ingredient in food products **and also used for manufacture of beer and alcoholic liquor** for human consumption. However, irrespective of end-use, conversion of barley into malt amounts to job work in relation to food products.

It is hereby clarified that job work services in relation to manufacture of malt are covered under "job work in relation to all food and food products irrespective of the end use of that malt and attracts 5% GST.

Whether District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.

DMFTs work for the interest and benefit of persons and areas affected by mining related operations by regulating receipt and expenditure from the respective Mineral Development Funds created in the concerned district.

They provide services related to drinking water supply, environment protection, health care facilities, education, welfare of women and children, supply of medical equipment etc.

The ultimate users of the various schemes under DMF are individuals, families, women and children, farmers/producer groups, SHGs of the mining affected areas etc.

The services/supplies out of DMF fund are provided free of charge and no consideration is realized from the beneficiaries by DMF against such services.

Accordingly, it is clarified that DMFT set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.

Whether supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST

Public parks in government residential colonies, government offices and other public areas are developed and maintained by CPWD.

Maintenance of community assets, urban forestry, protection of the environment and promotion of ecological aspects are functions entrusted to Panchayats and Municipalities under [Article 243G](#) and [243W](#) of the [constitution](#).

[Notification No. 12/2017](#)- exempt pure services and composite supply of goods and services in which value of goods does not constitute more than 25%, that are provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

Accordingly, it is clarified that supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST

Custom Laws

And

FTP, 2023

5

Import and Export Procedure

Section 29: Arrival of vessels and aircrafts in India



Calling or Landing at Custom port or airport only

The **person-in-charge** of a vessel or an aircraft **entering India** from any place outside India **shall not allowed** the vessel or aircraft to call or land, **for the first time after arrival in India or at any time thereafter**, at non custom port or airport unless permitted by the Board.

Note: Even though section 29 is not applicable on vehicles in literal meaning but it should be reasonably presumed that while arriving by Land Route, the vehicle should come by approved routes to “Land Customs Station” only to avoid confiscation of goods.

Section 47: Clearance of goods for home consumption



1. Issuance of clearance order

Clearance order / out of charge order is to be issued by the custom officer or by custom automated system after ensuring that goods are not prohibited and import duty, charges etc. are paid in full.

2. Time of Payment of dues

Normal Payment System: @ PREPAID MANNER

a) Self - assessment done - make payment of dues on the date of filing of bill of entry - file bill of entry.

b) Later on Reassessment done by officer – need to pay differential amount within 1 WORKING DAY (if amount increased)

Deferred payment plan: CLEAR FIRST PAY LATER FACILITY FOR SPECIFIED IMPORTER

- **AUTHORISED ECONOMIC OPERATOR [PROGRAMME,**
- **Authorised Public Undertaking** (approved by the Directorate of International Customs under the CBIC)

@ POST PAID MANNER [BENEFITS: Ease of doing business, Just in time purchase, etc]

	Bill of Entry Return : Date By C/O	GRACE	Due Date Pay of ID
Eg. AUG	(1 st of month 15 th of month)	+ 1 Day	= 16 th Aug.
	(16 th of month End of month)	+ 1 Day	= 1 st Sep.
MARCH	(1 st march 15 th march)	+ 1 Day	= 16 th march
MONTH	(16 th march 31 st march)	....	= 31 st march

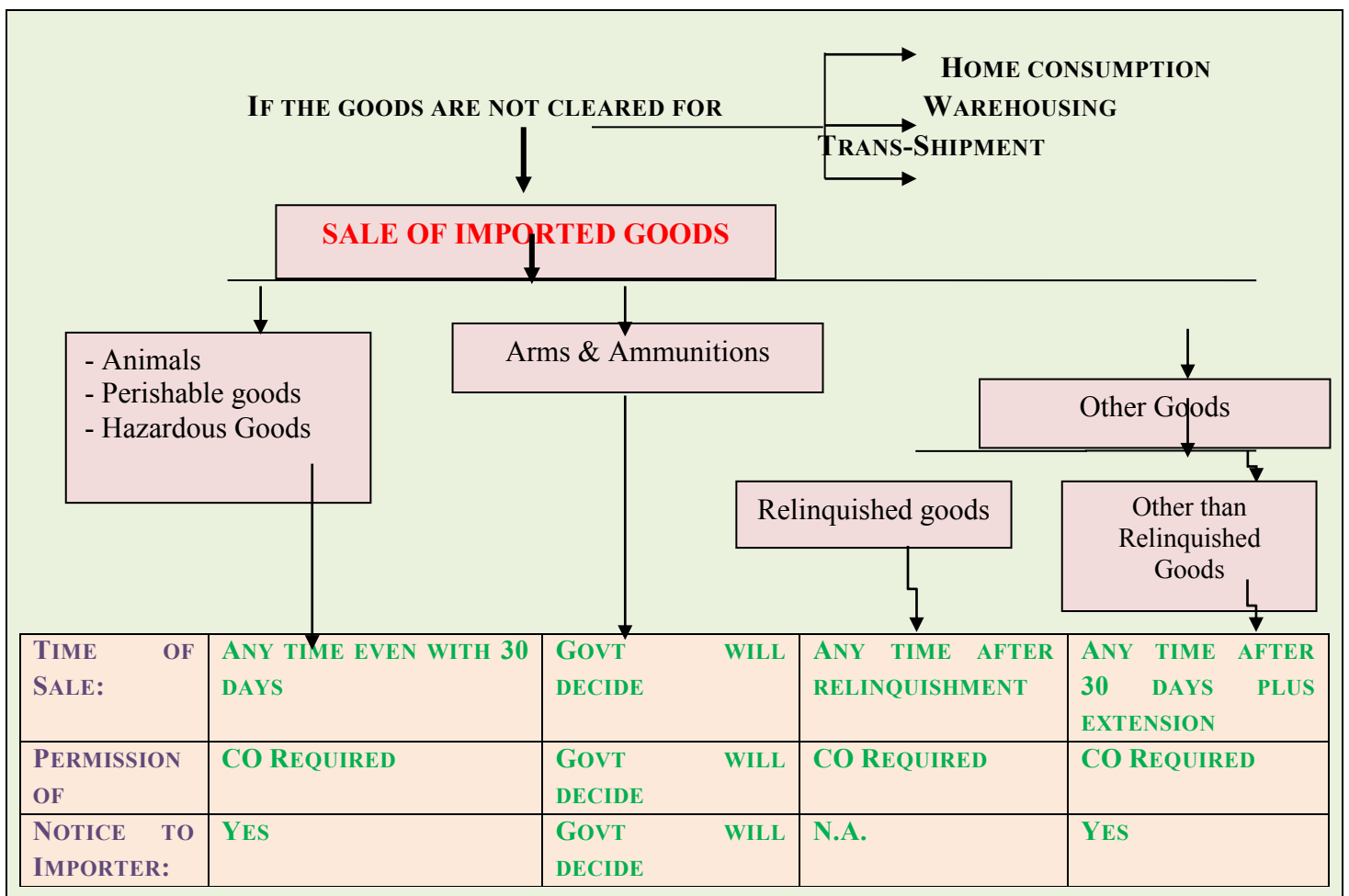
However, where the Central Government may, under exceptional circumstances, allow payment to be made on a different due date.

Note: If dues are not paid by due date then interest @15% PA shall be levied moreover if specified person not to make payment on time (for 2 or more times) in a consecutive period of 3 months

- Then such person shall not be permitted to make payment under deferred payment scheme
- However will be available on payment of duty, interest and penalty.

	<p>Moreover, the eligible importer shall be permitted to make the deferred payment if he has</p> <ul style="list-style-type: none"> -paid the duty for a bill of entry within due date as specified above and -paid the differential duty for the same bill of entry along with the interest on account of reassessment within one day (excluding holidays).
3. Mode of payment	<p>E –Payment mandatory where:</p> <ul style="list-style-type: none"> a) Amount of duty per bill of entry is Rs 10,000 or more. b) Importer is registered under Authorised Economic Operator Programme.

Section 48: Sale of Imported Goods, if not cleared within 30 days



EXPORT PROCEDURE

Procedure for exporter

<p>Entry of goods for exportation (Sec. 50)</p>	<p>The exporter of any goods shall make entry thereof by presenting on the customs automated system to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as may be prescribed.</p> <p>Entry in other mode: The Commissioner of Customs may, in cases where it is not feasible to make entry by presenting on the customs automated system allow an entry to be presented in any other manner.</p> <p>The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:-</p> <p>(a) the accuracy and completeness of the information given therein;</p> <p>(b) the authenticity and validity of any document supporting it; and</p> <p>(c) compliance with the restriction or prohibition, if any.</p>
<p>Assessment (Sec17/18)</p>	<p>Document submitted is processed by custom authorities and followings are checked,</p> <ul style="list-style-type: none"> ▪ Value and classification of goods. ▪ Export duty or cess applicable. ▪ Exportability of goods under FTP.
<p>Clearance Order (Sec. 51)</p>	<p>(1) Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for export.</p> <p>Order through Custom Automated system: Such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.</p> <p>Deferred payment facility: The Central Government may, permit certain class of exporters to make deferred payment of said duty or any charges as per prescribed manner.</p> <p>(2) Where the exporter fails to pay the export duty, either in full or in part, by such due date, he shall pay interest on said duty not paid or short-paid till the date of its payment at the rate of 15% PA.</p>
<p>Section 51A: Payment of duty, interest, penalty, etc THROUGH</p>	<p>(1) Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person, using authorised mode of payment shall be credited to the electronic cash ledger of such person.</p>

<p>ELECTRONIC CASH LEDGER</p>	<p>(2) The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable in prescribed manner.</p> <p>(3) The balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable, may be refunded.</p> <p>(4) If the Board is satisfied that it is necessary or expedient so to do, it may, by notification, exempt the deposits made by such class of persons or with respect to such categories of goods, as may be specified in the notification, from all or any of the provisions of this section.</p> <p>The CBIC on being satisfied that it is necessary and expedient so to do, hereby exempts the deposits,- w.e.f. 1st October, 2023, from all of the provisions of section 51A</p> <p>I. with respect to goods imported or exported in customs stations where customs automated system is not in place ;</p> <p>II. with respect to accompanied baggage ;</p> <p>III. Any Payment other than Followings</p> <p>(a) any duty of customs, including cesses and surcharges levied as duties of customs;</p> <p>(b) IGST; Compensation Cess</p> <p>(c) interest, penalty, fees or any other amount payable under the said Act, or the Customs Tariff Act, 1975.</p>
<p>Section 51B: Ledger AND ELECTRONIC DUTY CREDIT LEDGER for duty credit</p>	<p>(1) Credit in lieu of remission of duty/tax and other financial benefit: The Central Government may, specify the manner in which it shall issue duty credit,-</p> <p>(a) In lieu of remission of any duty or tax or levy, chargeable on any material used in the manufacture or processing of goods or for carrying out any operation on such goods in India that are exported; or</p> <p>(b) In lieu of such other financial benefit subject to such conditions and restrictions as may be specified therein.</p> <p>(2) Credit maintained at custom automated system: The duty credit shall be maintained in the customs automated system in the form of an electronic duty credit ledger of the person who is the recipient of such duty credit.</p> <p>(3) Use of credit for custom duties purpose: The duty credit available in the electronic duty credit ledger may be used by the person to whom it is issued or the person to whom it is transferred, towards making payment of duties payable under this Act or under the Customs Tariff Act, 1975.</p>

Foreign Trade Policy, 2023

[Not Relevant]

Reference of chapter of FTP amended in case of concessional duty payable for re- importation of goods exported under duty drawback, exported for repairs etc.

For the words “Any Reward Scheme of **Chapter3**” the words “Any Scheme of **Chapter 4 of Foreign Trade Policy 2023**.”

Thank you

Wish you All the Very Best

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