

**CA CMA CS Inter**  
**Indirect Taxation**  
**(GST)**

**Amendment Booklet**

**For May 2024 Exams**  
**[Amendments from**  
**1-05-2023 to 31-10-2023]**

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## About CA RAJ KUMAR

CA Raj Kumar is a dynamic & qualified Chartered Accountant. As a brilliant student and a position holder at Graduation & Post Graduation level, during his **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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## ACTIONABLE CLAIM:

Actionable claim means **CONTINGENT assets**.

### For Example:

- Betting, Gambling, Lottery
- Pending Litigations
- Insurance claim
- Etc.

However under GST-Regime Actionable claim Relating to Lottery, Betting, Gambling **ALONE** will be Regarded as supply of Goods.

REST of the forms of Actionable Claim – will NOT be treated as supply of Goods or services. **Hence NO Question of GST.**

### Reason

#### Position before Introduction of GST

Particulars	Remarks
Lottery, Betting, Gambling	One of the tax leviable on it namely- "Tax on Lottery, Betting and Gambling", payable to <b>State Govt.</b>
Other forms of Actionable Claims: -Pending Litigations -Unsecured Debts -Insurance Claim -Others	Not Liable to <b>Any Tax</b>

#### Position after Introduction of GST

Particulars	Goods	Supply	GST
Lottery, Betting, Gambling	Yes	Yes	Yes
Other forms of Actionable Claims: -Pending Litigations -Unsecured Debts -Insurance Claim -Others	Yes	No	No



Means: 3 Consecutive Calendar months

JAN to March,

April to June,

July to Sept.,

Oct. to Dec

For Example: Any Activity Start ie. March & Complete in April = How Many Quarter = 2

37. **REGISTERED PERSON:** Registered person” means:

- A person who is registered under GST
- but does not include a person having a Unique Identity Number.

\*Who is Registered U/S 25 (i.e. AT the movement Registration is granted to the person)

\*Excluding: person having UIN (Awarded to UN, International organization, embassy etc.)

**Why to get UIN?** - For certain purposes eg. Refund of TAXES on the Notified supply of Goods/ Services received by them.

38. **REMOVAL:** in relation to goods, means-

- Dispatch of the goods for delivery by the supplier thereof or by any Agent on his behalf or
- Collection of the goods by the recipient thereof or by any agent on behalf of such recipient;

39. **RETURN:** Means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder.

40. **REVERSE CHARGE MECHANISM:** “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

40A. **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.

41. **TAX PERIOD:** The period of which **RETURN** [Monthly/Quarterly] is required to be furnished.
42. **TURNOVER IN A STATE:** Turnover in State" or "Turnover in Union Territory" means:
- the aggregate value of all outward taxable supplies  
(excluding the value of inward supplies on which tax is payable by a person on RCM OR NCM 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 & All INDIA BASIS.  
Note: T/O in a State – Required in the concept of Composition Scheme.

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

44. **ONLINE GAMING** means:

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

45. **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;

46. **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;

**47. Virtual digital asset:**

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

## Section: 1 Short title, extent and commencement

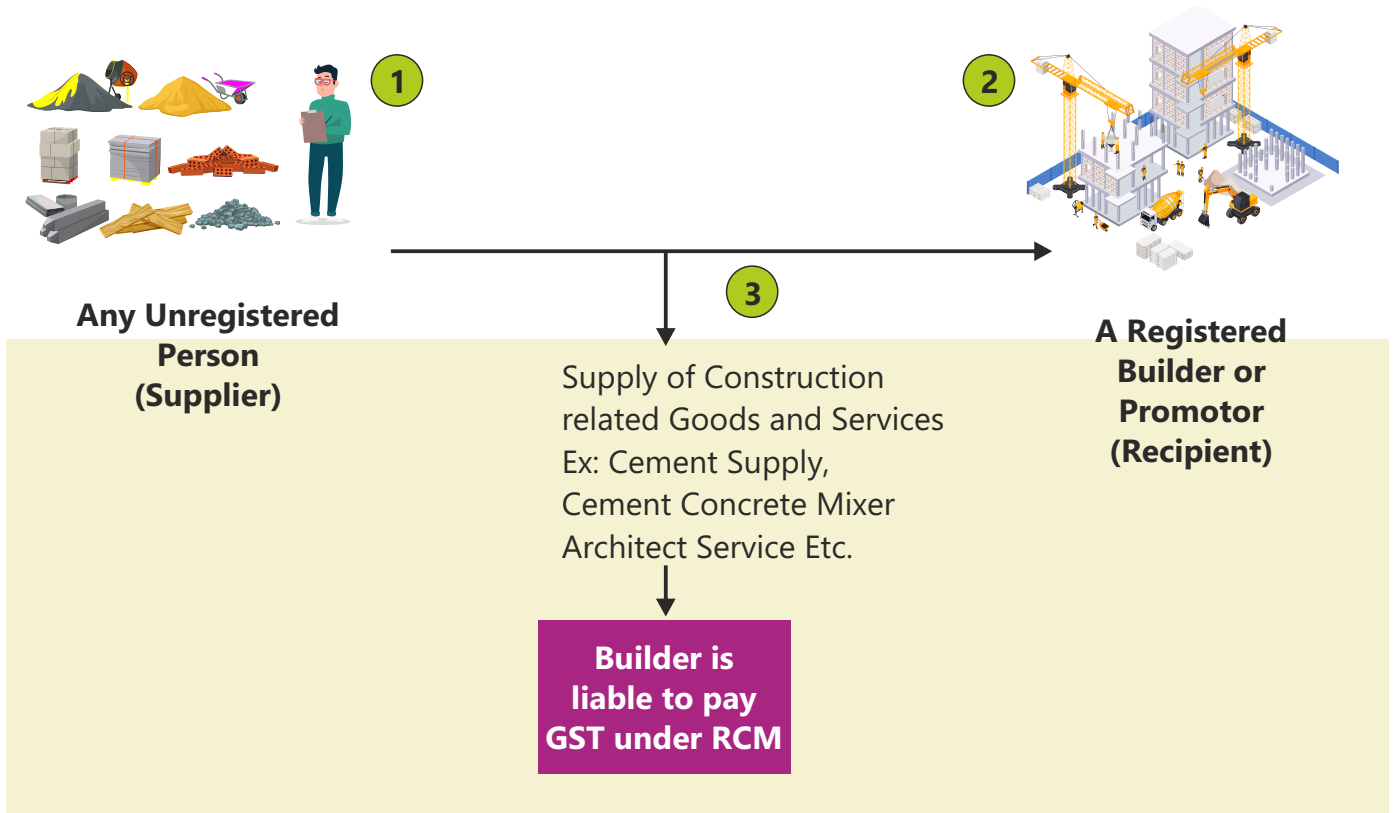
1. (1) This Act may be called the Central Goods and Services Tax Act, 2017.
- (2) It extends to the whole of India.
- (3) It came into force on 1/07/2017.

## Section 9: Charging Section/Provision

<p><b>Main provision</b></p>	<p>(1) There shall be levied a tax called the CGST</p> <ul style="list-style-type: none"> <li>• On all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption,</li> <li>• On the value determined under section 15 and</li> <li>• At such rates, not exceeding 20 %, as may be notified by the Government on the recommendations of the Council and</li> <li>• Collected in such manner as may be prescribed and</li> <li>• Shall be paid by the taxable person.</li> </ul>
<p><b>5 Petroleum Products</b></p>	<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>
<p><b>Reverse charge Mechanism on notified supplies, where supplier is unregistered</b></p>	<p>(3): Notified Goods/Services: RCM - The Government may, by notification, specify</p> <ul style="list-style-type: none"> <li>• Categories of supply of goods or services or both,</li> <li>• the tax on which shall be paid on reverse charge basis by the recipient</li> </ul> <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"> <li>• A class of registered persons who shall,</li> <li>• in respect of supply of specified categories of goods or services or both</li> <li>• received from an unregistered supplier,</li> <li>• pay the tax on reverse charge basis</li> </ul>
<p><b>E- Commerce Operator</b></p>	<p>(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.</p>



Section 9(4) of CGST Act 2017

**GST under Reverse Charge (Construction Sector)**



**Notified Services and their provisions are as follows:**

<p><b>Hotel Accommodation Service:</b></p>	<b>First Priority</b>	E-Commerce Operator will be the deemed as supplier and liable to pay GST.
	<b>Second Priority</b>	However if the real supplier (Hotel) is crossing the limit of 10 Lakh or 20 Lakh in PFY then Hotel Liable to Pay GST.
<p><b>Misc. Utilities (e.g. urban clap):</b></p>	<b>First Priority</b>	E-commerce operator i.e. (Urban Clap) will be the deemed supplier and Liable to Pay GST.
	<b>Second Priority</b>	However if Real Supplier of service crossing the limit of ₹ 10 lakh/20 lakh in PFY then Real supplier liable to pay GST.

<p><b>Passenger Transportation Service:</b></p> 	<p>services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle except omnibus] –</p>	<p>E-commerce operator (e.g. Uber /OLA) will be deemed supplier of service and Always liable to pay GST.</p>	
	<p>Services by way of transportation of passengers by an omnibus</p>	<p>Services by way of transportation of passengers by an omnibus where the person supplying such service through electronic commerce operator is a company</p>	<p>Real Supplier ie the Company will be the supplier and liable to pay GST</p>
		<p>Otherwise</p>	<p>E-commerce operator will be the deemed supplier of service and Always liable to pay GST.</p>
<p><b>Supply of restaurant service:</b></p> 	<p><b>Outdoor Restaurant</b></p>	<p>E-commerce operator (eg. Swiggy) will be deemed supplier of service and liable to pay GST.</p>	
	<p><b>Indoor Restaurant</b></p>	<p>Restaurant, eating joints etc., located at the premises providing hotel accommodation service having declared tariff of any unit of accommodation above 7,500 per unit per day or equivalent."</p>	<p>Real supplier liable to pay GST</p>



		Otherwise	E-Commerce Operator will be the deemed supplier and liable to pay GST
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**Note: What about Rest of the Services and Goods:** Section 9(5) not applicable - Always Real supplier Liable to pay GST.

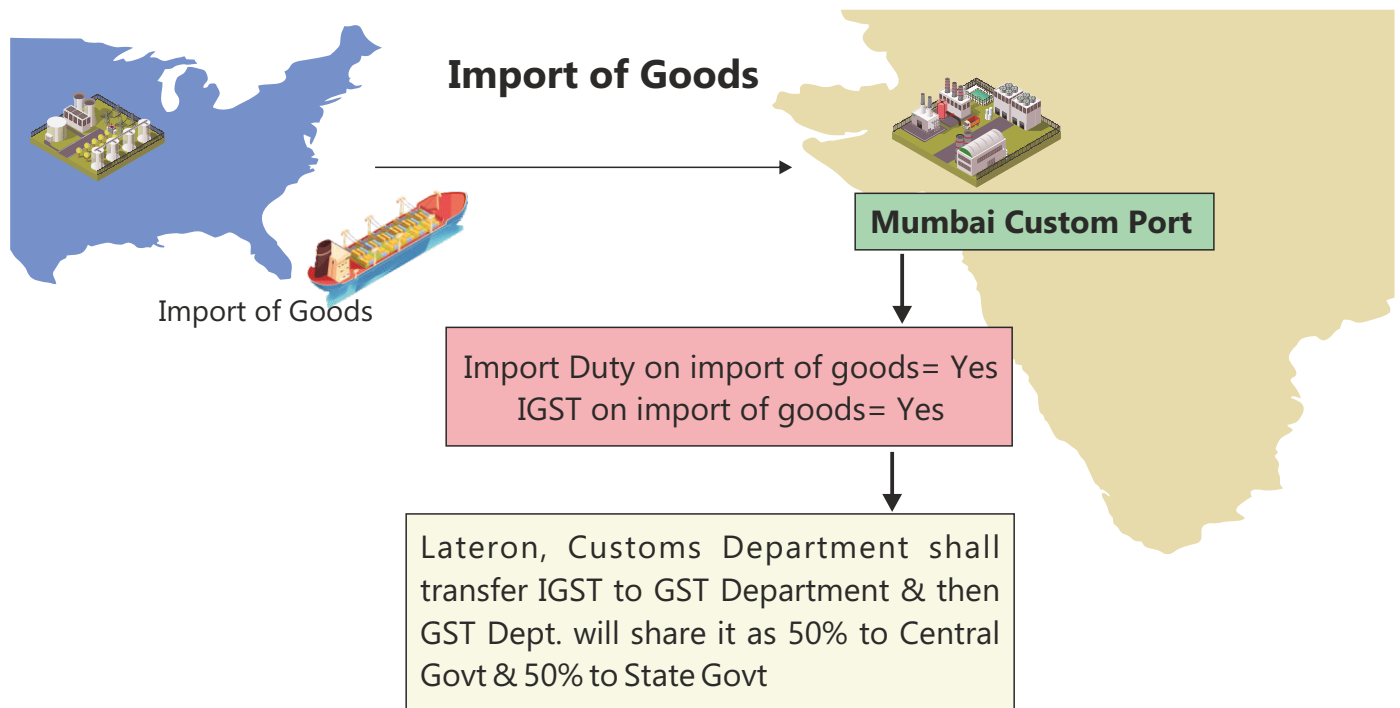
<b>Radio Taxi"</b>	Radio Taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS);
<b>Motorcab</b>	Motorcab means having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

**Relevant Extract from section 5 of IGST Act ON IMPORT OF GOODS:**

The IGST on goods imported into India shall be

- Levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975
- on the value as determined under the said Act
- at the time when BASIC CUSTOM DUTY levied on the said goods.

However in case of **supply of online money gaming as the goods from outside India to India, IGST shall be levied and collected under section 5 of IGST Act, 2017 ie Levied and Collected By GST Department.**



Provisions under this section are same as given under the charging section of CGST Act, Subject to following differences....

Basis	Section 9 of CGST	Section 5 of IGST
<b>Nature of supply</b>	Intra state	Inter state
<b>Maximum Rate of GST</b>	14%	28%
Special provision for import of goods		<p><b>IGST ON IMPORT OF GOODS:</b> The IGST on goods imported into India shall be</p> <ul style="list-style-type: none"> <li>Levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975</li> <li>on the value as determined under the said Act</li> <li>at the point when BASIC CUSTOM DUTY levied on the said goods.</li> </ul> <p>However in case of supply of online money gaming as the goods from outside India to India, IGST shall be levied and collected under section 5 of IGST Act, 2017 ie Levied and Collected By GST Department.</p>

# Ch 4 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:**

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

**Section 8:**

<b>Part – D</b>	It describes treatment of composite and Mix supply treatment.
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## GATE No. 2

### SUPPLY OF GOODS / SERVICE

Includes :

R.B.I. ki agency

**Part-A**

**Following Activities are Supplies If FOR A Consideration**

**Following are Supplies EVEN IF NO Consideration EXISTS**

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

### NO SUPPLY: Section 7(2)

- (a) (i) Activities undertaken by CG/SG/LA as specified under Article number 243 G/W of constitution of India (eg. Land Consolidation, Sanitary, Public Health etc.) shall not be treated as supply hence no GST shall be levied.
- (ii) Service By SG By way of Granting Alcoholic Liquor license shall not be treated as supply.
- (b) Activities/transaction as specified in Schedule – III which are as follows. **[NEW MAGIC]** (i) Supply of Goods from NTT [Non Taxable Territory] to another NTT without entering into India shall not be called as supply.
- (ii) Service by **Employee** (including whole time Director) to employer in the course of Employment shall not be called as supply.
- Q. Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?

**Ans.** Any perquisites provided by the employer to its employees in terms of contractual agreement are in lieu of the services provided by employee to the employer. Hence it will not be treated as supply.
- (iii) Supply of “Custom Bonded **Warehoused**” goods to any person before clearance for home consumption from custom Department, Moreover supply of goods By way of transferring of “ownership Documents” of Goods after the goods have been dispatched from origin port [outside India] But Before clearance for Home Consumption.
- (iv) **Mortuary** services including transportation of deceased person shall not be called as supply.
- (v) **Actionable claim** other than “specified actionable claims shall not be treated as supply.
- (vi) **Government People:**
- Functions performed by MP/MLA/MLC member of municipalities, shall not be called as supply.
  - Duties performed by the person having constitutional post (e.g. Prime Minister, Chief Minister etc.) shall not be treated as supply.\*
  - Duties performed by Part time director of a Government body (e.g. Human Right Commission) shall not be called as supply.
- (vii) **Immovable Property**- Sale of Land, Constructed/completed property will not be treated as supply.
- (viii) Services by ANY **court**, 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.

**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.**

**Q. 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.**

**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. **[ Circular No. 196/08/2023:]**

**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."

- Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.
- 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.
- The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services.
- 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 i.e. 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**

- (1) Supply of goods, where the **location of the supplier** and the **place of supply** are in—
- (a) two different States;
  - (b) two different Union territories; or
  - (c) a State and a Union territory,
- shall be treated as a supply of goods in the course of inter-State trade or commerce.

**General Provision for Services**

(2) Supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

**Section 9 of IGST Act, 2017: Supplies in territorial waters.**

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

**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,—

**SECTION: 10(1): DOMESTIC TRANSACTION**

**(a) Where Movement of Goods Involved :** Destination will be consumption place/ Delivery Place.

**(b) Bill to Ship to Model :** Destination will be the Location of buyer/ the person who place order.

**(c) Where No Movement of Goods Involved:** Destination will be location of goods.

**(ca) Where the supply of goods is made to an un-registered person:**

- ⇒ 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
- ⇒ will be the place of supply.

**Explanation:** For the purposes of this clause,

- Recording of the name of the State of the said person in the invoice
- shall be deemed to be the recording of the address of the said person.

**(d) In Case of Assembly/Installation:** Destination of goods will be the Assembly or Installation place.

**(e) On Board supply of Goods :** Destination will be the place where 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

Services	Section 12
<b>Applicability</b>	<b>(1) When both the parties located in India (State to State ie Tax to UP or HR) (here need to decide in between states)</b>
<b>Residuary provision Eg PCA</b>	(2) <b>POS = Location of Recipient</b> (if known ie either registered person or address on record exist)  <b>Otherwise it will be location of supplier.</b>
<b>Immovable property linked services</b>	(3) POS = where immovable property (boat/ vessel) located or intended to be located.  If it is outside India then POS will be at recipient's Location. Note: If immovable property is more than one state the POS proportionately.
<b>Performance based service</b>	(4) Individual Related services Restaurant and catering Personal Grooming, beauty treatment, Cosmetic and plastic surgery Fitness, health care POS= Actual place of performance  ..... (5) Services IRT Training and Performance appraisal: (eg GST Training Classes) B to B = Location of Recipient. B to C = Actual place of performance
<b>Event linked services</b>	(6) <b>Event admission services:</b> POS = location of Event  (7) <b>Event Linked Services:</b> POS <b>B to B</b> = Location of Recipient. <b>B to C</b> = Location of event (but if event is located outside India then POS will be location of Recipient)  Note: If it is held in more than one state the POS proportionately.
<b>Multiple Location domestically</b>	If service is held in more than one state/UT the POS proportionately.

SS	Section 12
<b>Transportation of Goods</b>	(8) B to B = Location of Recipient. B to C = Loading Place <b>Note:</b> Where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.
<b>Transportation of Passenger</b>	(9) B to B = Location of Recipient. B to C = Boarding Place (if not identified because of journey art future date then Residuary provision shall apply)
<b>On- Board Services</b>	(10) POS = First Departure point of conveyance
<b>Tele-communication Services</b>	(11) POS: Location of Fixed device, Billing address, address of selling agent / Recharge Place, in case of online recharge location of Recipient.
<b>Specified Services</b>	(12) Banking company etc. -- --- <b>POS:</b> Location of recipient (if known) Otherwise Location of supplier.
<b>Insurance service</b>	(13) B to B = Location of Recipient. B to C = location of recipient
<b>Advertisement service to Govt.</b>	(14) POS: Proportionate in respective state and UT

**CBIC Circular****Place of supply in case of supply of services in respect of advertising sector**

**Q.1** 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 advertising company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure.

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

**Ans.** 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"**

**Q.2** 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 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.

**Ans.** 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 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.

## 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 ₹10lakh / 20Lakh / 40Lakh.

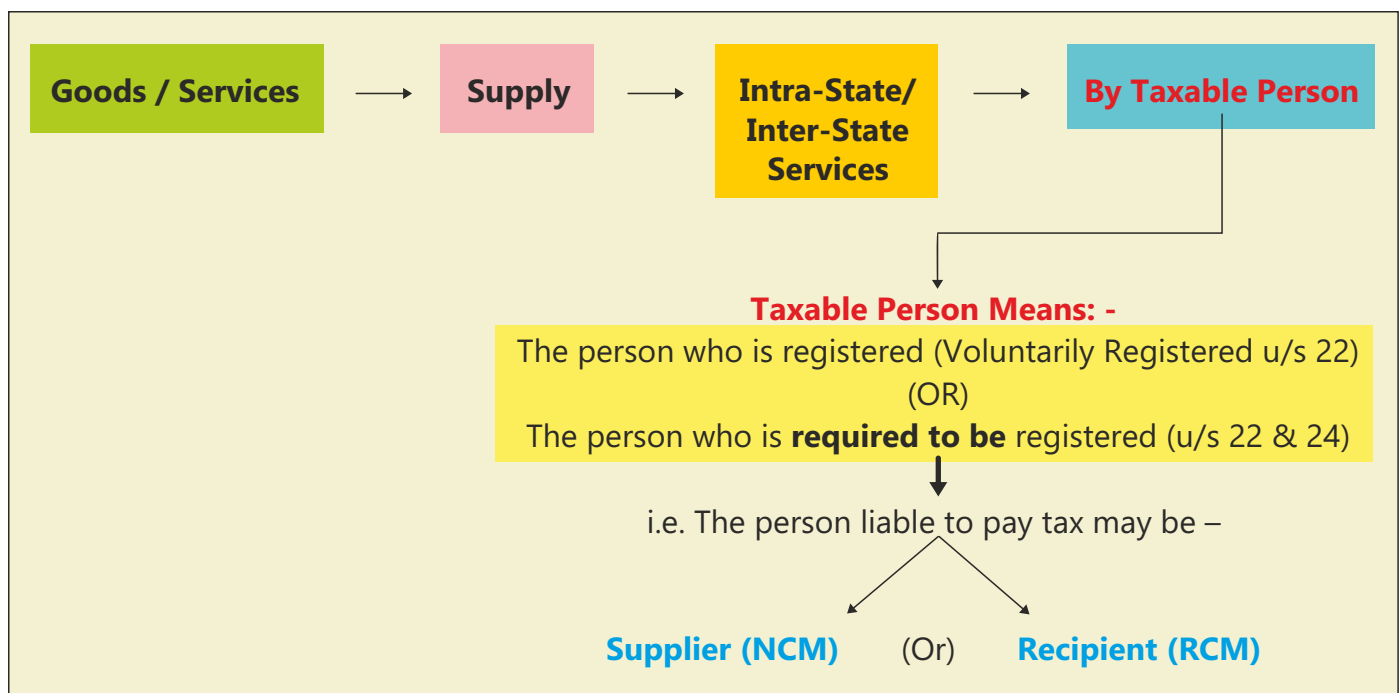
### Background:

Where supply of Goods/Service made by a Taxable person whether Intra or Inter Shall be leviable to GST i.e. where 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**

**Q.6****Exclusive Exempted Supply: Delhi state**

@ INTRA STATE: 11 Lakh

@ Inter State: 10 Lakh

Ans: NO registration required as supplies are exclusively exempted

**Q.7**

- Taxable Supply of service (INTRA) = 10 lakh

- Exempted Supply (Intra) = 10 lakh

- Transfer to Job Worker = 10 lakh

Ans: Aggregate Turnover: ₹ 20 lakh and applicable limit ₹ 20 lakh and the person NOT liable for registration.

**LEGAL CONTENT****SECTION 23: NO REGISTRATION**

Following persons are not required to get Registration i.e. such person will be called as Non-Taxable persons.

(1) AN agriculturist exclusively engaged in agriculture (only Individual /Hindu Undivided Family)

(2) Person Engaged only in Exempted supplies (Exempted supply = NIL Rated, 100% Exempted, Non-Taxable).

(3) ~~Other Notified person (e.g. where a supplier supplies only RCM supplies then such supplier need not to get any Registration Under GST).~~

(3) 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**

The following person requires mandatory registration u/s: 24 i.e. Registration Required without applying any threshold limit of ₹10 Lakhs/20 Lakhs/40 Lakhs.

(1) Person engaged in **Inter- state Taxable supplies of goods.**

[However suppliers of **handicraft goods and** inter - state supplier of services are not required Mandatory Registration i.e. they need registration only after applicable threshold limit.]

(2) Casual Taxable Person making Taxable supplies

[However the casual taxable person making taxable supplies of handicraft goods not required mandatory registration i.e. need registration only after applicable threshold limit.]

(3) The Person who is liable to pay Tax under **RCM as Recipient.**

(4) Person who is required to pay tax **under section 9(5).** [Hotel Accommodation, Misc. Utilities, Transportation of passengers]

(5) **Non Resident Taxable person** making taxable supplies. [NR]

(6) The supplies of goods who **supplied goods through E-Commerce operator.**

(7) **Agent** making taxable supplies on behalf of other taxable person.

(8) TDS Deductor

(9) TCS Collector

(10) Every person supplying online money gaming from a place outside India to a person in India.

(11) Other notified persons

**SECTION: 22 Registration After thresholds Limit and Voluntarily Registration**

(1) Where the person having aggregate turnover only upto threshold limit or below the limit then the Person not required to get registration.

But when the person crosses the threshold limit of 10 Lakh/20 Lakh/40 Lakh then he is **required to get registration "In All Those States" From where he is making "Taxable Supplies"**.

**WHAT IS AGGREGATE TURNOVER:** "Aggregate Turnover" 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),
- exempt supplies,
- exports of goods or services or both and
- inter-State supplies of persons having the same Permanent Account Number,
- to be computed on all India basis
- but excludes central tax, State tax, Union territory tax, integrated tax and cess.

### Special SYSTUM

#### 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.

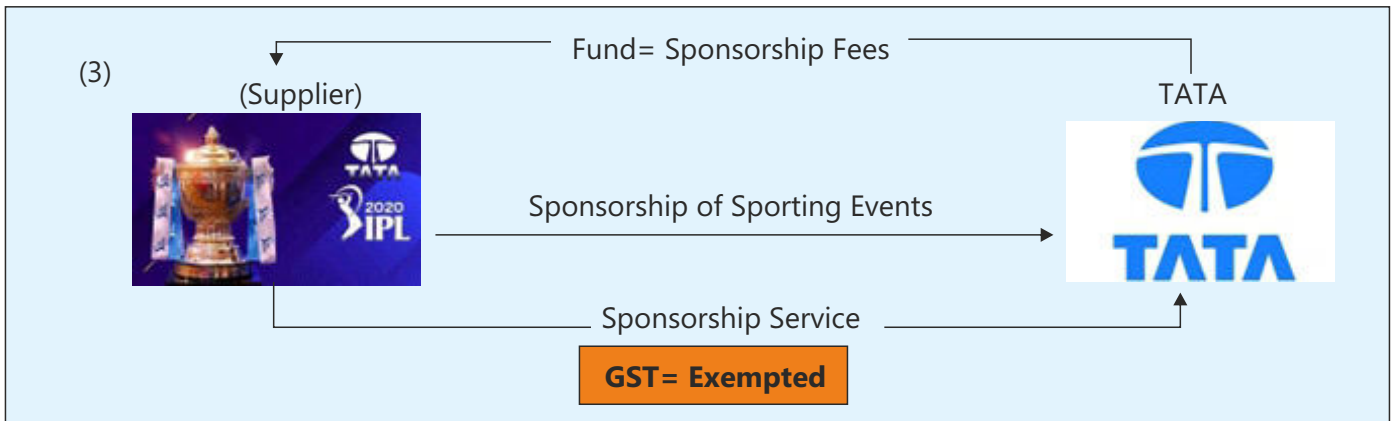
**Note:** Where multiple electronic commerce operators are involved in a single supply of goods through ECO

- 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.



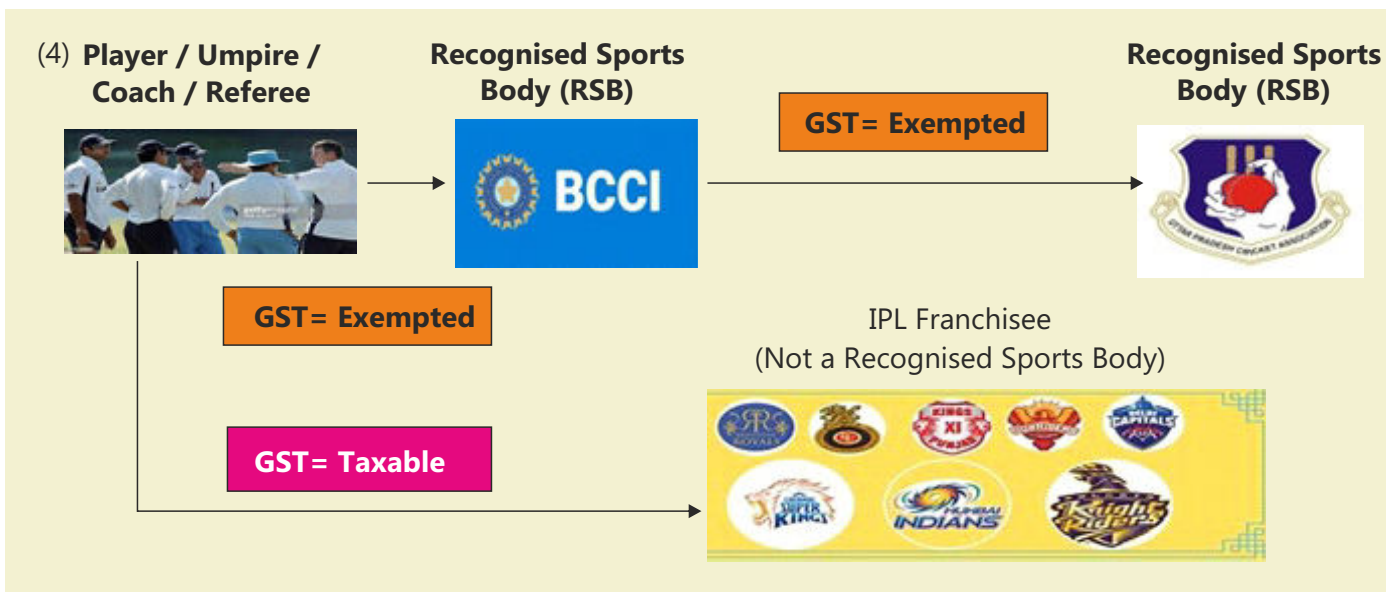
## Section: 11 Power to grant exemption from tax

Basis	Exemption Notification	Special Order									
<b>Type</b>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p><b>Conditional</b></p> <p>Wholly Exempt</p> <p>Partly Exempt</p> </div> <div style="text-align: center;"> <p><b>Unconditional</b></p> <p>Wholly Exempt</p> <p>Partly Exempt</p> </div> </div>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p><b>Conditional</b></p> <p>Wholly Exempt</p> <p>Partly Exempt</p> </div> <div style="text-align: center;"> <p><b>Unconditional</b></p> <p>Wholly Exempt</p> <p>Partly Exempt</p> </div> </div>									
<b>Examples</b>	<ul style="list-style-type: none"> <li>Supply of Salt / Water:</li> <li>Health Care SERVICES:</li> <li>Supply of Agriculture implements:</li> <li>Rate of IGST will be 1% on Aluminums INGOTS. , if it is used in household products</li> <li>Solar cells If use in specified final product:</li> </ul>	Floods and landslides etc has caused extensive damage to public and private property									
<b>Effective Date of Main Notification</b>	(I) Specific Date (or) (ii) Date of Issue [ As the case may be]	(I) Specific Date (or) (ii) Date of Issue									
<b>Effective date of Supplementary Notification</b>	<p><b>Example:</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">1-1-18</th> <th style="width: 25%;">Confusion</th> <th style="width: 25%;">Clarification</th> <th style="width: 25%;">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
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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	<b>CG/SG/LA/UT</b>	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	<b>Governmental Authority/ Government Entity</b>	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.

Will be exempted.

### 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:

- (a) - 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.
- (b) Service By government in Relation to Aircraft/Vessel (in or outside the port or Airport) will be Taxable.
- (c) 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.

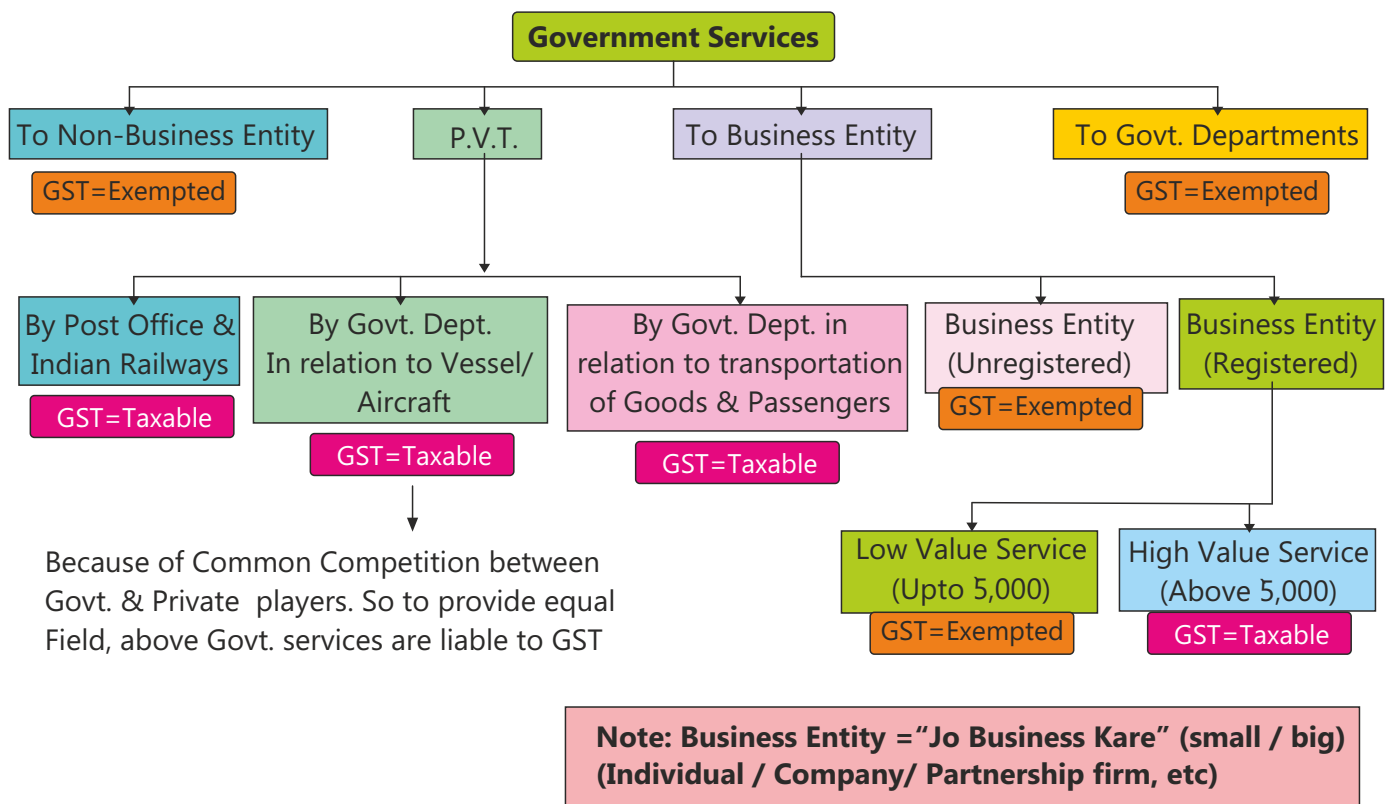
## 5. SMALL VALUE GOVERNMENT SERVICE:

- 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.

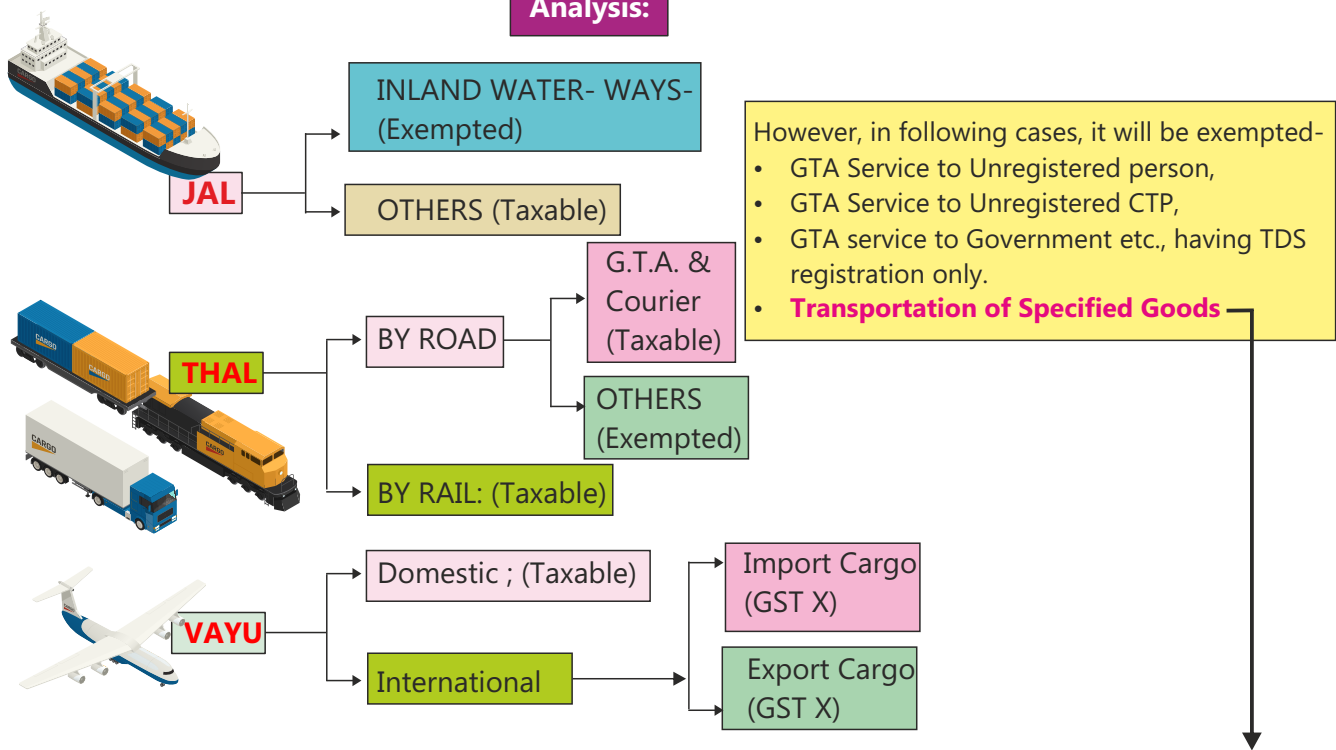
### 7. LONGTERM LEASE

- 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.~~

**Analysis:**



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



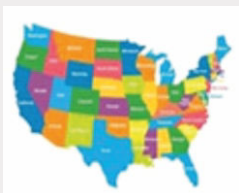
**Additional Exemption under IGST Act, 2017: N/N : 9/2017 (IGST)**

**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 (service 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.


(1)

**USA**




**Import of Service** →

**India**




GOVT. of India




सत्यमेव जयते  
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?	----
<b>GST?</b>	

GST= Taxable

→

GST= Exempted

→



## 2. Where supplier is located outside India & Recipient 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.
- Recipient (the person who 'paid freight) located outside INDIA
- Then this service will be taxable.

Mr. X (Supplier) [NTT]



Exempt →



Mr. Y (Recipient)[NTT]



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 & Recipient 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



&

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

OR

AV = Tariff Value Fixed by Govt. u/s 15 [ Only for notified supplies]

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
- OMV of similar supply

**Rank 2**

- 110% of COST

**Rank 3**

- Best Judgment

Reason

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
- \* xxxxxxxxxxxxxxxx
- \* 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

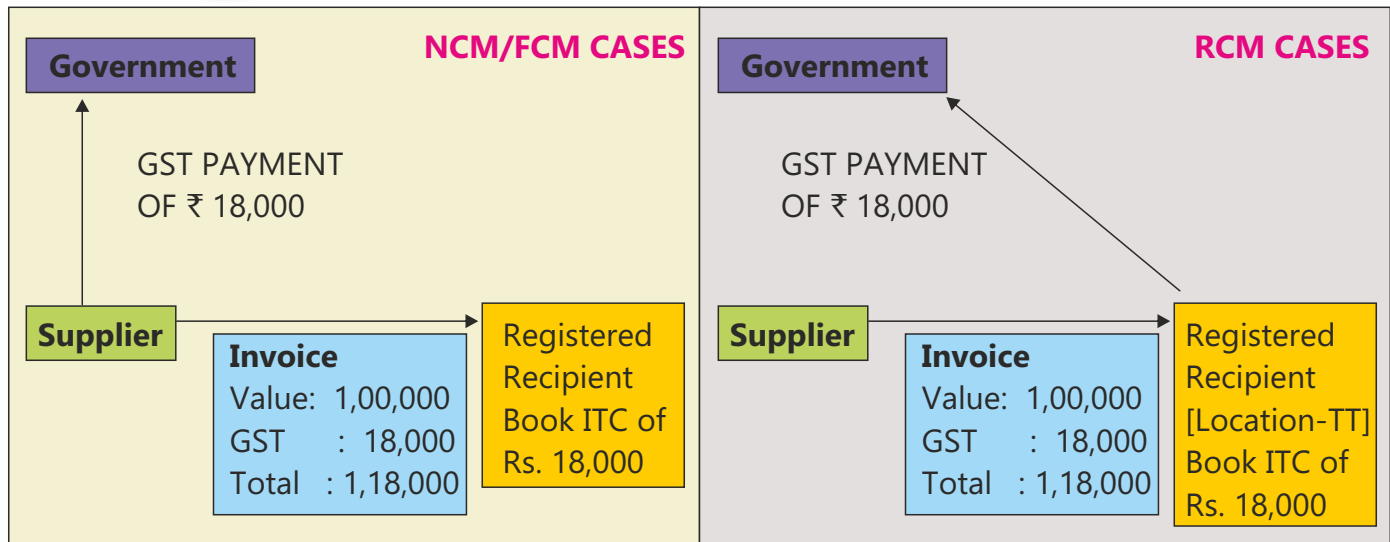
### Summary of Section 15(1) with notifications and Circulars

Price actually paid or payable for supply of Goods /Services	XXX				
<b>Adjustments -----</b>					
Incidental expenses eg. packing, loading etc.	Includible				
Discount * Pre supply /At the time of supply * Post Supply (Provide agreement in advance for the same and Receptient reduce corresponding ITC)	Excludible Excludible				
Interest on * Delayed consideration and on credit card (Jab mila, jitna mila usko inclusive of GST maante hue GST Bharna hoga, if not received in actual, then no GST) *Loan /advances/deposits	Includible Excludible				
Obligation /Liability of supplier paid by Receptient to III party on behalf of supplier	Includible				
Other taxes eg Excise duty, VAT, custom duty ie any other old taxes (However TCS is not a tax, Moreover TDS deducted by Receptient so no question at the end of supplier)	Includible				
*Unit linked Subsidy given by Government to supplier *Otherwise subsidy	Excludible Includible				
<b>Example: Given value in Question: ₹ 10,000 Subsidy ₹1,000</b>					
Given value is after considering subsidy/ Net of subsidy	<table border="1"> <tr> <td>Given by Government</td> <td>AV= 10,000</td> </tr> <tr> <td>Given by NON Government</td> <td>AV= 11,000</td> </tr> </table>	Given by Government	AV= 10,000	Given by NON Government	AV= 11,000
Given by Government	AV= 10,000				
Given by NON Government	AV= 11,000				
Given value is Before considering/deducting subsidy	<table border="1"> <tr> <td>Given by Government</td> <td>AV= 9,000</td> </tr> <tr> <td>Given by NON Government</td> <td>AV= 10,000</td> </tr> </table>	Given by Government	AV= 9,000	Given by NON Government	AV= 10,000
Given by Government	AV= 9,000				
Given by NON Government	AV= 10,000				

In exercise of the powers conferred under section 15(5) of the Government, notifies the following supplies where Notified value value will be Assessable Value :—

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

Note: Now Composition scheme Allowed for those suppliers who supply goods through E-Com. Operator.





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.

**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>Goods Transport Agency Service (GTA) in respect of transportation of goods by road.</p> <p>There are 2 types of rate structure under GTA Service</p> <p>Model: 1 GST Rate 5% and no ITC to supplier [RCM or NCM as the case may be]</p> <p>Model: 2: GST Rate 12% with ITC to supplier [Only NCM will be applicable]</p>	<b>Goods Transport Agency (GTA)</b>	<p>(a) Any factory registered under Factories Act, 1948</p> <p>(b) Any society registered under the Societies Registration Act, 1860.</p> <p>(c) Any co-operative society established by or under any law;</p> <p>(d) GSTIN holder</p> <p>(e) Anybody - corporate established, by or under any</p>

5A	Renting of immovable property	Central Government, "excluding the <u>Ministry of Railways</u> (Indian Railways)" State Government, Union territory or local authority	GSTIN Holder
5AA	Service by way of renting of residential dwelling	Any person	GSTIN Holder
5	Other Government Services  <b>Note:</b> Following Government Services will always be fall under Normal /Forward Charge Mechanism P= Post office Services <u>and the Ministry of Railways (Indian Railways)"</u> V= Vessel, Aircraft etc. T=Transport of goods or passengers.	<b>Central Government, State Government, Union territory or local authority</b>	Any <b>Business Entity</b> located in the taxable territory.
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) for construction of a project by a promoter.	Any person	Promoter
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges) and/or periodic rent for construction of a project by a promoter.  	Any person	Promoter
6	<b>Director Service</b>  	<b>A director of a company or a body corporate</b>	The company or a body corporate located in the taxable territory.

**DIRECTOR**



S

R

**Director**

Administration

**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**

**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.

Note:

~~GST ON OCEAN FREIGHT RELATED TO IMPORT CARGO  
liable to be paid by recipient under RCM.~~



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

Back Ground:	Section: 31 to 34 of CGST ACT, 2017
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.

**Invoice Cum Bill of Supply:** Where a registered person is supplying taxable as well as exempted goods or services or both to an **unregistered person**, a single "invoice-cum-bill of supply" may be issued for all such supplies.

**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

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

## 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 registered person,

- Whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ **5 crore ~~₹10 crore~~ ~~₹20 crore~~**, as a class of registered person
- who shall prepare invoice and other prescribed documents,
- in respect of supply of goods or services or both
  - ➔ to a registered person [B to B supplies] or
  - ➔ for exports.

other than

<b>Special Economic Zone unit</b>	Passenger Transporter
Insurance company, Banking company /NBFC/Financial Institution	Cinema halls
Goods transport agency	OIDAR supplier
	A government department, a local authority

### Clarification on applicability of e-invoicing w.r.t an entity

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?

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.**

**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. Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued E-invoices

**Ans. It is clarified that there is no need to carry the physical copy of tax invoice in case of E-INVOICE. Production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.**

Q. 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.

As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than `200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued.

Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Gaurav although both of them are unregistered. The reason for the same is that the value of goods supplied is not less than `200.

### Question 5

**Patel & Sons is a manufacturer of goods who has opted for composition levy under section 10. What document is issued by the Patel & Sons to the buyer?**

### Answer

It will issue a Bill of Supply to the buyers of goods and not the tax invoice.

## Relevant Extract of Rule 46

A tax invoice shall be issued by the registered person containing the following particulars, namely,-

- (a) Name, address and Goods and Services Tax Identification Number of the supplier;
- (b) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- (c) Date of its issue;
- (d) Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) Name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more;
- (f) Name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;

Provided that in cases involving supply of online money gaming or in cases, where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is 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 shall be deemed to be the address on record of the recipient.

# Ch 11 TIME OF SUPPLY

## BACKGROUND

**Section 12: Time of supply- in case of Goods**  
**Section 13: Time of supply- in case of Services**

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.

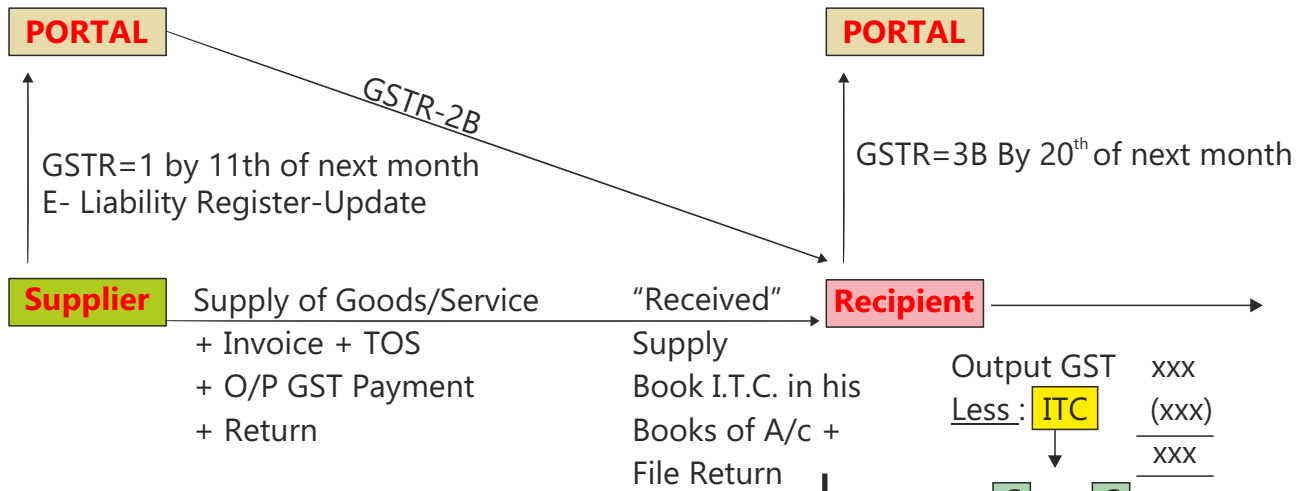
**Meaning of “Date of Payment” for supplier: Date of bookish entry by supplier or Date of Actual credit in supplier's bank, whichever is earlier.**

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

Basis	IN CASE OF SUPPLY OF SERVICE SECTION : 13	IN CASE OF SUPPLY OF GOODS SECTION : 12
<b>General Provision:</b>	<p><b>Where invoice is issued with- in time:</b>                      Invoice date                      OR                      Payment date                      (Earlier)</p> <p><b>Where invoice is not issued with- in time:</b>                      Completion date                      OR                      Payment date                      (Earlier)</p> <p><b>RESCUE Provision:</b>                      Bookish Entry Date in Recipient Books.</p>	<p><b>where invoice is issued within time:</b></p> <div style="border: 1px solid black; padding: 5px;">                     Invoice date                      Or payment date                      (Whichever is earlier)                 </div> <p><b>Where invoice is NOT issued within time:</b></p> <div style="border: 1px solid black; padding: 5px;">                     Invoice DUE date (Removal /Delivery)                      Or payment date                      (Whichever is earlier)                 </div>

	<p><b>Relaxation:</b> IF Received Excess Amount as advance upto Rs 1,000 then supplier has the option to NOT to pay the GST at the time of receipt of advance but to pay at the time of invoice.</p>	<p>Note: Payment condition /comparison will not be applicable as per N/N 66/2017 however remain applicable only for where the registered person making supply of specified actionable claims as defined in section 2(102A).</p>
<p><b>Reverse Charge</b></p>	<p><b>General provision</b>            Payment date            OR            61th day from the date of invoice (Earlier)</p> <p><b>Rescue</b> Bookish Entry Date in the Books of Recipient.</p> <p><b>Associated Enterprises+Import of service +RCM</b>            [ Payment Date            Or            Bookish Entry Date ] (Earlier)</p>	<p><b>General provision</b>            Payment date            OR            31th day from the date of invoice            OR  <b>Goods recd. Date</b>            (Earliest)</p> <p><b>Rescue:</b> Bookish Entry Date in the Books of Recipient.</p>
<p><b>Special Case: Voucher</b></p>	<p>Whether the Supply is Specific</p> <ul style="list-style-type: none"> <li><b>Yes</b> = ToS = Date of Issue of Voucher eg. PVR Coupon</li> <li><b>No</b> = ToS = Date of Redemption of Voucher. e.g. Haldiram coupon</li> </ul>	<p>Same -</p>
<p><b>Residuary Provision</b></p>	<p>Return Filing Due Date [In case of Registered Person]            or            Date of payment of TAX [In case of Non Registered Person]</p> <p>(AS the Case May be)</p>	<p>Same -</p>
<p><b>Special Case (Additional Value)</b></p>	<p>ToS = Date of Receipts of Additional Value (Interest, penalty etc)</p>	<p>Same -</p>

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



Output GST xxx  
 Less: ITC (xxx)  
 xxx

C I S      C I S

**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

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. <b>Note:</b> 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. <b>Rule 37A: Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof</b> Where input tax credit has been availed by a registered person <ul style="list-style-type: none"> <li>in the return in FORM GSTR-3B for a tax period in respect of such invoice or debit note,</li> <li>the details of which have been furnished by the supplier in GSTR:1/IFF</li> </ul>

- but the return in FORM **GSTR-3B** for the tax period corresponding to the said statement of outward supplies **has not been furnished**
- 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:

**Provided that**

- 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.

**Provided further that**

- Where the said supplier **subsequently furnishes** the return in FORM GSTR-3B for the said tax period,
- the said registered person may **re-avail** the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.

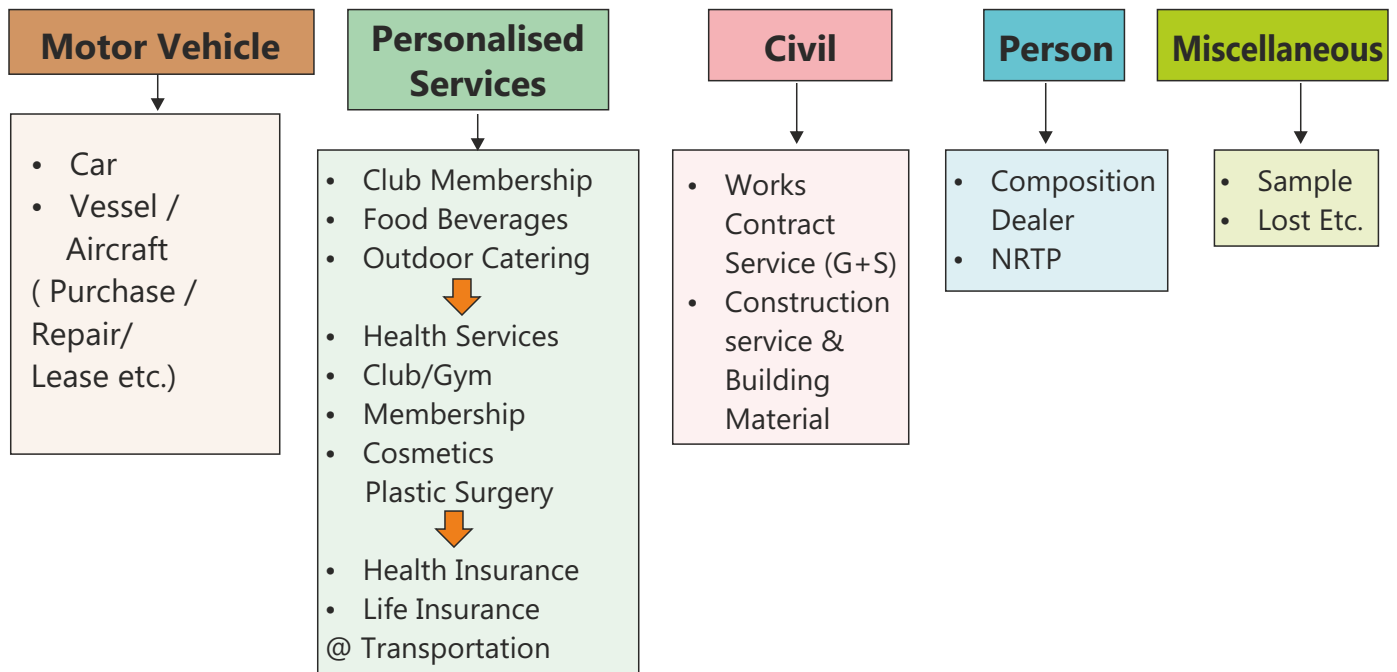
5  
\*

Bill Payment by "Recipient to supplier: should be made within 180 Days from invoice date. (For NCM supplies only)  
\* IF NOT made: then on 181st day, ITC Reversal.

**A registered person,**

- Who has availed of input tax credit on any inward supply (other than RCM inward supplies)
- but fails to pay to the supplier thereof, the amount towards the value of such supply whether wholly or partly, along with the tax payable thereon, within the time limit of 180 days
- shall pay ~~or reverse~~ an amount equal to the input tax credit availed in respect of such supply proportionate to the amount not paid to the supplier along with interest payable thereon under section 50,
- while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of 180 days from the date of the issue of the invoice:
  - What if Payment is made After 180 Days: Book (Re-Avail) ITC on Payment Basis (i.e. proportionately)
  - **WHAT About 'FOC' supplies:** (RBI Ki Agency) then the bill Amount shall be deemed to have been paid.
  - **What about Suppliers obligation** paid by Receptient:it shall be deemed to have been paid for the purposes of condition of 180 days.

## BACKGROUND OF BLOCKED CREDIT



**Thumb Rules -1** : Which is not fall @ above ITC shall be allowed, subject to other conditions.

Thumb Rules -2	Gud	Ganna
	✓	✓
	✗	✓
	✗	✗

**Thumb Rules -3** : Tit for Tat (Jaise ko Vaisa)

**Thumb Rules -4** : Legal Obligation



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

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

Passenger motor vehicle seating capacity: 13 Person or less (Including Driver)

No Input Tax Credit

Generally input tax credit of passenger motor vehicle Shall not be allowed to recipient.

Eg. (10L + 2.8L)



PROWISE CA Coaching

- \* Innova Car
- \* Input Tax Credit

What about Repair maintenance / servicing / Insurance service -Related to passenger motor vehicle: `100000 + 18000 (ITC x)

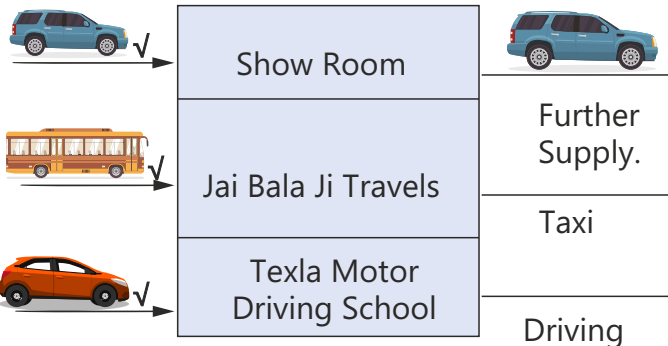
YES Input Tax Credit to Recipient

However for certain class of persons input tax credit of Passenger motor vehicle will be available who provides

Following specified services ie use of motor vehicle as :

i.e. sale, Renting, Lease etc.

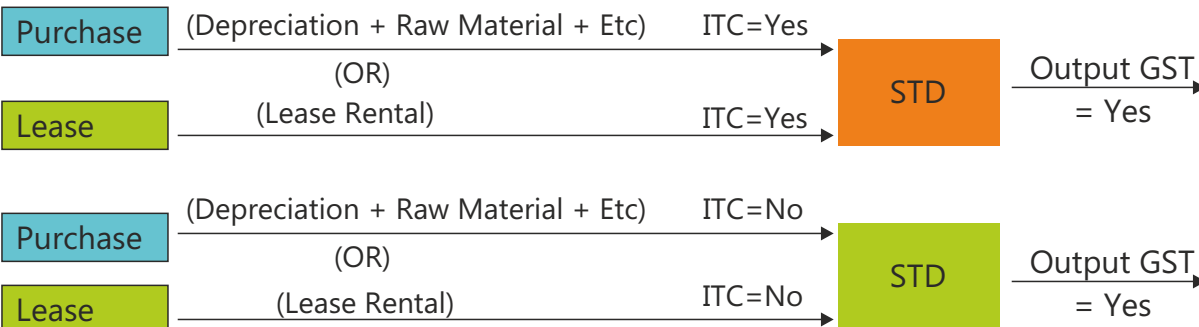
- S** → For further supply of such motor vehicle
- T** → For passenger transportation service
- D** → For motor driving service



Input Tax Credit

Here Motor Vehicle = Back Bone  
Repair / Maintenance Service / Servicing  
Insurance = Input Tax Credit: allowed

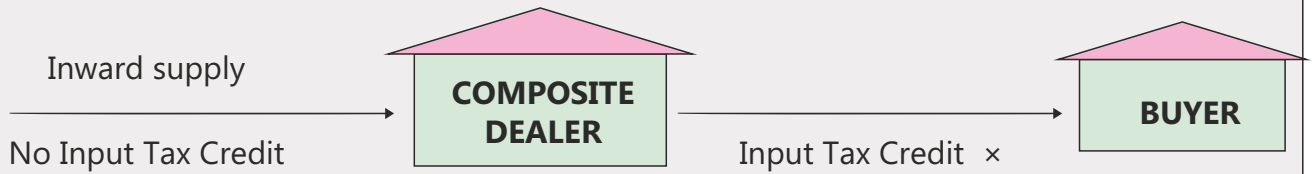
What about "Motor Vehicle / Vessel / Aircraft"



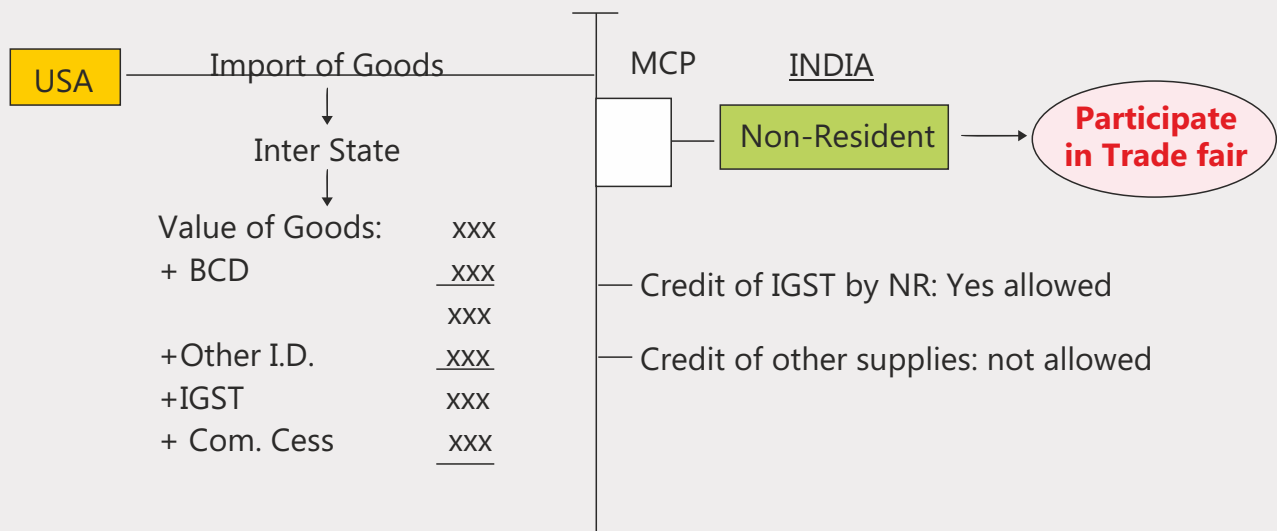
**COMPOSITION DEALER**

NO ITC shall be allowed to a composition Dealer---

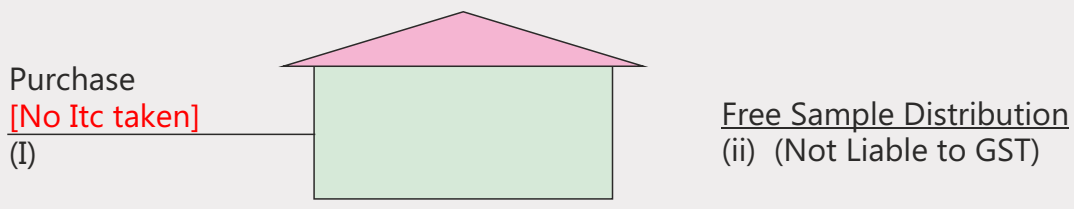
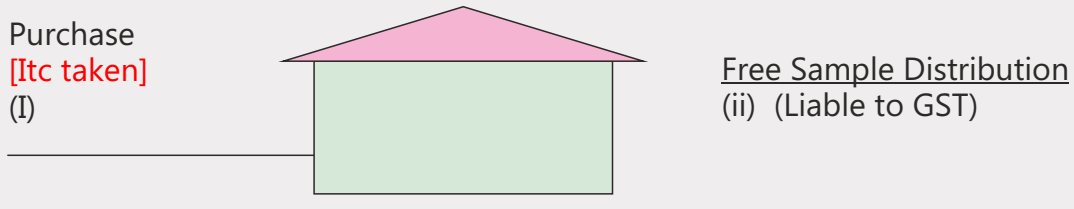
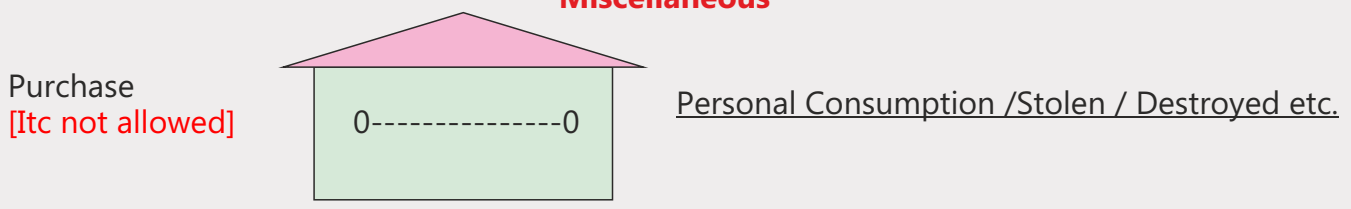
Eg.



**Non Resident Taxable Person**



**Miscellaneous**



**Note:** ITC shall be blocked of

- Goods or services or both received by a taxable person,
- which are used or intended to be used
- for activities relating to his obligations under corporate social responsibility.

**Question 13**

Mr. X owns a grocery store. He procures rice, wheat and biscuits for being sold in its store. Out of the inventory so purchased, he gives 10 kgs each of rice and wheat to his wife for household use. Whether ITC on 10 kg of Rice and 10 Kg of wheat is allowed?

**Answer**

Being used for personal consumption, ITC on 10 kg of rice and 10 kg of wheat is blocked.

**Section: 17 Apportionment of credit and blocked credits**

<p><b>Common usage of goods / services: Business and Non business purpose: ITC Restricted</b></p>	<p>(1) Where the goods or services or both are used by the registered person</p> <ul style="list-style-type: none"> <li>▪ partly for the purpose of any business and partly for other purposes,</li> <li>▪ the amount of credit shall be restricted to so much of the input tax</li> <li>▪ as is attributable to the purposes of his business.</li> </ul>
<p><b>Common usage of goods/services: taxable (Inc. Zero rated) and exempted supplies: ITC Restricted</b></p>	<p>(1) Where the goods or services or both are used by the registered person</p> <ul style="list-style-type: none"> <li>▪ partly for effecting Non exempted supplies and partly for effecting exempt supplies under the said Acts,</li> <li>▪ the amount of credit shall be restricted to so much of the input tax</li> <li>▪ as is attributable to the said taxable supplies including zero-rated supplies.</li> </ul> <p><b>Value of Exempt supplies:</b> (3) The value of exempt supply shall be such as may be prescribed, and shall include supplies</p> <ul style="list-style-type: none"> <li>▪ on which the recipient is liable to pay tax on reverse charge basis,</li> <li>▪ transactions in securities,</li> <li>▪ sale of land and sale of completed building.</li> <li>▪ And value of exempt supply" shall not include the value of negative listed supplies.</li> </ul> <p><u>But The value of sale of goods lying in custom warehouse shall be added.</u></p> <p><b>Additional option to banking or financial including NBFC sector:</b> (4) A banking company or a financial institution including a NBFC,</p> <ul style="list-style-type: none"> <li>▪ shall have the option to</li> <li>▪ either comply with the provisions of sub-section (2), OR</li> <li>▪ 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</li> </ul> <p>(a) Lock in period will be same FY.</p> <p>(b) Restriction of 50% shall not apply to supply between deemed distinct.</p>

	Since the annual return for the FY ending 31st March 20XX has been filed on 15th September, 20XX (prior to due date of filing the return for September, 20XX i.e., 20th October, 20XX), ITC on the invoice pertaining to FY ending 31st March 20XX cannot be availed after 15th September, 20XX.	
	<b>Total</b>	<b>2,65,000</b>

**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)

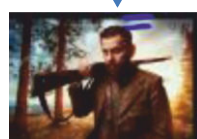
# Ch 13 Registration

## Who is required to take Registration?

**Registration After crossing the Limit of ` 20/10 LAKH: Sec. 22**

**NO Registration Section: 23**

**Mandatory Registration Sec. 24**



# Supplier making **taxable supply** if his AGGREGATE *TURNOVER* in a financial year exceeds the limit of ` 20 lakh.  
**However if the person makes TAXABLE SUPPLIES from ANY of the special category states then the limit will be reduced to ` 10 lakh.**

**HOW TO PROCEEDS....**

**Step 1: Find out aggregate turnover.**  
**Step 2: Check the applicable limit for the person. (if made taxable supplies from any of the 4 special category state, then limit of ` 10 lakh shall be applicable) otherwise limit of ` 20 lakh shall apply**  
**Step 3: If the aggregate turnover exceed the applicable limit ( ` 20/10 /40 lakh) then the person will be required registration in all those states/UT FROM where he made TAXABLE SUPPLIES.**

.....

**# Existing registered person: need compulsory migration and required registration if aggregate turnover exceeds ` 20 /10 lakh.**

**# Transferee/Successor: Transferee/ Successor need registration afresh.**

**# Transferee (transfer under scheme, order of high court etc.): New owner required registration afresh = Voluntarily Registration**

Person making supply which is **NON TAXABLE /EXEMPTED (Exclusively) Agriculturist**  
*means an individual or a Hindu Undivided Family who undertakes cultivation of land-*

**NOTIFIED PERSONS: eg supplier where his supplies exclusively fall under RCM**

- Person making **INTER STATE TAXABLE** supply (However for taxable supply of services and for Handicraft goods exemption limit of `20 /10 lakh will be available)
- Casual Taxable Person**(However for handicraft goods exemption limit of `20 /10 lakh will be available)
- Non Resident taxable person.
- Person required to pay tax under RCM
- Taxable person u/s 9(5) [3 Specified services: transportation, accommodation, misc. utilities]
- Person making supply on behalf of other taxable person (However for taxable supply of services exemption limit of `20 /10 lakh will be available)
- E-Commerce Operator (other than sec. 9(5).
- Other specified person



□ **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), Mob. No., Email id.
- (ii) Verification of above : by GST PORTAL data linked with CBEC, **Verification of Mobile No., Email ID through PAN Validation, OTP sent to that Mob. No and Email ID, Which is linked with PAN.**
- (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.*

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, [other than those who have been exempted from Aadhaar]

- 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 provisions of sub-rule (4A) shall not apply.

**NOTIFICATION No. 27/2022**

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

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

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.**

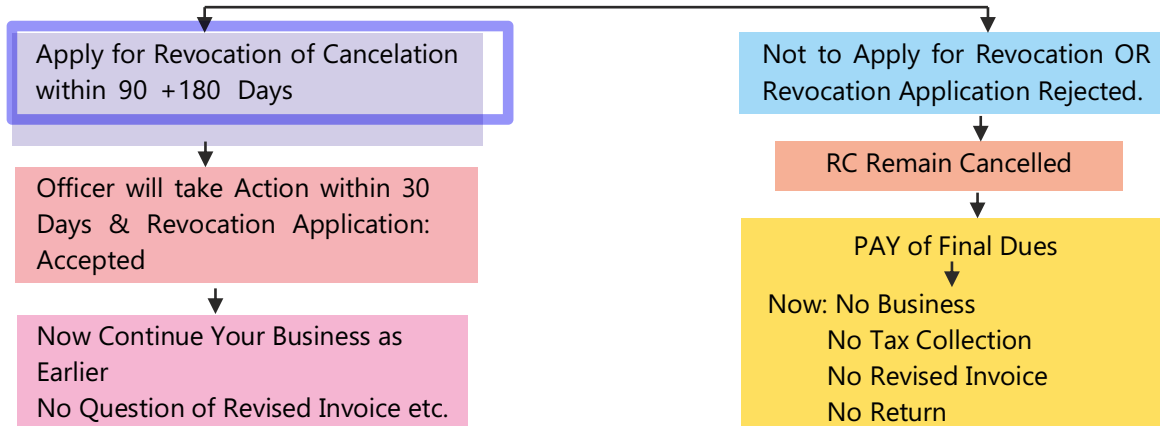
(v) A Registration certificate shall be issued in firm GST REG -6 mentioning principal place of business and additional places therein as declared in application form.

**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.



## REVOCAION/RESTORATION OF REGISTRATION



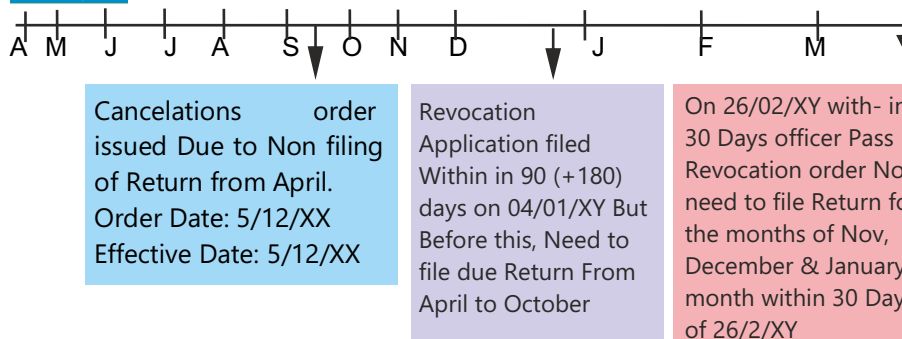
### SPECIAL NOTE

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

#### CASE:1 Where Cancellations effective Prospectively

- File All pending Returns Due UPTO **cancellation order**
- Now file Revocation Application
- Revocation Accepted
- Now file Return Due from Cancellations order to Revocation order

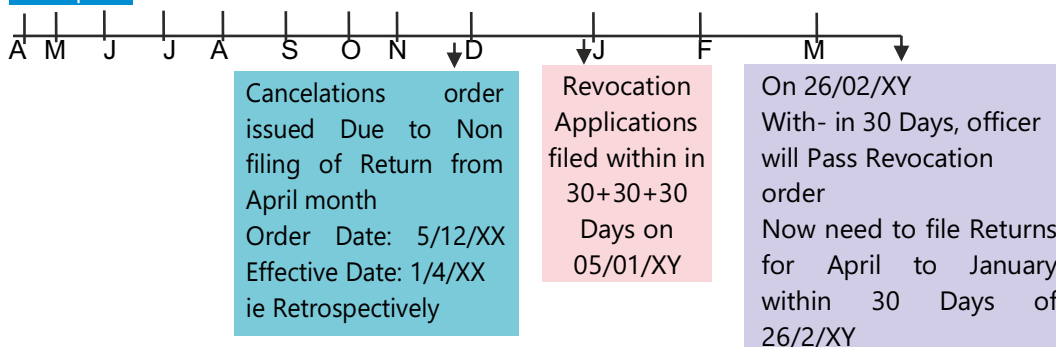
#### Example



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

- File All pending Returns Due UPTO **cancellation order**
- Now file Revocation Applications
- Revocation Accepted
- Now file Return Due **from April Month 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

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]**

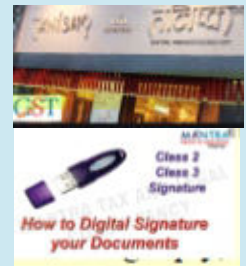
Every RC/UIN holder shall inform the Proper Officer ANY changes in the information furnished at the time of application of thereafter.

## 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 in certain cases:**

(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.

CGST RULES, 2017

**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 PAN 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 OTP sent to the mobile number and e-mail address linked to the PAN.
- ~~(b) The mobile number as declared, shall be verified through a one time password sent to the said mobile number; and~~
- ~~(c) The e mail address as declared shall be verified through a separate one time password sent to the said e mail address.~~
- (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, along with the documents specified in the said Form at the common portal.
- ~~(4A) Every application by a person, [other than those who have been exempted from Aadhaar]~~
- ~~— 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~~
  - ~~— at one of the Facilitation Centres and~~
  - ~~— the **application shall be deemed to be complete** only after completion of the process.]~~
- (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, [other than those who have been exempted from Aadhaar]

- 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.**

**NOTIFICATION No. 27/2022 – Central Tax**

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.**

(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 shall be issued electronically only after the said deposit.

**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 Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall within a period of 30 days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using IFF, whichever is earlier, furnish information with respect to details of bank account on the common portal.

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><b>Rule 14: Grant of registration to a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient or to a person supplying online money gaming from a place outside India to a person in India</b></p>	<p>(1) Any person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient or <u>any person supplying online money gaming from a place outside India to a person in India</u>] shall electronically submit an application for registration, duly signed or verified through electronic verification code, in FORM GST REG-10,</p> <p>(2) The applicant shall be granted registration, in FORM GST REG-06.</p>
<p><b>Rule 21A Suspension of registration</b></p>	<p>(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.</p> <p>(2) 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.</p> <p>(2A) Where,-</p> <p>a) a comparison of the returns</p> <ul style="list-style-type: none"> <li>➤ furnished by a registered person under section 39 with the details of outward supplies furnished in FORM GSTR-1 or</li> <li>➤ the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, or</li> <li>➤ such other analysis,</li> </ul> <p>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</p> <p>b) There is a contravention of the provisions of Rule 10A by the registered person,</p> <ul style="list-style-type: none"> <li>➤ the registration of such person shall be suspended and</li> <li>➤ the said person shall be intimated on the common portal, or by sending a</li> </ul>

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.

(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.



# Ch 14 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 @ E-liability Register
Less ITC	: 18000@E-Credit Ledger
E cash Ledger	: 9,000@ E-Cash Ledger

**On GST portal, we have 3 Ledgers—**

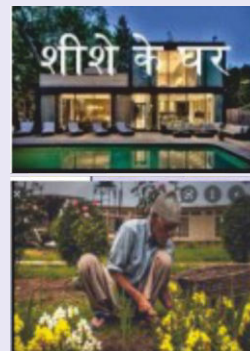
E- CASH LEDGER LEDGER (LIKE PAYTM WALLET)	E- CREDIT LEDGER LEDGER	E- LIABILITY REGISTER
<p>We must have sufficient balance in e cash ledger on due date of filing of return.                      If it is not, then add sufficient amount in it.                      In the given situation `9,000 to be added (assuming we have no opening balance in e cash ledger)</p>	<p>Amount will be updated through GSTR 2B to 3B</p>	<p>E- liability register has 2 parts--  <b>Part i:</b> self assessed liability as per return  <b>Part ii:</b> re-assessed liability by department</p>
<p>How to add...</p> <ol style="list-style-type: none"> <li>1. Create a challan on gst portal which will remain valid for 15 days. Portal will generate c-pin (common portal identification number: 14 digit)</li> <li>2. 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.</li> <li>3. As the payment credited to bank a challan identification number (cin) will be generated, which will be a combination of cpin + 3/4 digit of bank branch code.</li> <li>4. CIN will be communicated to gst portal by bank and the amount will be reflected in e cash ledger.</li> </ol>		<p>First of all, we will discharge part i liability and out of this  <b>A.</b> Previous period liability first then,  <b>B.</b> Current period liability after that discharge part ii liability.</p>

**Rule 86B:  
Restrictions on  
use of amount  
available in  
electronic  
credit ledger.-**

If TAXABLE TURNOVER of a registered person in a particular month is Rs 50 lakh or more – then the person need to pay atleast 1% from E cash ledger even if has sufficient balance of credit to pay of all output GST.

However following persons will not be covered under the above provision..

1. Owner, director, karta etc paid income tax of Rs. 1 lakh each in last 2 F.Y.
2. Claim Refund of ITC of Rs. 1 lakh P to S
3. Government Department/ PSU/local Authority/Statutory Body.
4. If paid excess in preceding period then no need to pay in cash in current period ie cumulative benefit shall be allowed.
5. Registered person may request to officer for relaxation.



**Rule 87  
Electronic  
Cash Ledger**

(1) The electronic cash ledger under section 49(1) shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

(2) Any person, or a person on his behalf, shall generate a challan and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.

Provided that the challan generated at the common portal shall be valid for a period of 15 days.

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

- (i) Internet Banking through authorised banks;
  - (ia) Unified Payment Interface (UPI) from any bank.
  - (ib) Immediate Payment Services (IMPS) from any bank.
- (ii) Credit card or Debit card through the authorised bank;
- (iii) NEFT / RTGS; or
- (iv) Over the Counter payment through authorised banks for deposits up to `10,000 per challan per tax period, by cash, cheque or demand draft:

Provided that the restriction for deposit up to up to `10,000 per challan in case of an Over the Counter payment shall not apply to deposit to be made by –

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

(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 NEFT/RTGS/IMPS (Immediate Payment Service) 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 15 days from the date of generation of challan.

- (6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.

- (7) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.

- (8) Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in FORM GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated.

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) 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.

- (10) A registered person may, 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.

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

- (11) Where 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 Integrated Goods and Services Tax Act,

may also make the deposit through international money transfer through Society for Worldwide Interbank Financial Telecommunication payment network, from the date to be notified by the Board.

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

**(1) In case,**

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

**(2) In all other cases,**

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

**(3) In case,**

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

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

- (1) Input tax credit wrongly availed shall be construed to have been utilised,
  - When the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and
  - the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.
- (2) The date of utilisation of such input tax credit shall be taken to be, -
  - (a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or
  - (b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

**Circular No. 192/04/2023: Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.**

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

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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,

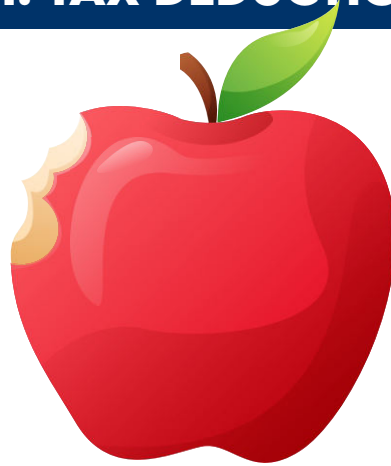
within the period specified in the said sub-rule.

(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.



## SECTION 51: TAX DEDUCTION AT SOURCE



**Who when and how to deduct TDS and when TDS is not Required to be deducted**

(1) **where total value of such supply, under a contract, exceeds ₹ 2,50,000 and Supplier is NON GOVERNMENT Recipient is Government ie fall under the following categories**

(a)	A <b>department</b> or establishment of the Central / State Government; or
(b)	<b>Local authority</b> ; or
(c)	<b>Governmental agencies</b> ; or
(d)	<b>Notified Persons</b> <ul style="list-style-type: none"> <li>• An authority or a board or any other body with 50% or more participation</li> <li>• Society established by the Central/state /Local Government</li> <li>• Public sector undertakings.</li> </ul>

Then TDS is required to be deducted

- @ 1%, [for CGST]
- **from the PAYMENT made or credited to the supplier**
- of taxable goods or services or both and
- it will be deducted on Assessable Value.

**NOTDS:**

**Where location of Recipient is Different from the Origin AND Destination of Supply then no TDS will be deducted.**

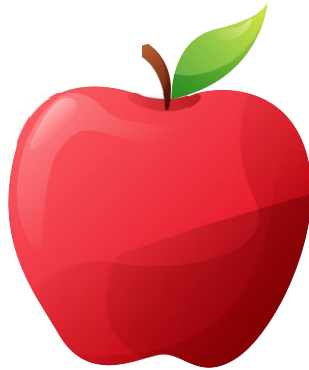
**Payment of TDS by 10th of Next month**

**Payment with in 10 days:** (2) TDS amount shall be paid to the Government by the deductor **within 10 days in next month.**

(6) If It is not paid on time then interest @ 18% PA under section 50(1) to be paid along with amount of TDS.



## 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**

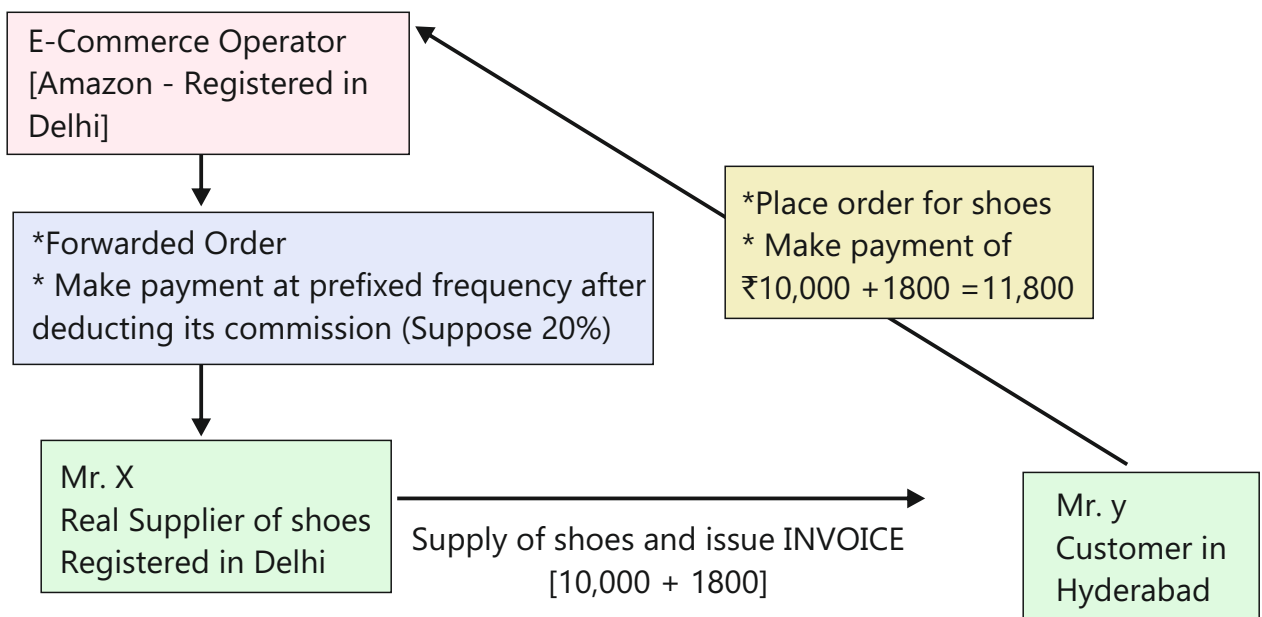
- shall furnish a **statement, electronically, containing the details of Outward supplies effected through it,**
- Returned Supplies including the supplies through it, and
- The amount of TCS collected during a month,
- within 10 days after the end of such month.

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

	<p>(4) If Any operator suo moto after furnishing a statement,</p> <ul style="list-style-type: none"> <li>- discovers any omission or incorrect particulars therein,</li> <li>- he shall rectify such omission or incorrect particulars, along with interest.</li> </ul> <p><b>Last date of Rectification:</b> No such rectification shall be allowed after</p> <ul style="list-style-type: none"> <li>• 30th November of next FY or</li> <li>• the <b>actual date</b> of furnishing of the relevant annual statement,</li> <li>• whichever is earlier.</li> </ul>
<b>Annual statement by 31st December [GSTR 9B]</b>	<p>(5) Every operator who collects the TCS</p> <ul style="list-style-type: none"> <li>• <b>shall furnish an annual statement, electronically</b>, containing the details of <ul style="list-style-type: none"> <li>• outward supplies effected through it,</li> <li>• Returned Supplies through it, and</li> <li>• The amount of TCS collected</li> <li>• during the financial year,</li> </ul> </li> <li>• Before the 31st day of December of next financial year.</li> </ul> <p><b>Note:</b> The Commissioner may, extend the time limit for furnishing the annual statement.</p>
<b>Benefit in E-cash Ledger of supplier</b>	<p>(6) The supplier who has supplied the goods or services or both through the operator</p> <ul style="list-style-type: none"> <li>• <b>Shall claim Benefit, in his electronic cash ledger</b>,</li> <li>• of the amount collected and reflected in the statement of the operator furnished.</li> </ul>
<b>Matching, Communication of discrepancy and Added in output liability</b>	<p>(7) The <b>details of supplies furnished by every operator</b></p> <ul style="list-style-type: none"> <li>• <b>Shall be matched with the corresponding details of outward supplies</b></li> <li>• <b>furnished by the concerned supplier.</b></li> </ul> <p>(8) Where the details of outward supplies furnished by the operator</p> <ul style="list-style-type: none"> <li>• <b>Do not match with the corresponding details furnished by the supplier under section 37 OR SECTION 39,</b></li> <li>• the discrepancy shall be communicated to both persons.</li> </ul> <p>(9) The amount in respect of which any discrepancy is communicated and</p> <ul style="list-style-type: none"> <li>• Which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated,</li> <li>• <b>Shall be added to the output tax liability of the said supplier,</b></li> </ul>
<b>Payment with interest</b>	<p>(10) The concerned supplier, in whose output tax liability any amount has been added),</p> <ul style="list-style-type: none"> <li>• Shall pay the tax payable in respect of such supply along with interest,</li> <li>• at the rate specified under section 50(1)</li> <li>• on the amount so added from the date such tax was due till the date of its payment.</li> </ul>

<b>Notice to operator, Reply and Penalty</b>	<p>(11) AC/DC or above Rank officer may serve a notice, requiring the operator to furnish such details relating to—</p> <p>(a) Supplies effected through such operator or</p> <p>(b) Stock of goods held by the suppliers in the warehouses, managed by such operator and declared as additional places of business by such suppliers,</p> <p>(12) Such operator shall furnish the required information within 15 working days of the date of Receipt of such notice.</p> <p>(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.</p>
<b>Last Date to Furnish Statement</b>	<p>(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: However, 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.</p>

## Analysis of TCS



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

Basis	Transaction Between Mr. X (Supplier) and Mr. Y (Recipient) [Transaction = 01]	Transaction Between E-Commerce Operator (Supplier) and Mr. X (Recipient) [Transaction = 02]																				
<b>Goods /Services</b>	It is a supply of Goods (Shoes)	It is a service (GST Rate 18%), given by Amazon to Mr. X for commission @20%																				
<b>Supply</b>	Yes, it's a supply with consideration	Yes, it's a supply with consideration																				
<b>Nature of supply</b>	Origin : Delhi POS: u/s 10(1) of IGST Act: Hyderabad It is inter -state supply	Origin : Delhi POS: u/s 12 of IGST Act: Delhi It is intra -state supply																				
<b>Taxable Person</b>	Mr. X, [Mandatory Registration u/s 24 ]	Amazon needs Dual Registration In the capacity of Taxpayer u/s 24 In the capacity of TCS Collector u/s 24																				
<b>Exemption</b>	Shoes are not exempted	It is not an Exempted Service																				
<b>Computation</b>	10,000 *18% + 1800 [IGST]	Consideration: 10,000 * 20% = 2,000 CGST: 180 SGST: 180																				
<b>FCM/RCM</b>	FCM ie Mr. X liable to pay GST	FCM ie AMAZON liable to pay GST of ₹ 360																				
<b>Time of supply</b>	u/s 12 : Invoice date	U/s 13: Invoice or Payment (Whichever is Earlier)																				
<b>Compliances</b>	All Compliances to be fulfilled by Mr. X <b>INVOICE</b> VALUE: 10,000 IGST : 1800 TOTAL : 11,800 Output GST = 1800 Itc = 360 Net = 1440	All Compliances to be fulfilled by Mr. X <b>INVOICE</b> <table border="1"> <tr> <td>VALUE</td> <td>: 2,000</td> </tr> <tr> <td>CGST</td> <td>: 180</td> </tr> <tr> <td>SGST</td> <td>: 180</td> </tr> <tr> <td>TCS (IGST)@ 1% On ₹ 10,000</td> <td>100</td> </tr> <tr> <td>Excluding: GST and cess</td> <td></td> </tr> <tr> <td>Excluding: Supplies Returned</td> <td></td> </tr> <tr> <td>Excluding: Supply u/s 9(5)</td> <td></td> </tr> <tr> <td>Nature will be Based on Transaction (01) :</td> <td></td> </tr> <tr> <td>(Because Object Of TCS is to catch Transaction :01)</td> <td></td> </tr> <tr> <td>TOTAL</td> <td>: 2460</td> </tr> </table>	VALUE	: 2,000	CGST	: 180	SGST	: 180	TCS (IGST)@ 1% On ₹ 10,000	100	Excluding: GST and cess		Excluding: Supplies Returned		Excluding: Supply u/s 9(5)		Nature will be Based on Transaction (01) :		(Because Object Of TCS is to catch Transaction :01)		TOTAL	: 2460
VALUE	: 2,000																					
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TOTAL	: 2460																					

		<p><b>Payment:</b> Amazon Liable to Pay GST of ₹360 and TCS of ₹ 100 to Govt. For Payment of TCS AMAZON can not use ITC as it is not an output tax. TCS of ₹ 100 will be reflected in E cash Ledger of Mr. X</p> <p><b>Filing of Return:</b> <b><u>In the capacity of TAXPAYER</u></b></p> <ul style="list-style-type: none"> <li>• Amazon Required to file GSTR 01/3B for ₹ 360 by 11th and 20th of NEXT month.</li> <li>• Annual Return by 31st dec. of Next Year in GSTR 09</li> </ul> <p><b><u>In the capacity of TCS COLLECTOR</u></b></p> <ul style="list-style-type: none"> <li>• GSTR 08 For TCS of ₹ 100 by 10th of Next Month</li> <li>• Annual Statement by 31st dec. of Next Year in GSTR 9B</li> </ul>
<b>Others</b>		<ul style="list-style-type: none"> <li>• <b>Matching, Communication of discrepancy and Added in output liability.</b></li> <li>• <b>Payment with interest in case of Mismatch.</b></li> <li>• <b>Notice to operator, Reply with in 15 days and Penalty up to Rs. 25,000</b></li> </ul>

## DIFFERENCES BETWEEN TDS AND TCS

TDS u/s 51	TCS u/s 52
Supplier = other than Government Recipient = Government	Supplier = E commerce Operator Recipient = 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

### 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.

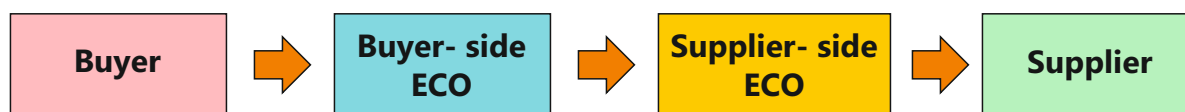
### Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction in the context of Open Network for Digital Commerce (ONDC)

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.



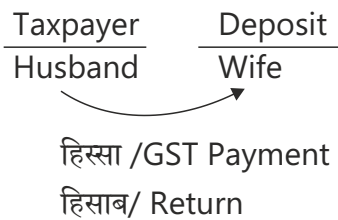
# Ch 15 Return

**Sections List**

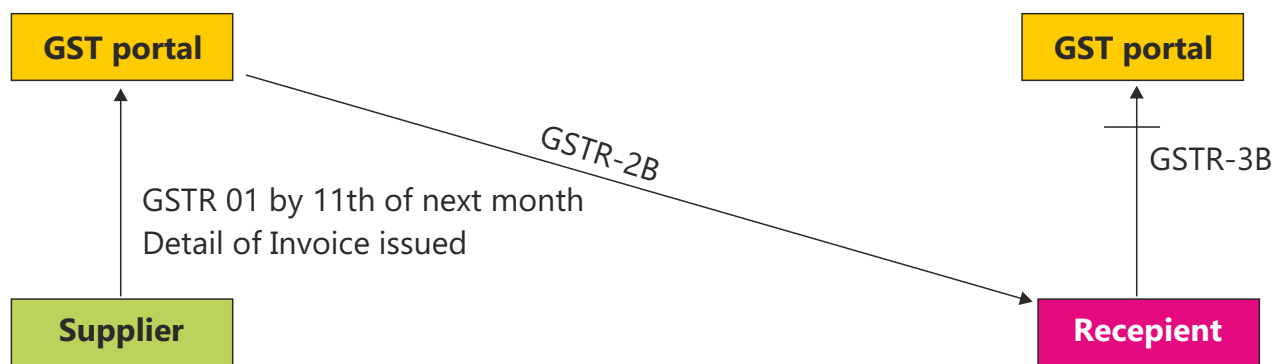
<b>Section 37</b>	Outward supply statement
<b>Section 38</b>	Communication of details of inward supplies and input tax credit [GSTR 2B]
<b>Section 39</b>	Filing of Return
<b>Section 40</b>	First Return
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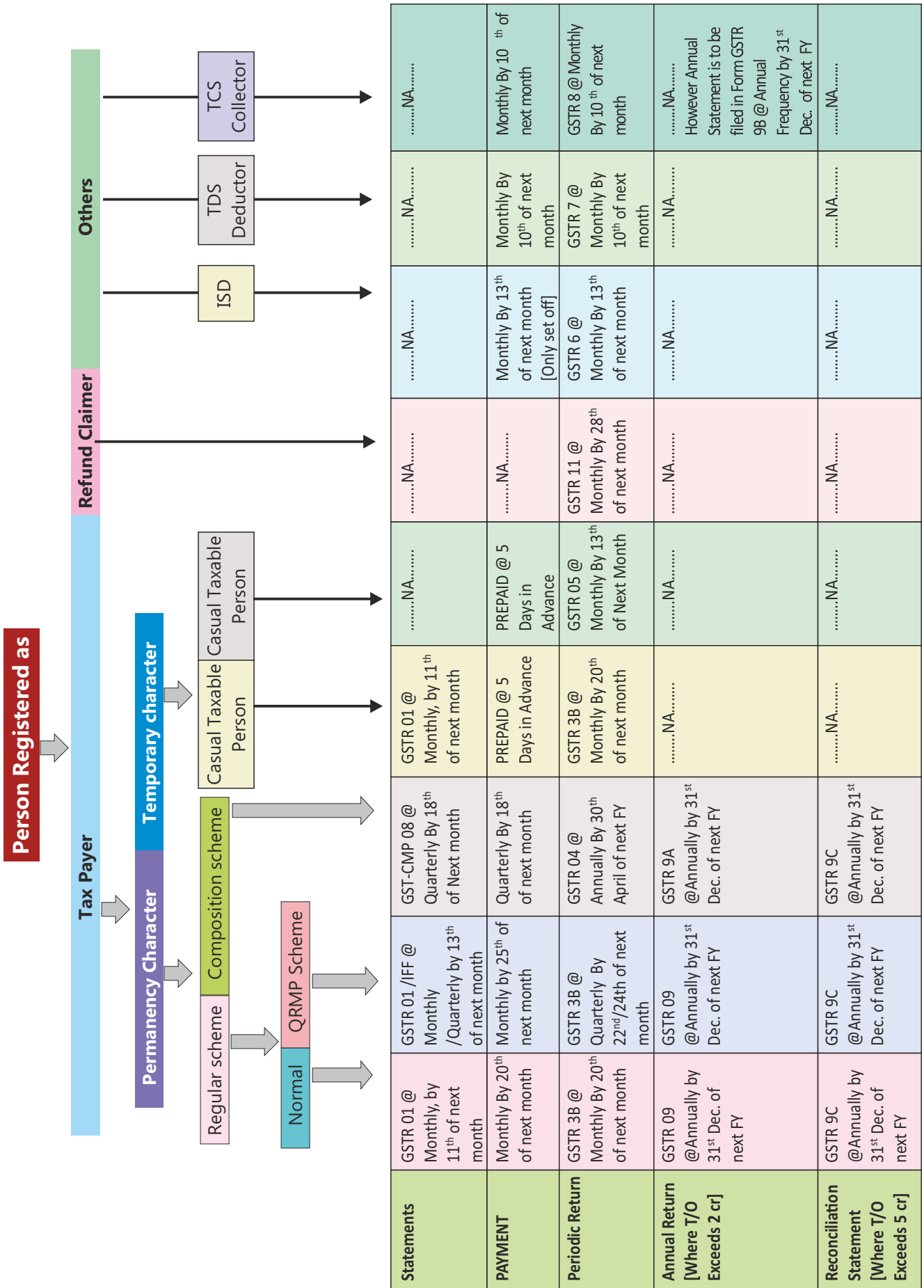
**Forms List**

Form	Content
GSTR 01	Invoice issued
<del>GSTR 2B</del>	<del>ITC Statement on Portal</del>
GSTR 3B	Return
GSTR 04	Annual statement @ composite dealer
GST-CMP: 08	Quaterly Statement
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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:**





## 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) **Maximum Time to File:** 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.

- (1) 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.
- (2) The auto-generated statement shall consist of:
- a) Details of inward supplies in respect of which ITC may be available.
  - b) Details of supplies in respect of which ITC CAN NOT be available either wholly or partially by the recipient, on account of the details of the said supplies being furnished under section 37(1),—

**Where Return not submitted by Supplier on Time:** by any registered person within such period of taking registration as may be prescribed; or

**Non payment of tax by supplier:** by any registered person, **who has defaulted in payment of tax** and where such default has continued for such period as may be prescribed; or

**Short payment of tax by supplier:** by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or

**Excess credit availed by supplier :** by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that **exceeds the credit that can be availed by him** in accordance with clause (a), by such limit as may be prescribed; or

**Supplier not to follow Rule of 1%.:** by any registered person, who has **defaulted in discharging his tax liability** in accordance with the provisions of section 49(12) subject to such conditions and restrictions as may be prescribed; or

**Any other reason:** by such other class of persons as may be prescribed.

## SECTION 39: FILING OF PERIODIC RETURN

<p><b>(i) GSTR:3/3B</b></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"> <li>- shall, <b>for every calendar month or part thereof</b>, furnish, a return, electronically,</li> <li>- of inward and outward supplies of goods or services or both,</li> <li>- input tax credit availed,</li> <li>- tax payable, tax paid and</li> <li>- such other particulars,</li> <li>- in such form and manner, and within such time, as may be prescribed:</li> </ul> <p>However the Government may, notify certain class of registered persons who shall furnish a return for <b>every quarter or part thereof, [SPECIFIED PERSONS under QRMP]</b></p>
<p><b>(ii) GST-CMP:08</b></p>	<p>A composite dealer shall,</p> <ul style="list-style-type: none"> <li>- for each financial year or part thereof, furnish a return, electronically,</li> <li>- of turnover in the State or Union territory,</li> <li>- inward supplies of goods or services or both,</li> <li>- tax payable, tax paid and</li> <li>- such other particulars in such form and manner, and within such time, as may be prescribed.</li> </ul>

<b>(iii) GSTR:5</b>	<ul style="list-style-type: none"> <li>- Every Registered Non-Resident Taxable Person Shall file GSTR:5 for every Calendar Month of part thereof</li> <li>- @ Specified Details</li> <li>- with in 13 Days after the end of Calendar Month OR</li> <li>- Within 7 Days after the expiry of Registration period (Whichever is Earlier)</li> </ul> <p>NOTE: The Commissioner may extend the time limit for Furnishing the Return under this section.</p>
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**(iv) TAX PAYMENT BY DUE DATE OF RETURN:**

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

**(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.

**(viii) Maximum Time to File:**

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><b>By every registered person except notified [GSTR: 9, 9A]</b></p>	<p>(1) Every registered person, other than</p> <ul style="list-style-type: none"> <li>o an Input Service Distributor,</li> <li>o a person paying tax under section 51 or section 52,</li> <li>o a casual taxable person and</li> <li>o a non-resident taxable person</li> </ul> <p>shall furnish an annual return</p> <ul style="list-style-type: none"> <li>• which may include a self-certified reconciliation statement,</li> <li>• reconciling the value of supplies declared in the return furnished for the financial year,</li> <li>• 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]</li> </ul> <p>However Commissioner may, exempt any class of registered persons from filing annual return under this section:</p>
<p><b>GSTR 9C</b></p>	<p>Every registered person, other than</p> <ul style="list-style-type: none"> <li>o an Input Service Distributor,</li> <li>o a person paying tax under section 51 or section 52,</li> <li>o a casual taxable person and</li> <li>o a non-resident taxable person</li> </ul> <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 <b>FORM GSTR-9C</b> along with the annual return on or before the 31st December following the end of such financial year.</p>
<p><b>Relaxation from GSTR 9/9A/9C</b></p>	<p><b>Relaxation to Government Department:</b> The provisions of this section will not be applicable to</p> <ul style="list-style-type: none"> <li>• Any department of the Central Government or a State Government or a local authority,</li> <li>• whose books of account are subject to audit</li> <li>• by the Comptroller and Auditor-General of India [CAG] or an auditor appointed for</li> <li>• auditing the accounts of local authorities under any law for the time being in force."</li> </ul> <p><b>Notification No. 31/2021</b> - It is hereby exempts the registered person whose aggregate turnover in the financial year 2020-21 is upto Rs. 2 cr, from filing annual return for the said financial year.</p>



**Maximum Time to File:**

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:  
 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.

**Section: 45 Final Return [One time Return]**

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

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

**Some other Points:**

**Section: 46 Notice to return defaulter**

Where a registered taxable person fails to furnish a return under section 39, [Combined Return] section 44 [Annual Return] or section 45, [Final Return] a notice shall be issued requiring him to furnish such return within 15 days in such form and manner as may be prescribed. [GSTR 3A]

**Section: 47 Late fees**

**Periodic and Final Return**

- Any registered taxable person
- who fails to furnish the-details of outward supplies u/s 37 or RETURN u/s 39,45,52 by the due date
  - shall be liable to pay late fee of `100 [Reduced to `25 and 10 for NIL RETURN] for every day during which such failure continues
  - subject to a maximum of `5000.

**Annual Return**

- 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.

**Section : 48  
GST Practitioner**

The responsibility for correctness shall continue to rest with the registered taxable person.

- 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****Rule: 59 Form  
and manner of  
furnishing details  
of outward  
supplies  
[FORM: GSTR 1]**

- (1) Every registered person,
  - required to furnish the details of outward supplies of goods or services or both under section 37,
  - 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
  - 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–
  - (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]
<b>Debit and credit notes</b> , 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]
Stat wise inter -State supplies wit invoice value upto Rs.2,50,000	made to unregistered persons for each rate of tax [B to C]
<b>Debit and credit notes</b> , 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 <b>FORM GSTR-3B</b> 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 section 39(1), ie QRMP if he has not furnished the return in FORM GSTR-3B for the preceding month ;	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,
(c) A Registered person, to whom an intimation has been issued under the provisions of Rule 88C(1) in respect of a tax period,	<b>shall not be allowed to furnish GSTR 01/IFF for a subsequent tax period, unless</b> he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid.

(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,

- shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility for a subsequent tax period,
- unless he has either paid the amount equal to the excess input tax credit as specified in the said intimation or
- 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);

(e) a registered person

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.

**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**

Every **registered person**

- 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 IGST 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.

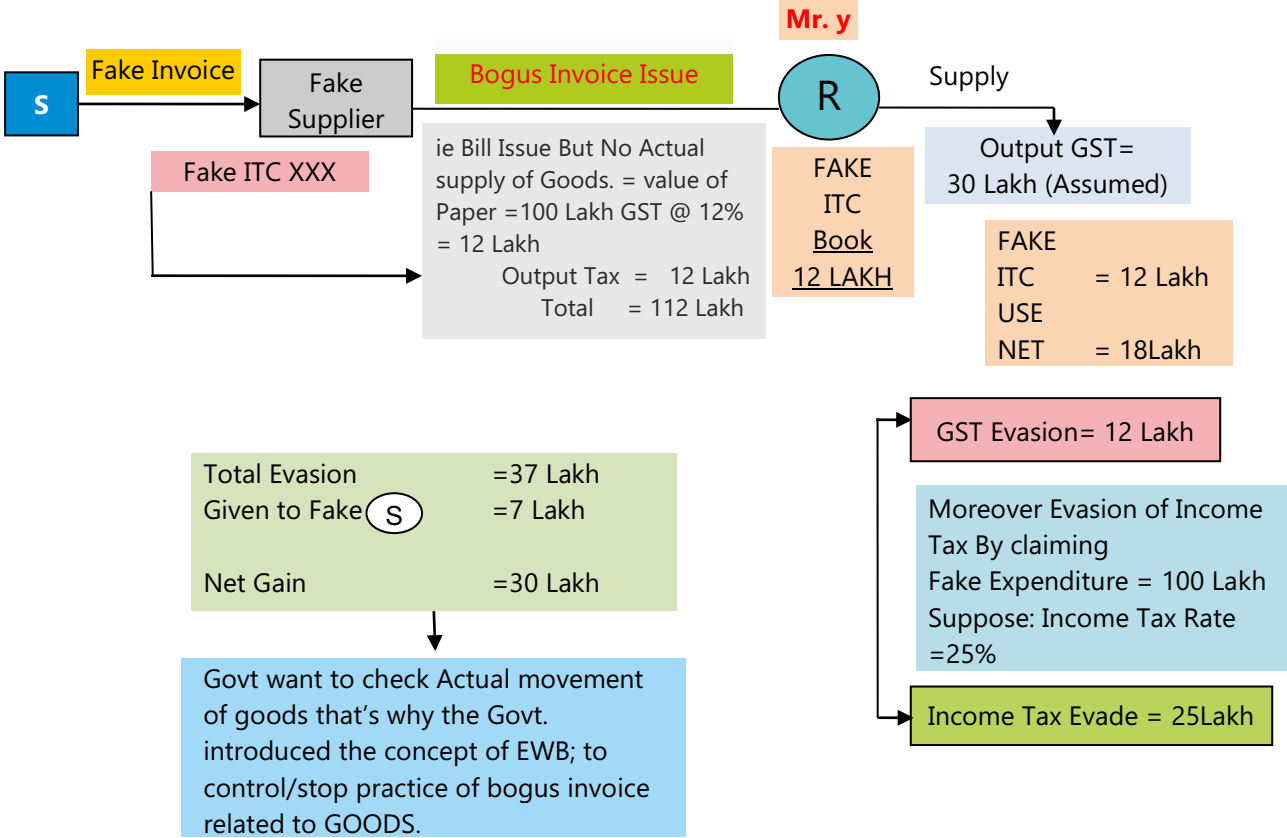
# Ch 17 E-WAY BILL

- (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?

### Fake Invoice



2	<p>Whether e-way bill is required - Where goods transit through another State while moving from one area in a State to another area in the same State.</p> <p>Whether e-way bill is required - Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.</p>	<p>It may be noted that e-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated.</p> <p>Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an e-way bill, if the same has been exempted under Rule 138(14)(d) of the CGST Rules.</p>
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### 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.

**Misc. Circulars**

**Q. Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.**

**Ans.** 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.**

**Q. 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**

**Ans.** 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**