

Goods and Services TAX

Chapter	Amendment in Existing Provisions	Newly Added Provisions	Omitted Provisions
Definitions	<p>Supplier Definitions now includes <b>supplier of actionable claims</b></p> <p><b>OIDAR Definition excludes:</b> Online Money Gaming because online money gaming is considered as supply of Goods.</p> <p><b>For the purpose of OIDAR Services:</b> Government Department having TDS registration Only will be treated as NON TAXABLE ONLINE RECIPIENT.</p>	<ul style="list-style-type: none"> <li>• <b>Online Gaming means:</b> offering game on internet.</li> <li>• <b>Online Money Gaming means:</b> in which players pay entry fee to win money etc. which is contingent.</li> <li>• <b>Specified actionable claims means:</b> Lottery, betting, gambling, casinos, horse racing, Online Money Gaming.</li> <li>• <b>Export of Services:</b> Consideration received from special <b>Rupee vostro Account</b> will be deemed as consideration received in FC.</li> </ul>	-
Introduction to IGST	•	<p><b>Section 16(3) and 16(4): In case of non-realisation of sale proceeds</b></p> <ul style="list-style-type: none"> <li>▪ Where Registered person making zero rated supply without payment of IGST and</li> <li>▪ Claimed Refund of Unutilized ITC and</li> <li>▪ foreign currency is not realised with in time as prescribed by FEMA</li> <li>▪ Then the person Liable to deposit the refunded amount of ITC with Interest Within 30 Days after the expiry of time limit.</li> </ul> <p><b>For claiming Export Benefit :</b></p> <ol style="list-style-type: none"> <li>1. <b>Primary Model:</b> Export without payment of IGST [Bond /LUT Model]</li> <li>2. <b>Secondary Model:</b> Export on payment of IGST and later on claim refund of IGST from Custom Department. [it is applicable on pan masala, Gutkha, Tobacco etc.]</li> </ol>	

<b>Chargeability</b>	<b>Section 9(5) Passenger Transportation Services</b> In case of Omni Bus: - Where company supplies Omni bus service through ECO then company liable to pay GST - Otherwise ECO liable to Pay GST <b>Omni Bus = 7 seater including Driver</b>	<b>In case of Supply of Online money gaming</b> (Actionable claims = Goods) from outside India to India: IGST is levied as per IGST Act and collected by GST department.	-
<b>Supply</b>	<b>Schedule III: No Supply :</b> Actionable claims <b>other than Specified actionable claims</b> shall not be treated as supply.	<b>Circulars:</b> - Shares held by holding company of subsidiary company will not be treated as supply hence NO GST. - Supply of food in cinema hall <ul style="list-style-type: none"> <li>▪ Combo Supply with Ticket = Composite Supply and classification will goes to cinematography services,</li> <li>▪ Independent Supply = Restaurant Service.</li> </ul>	
<b>Place of Supply</b>	-	<b>Section 10(1) (ca) of IGST Act:</b> Supply of goods to unregistered person (B to C): [Including Online Money gaming] <ul style="list-style-type: none"> <li>- Location as per the address of recipient as recorded in the said invoice.</li> <li>- Otherwise Location of Supplier</li> <li>- Will be the place of supply.</li> </ul> <b>Advertisement Service</b> <b>In case of sale of space or sale of Right to use space:</b> It is an immovable property related Services hence place of supply will be the location of Immovable property under section 12(3) of IGST Act. <b>In case of sub contract of Advertisement Services:</b> Place of supply shall be determined under section 12(2) of IGST Act ie Location of Recipient [if Known] or Location of Supplier.  <b>Co- Location Services / Data Centre Services:</b> <b>In case of packaged service [infra + I.T. + Hosting + Data Security + Upkeep of Server + Etc ]:</b> Place of supply shall be determined under section 12(2) ie Location of Recipient [if Known] or Location of Supplier.	<b>Section 12(8) of IGST Act:</b> <del>Transportation of Goods</del> <del>Destination Outside India then POS</del> <del>Outside India.</del>  <b>Section 13(9) of IGST Act</b> <del>Transportation of Goods other than by way of mail or courier</del> <del>Then POS shall be destination of such goods.</del>

		<b>In case of service of JUST giving Space of Server Room</b> with Basic Infra eg Light etc without Component: place of supply shall be determined under section 12(3) ie location of Property.	
<b>Taxable Person</b>	-	<b>Section 24: Mandatory Registration Required:</b> <ul style="list-style-type: none"> <li>- Every person Supplies <b>online Money Gaming</b> from a place outside India to a person in India.</li> <li>- <b>Micro level Businessman Supplying goods through ECO-</b> (The person having aggregate turnover in P.F.Y and C.F.Y within threshold limit can supply goods in one State through ECO without registration but need to obtain Enrolment number and with enrolment number he is not liable to pay GST till formal registration.)</li> </ul>	-
<b>Exemptions</b>	<b>Following Services fall under 243 G/W to Govt. Authority will be exempted –</b> <ul style="list-style-type: none"> <li>- Water supply, public health, sanitation Conservancy, Solid waste Management, Slum improvement or upgradation.</li> <li>-</li> </ul> <b>Indian Railways</b> <ul style="list-style-type: none"> <li>▪ AC/ First Class Taxable @ NCM</li> <li>▪ Goods Transport = Generally: Taxable but goods wise exemption available eg Floor, Pulses, Rice etc</li> <li>▪ Renting of Immovable Property: Taxable @NCM</li> <li>▪ Non-Business Entity, Garib Business Entity [T/O in PFY limited to threshold limit], other Government Department, Small Services (upto Rs. 5000) Taxable: With NCM</li> </ul>	CA Rajkumar	*Import of Services by RBI related to Forex now taxable under RCM.  *Ocean Freight on Import Cargo not liable to GST.  *Now Export Cargo freight liable to GST by 5%.

	Satellite Launching services provided by ANYONE will be Exempted		
Valuation	<p><b>Corporate / Personal Guarantee</b>  <b>Corporate Guarantee ie guarantee given by company</b> to any banking co or financial institution on behalf of related person say Director or Subsidiary company:</p> <ul style="list-style-type: none"> <li>- Then value of supply u/r 28(2) will be:</li> <li>- 1% of amount of guarantee or</li> <li>- actual consideration</li> <li>- whichever is higher.</li> </ul> <p><b>In Case of Personal Guarantee:</b> say guarantee given by director to bank etc. for his company –</p> <ul style="list-style-type: none"> <li>- then the value will be NIL however if any amount actually chaged directly or indirectly</li> <li>- then the value charged will be AV.</li> </ul>	<p><b>In case of online Money Gaming;</b>  <b>AV – Entry Fess</b>  <b>In case of Casino</b>  AV- Amount deposited for purchase of token, chips coins i.e. Entry Fees</p> <p><b>Common Note:</b>  <b>Note: 1</b> Any Amount refunded or returned shall not be deductible from AV.  <b>Note 2:</b> Any winning amount used for further event without withdrawing the same shall not be considered as amount paid or deposited with the supplier i.e. not liable to GST.</p> <p><b>Composition Scheme</b>  Now allowed for those suppliers who supplies goods through ECO.</p>	-
RCM	<p>*Renting of Immovable Property by Ministry of Railways = NCM  *Other Government services by ministry of railways to Business Entity = NCM</p> <p><b>* Goods Based RCM Table</b>  Please read from Book.</p>	Services supplied by a director to company in personal capacity not fall under RCM.	GST on Ocean freight on import cargo taxability provision omitted. le now it is exempted.
Invoice	E - Invoicing Limit now: 5 Crore	<p><b>Circulars:</b></p> <ul style="list-style-type: none"> <li>- E invoicing applicable for supplies made to Government Department, Government Agencies, Local Authority, PSU <b>which are registered as TDS Deductor only.</b></li> </ul> <p><b>Rules:</b></p> <ul style="list-style-type: none"> <li>- Invoice contain name of state of recipient in case of online money gaming supplied to Unregistered person. [also applicable for online money gaming]</li> </ul>	

<b>Time of Supply</b>	<b>N/N 66/2017</b> Payment Condition comparison applicable for registered person supplies <b>specified actionable Claims. ie invoice or payment (whichever is earlier)</b>		
<b>Input Tax Credit</b>	<b>Section 16: Booking of ITC</b> Fails to pay the bill amount to the supplier within 180 days <b>shall pay along with Interest.</b> <b>Section 17 Common Credit</b> Value of exempt supplies shall include goods lying in custom warehouse -	<b>Section 17(5) Blocked Credit:</b> ITC shall be blocked for goods and services received by Taxable person <b>for corporate social responsibility.[CSR]</b>  <u><b>Circulars</b></u> <b>Warranty Replacement</b> - During <u>Original Warranty</u> period replacement of parts or supply of services without consideration not liable to GST and manufacturer will be eligible to claim ITC on that parts as he has already paid GST in form of warranty charges in each and every case. - <u>Extended Warranty</u> at the time of supply becomes composite supply and will be classified with main supply ie car otherwise shall be treated as independent supply of services.  <b>Head Office and Branch Office</b> - In Case of <b>Externally Generated</b> Services ISD registration is mandatory only when form of GST needs to be changed. - In Case of <b>Internally generated</b> Services invoice by HO to branches is not required due to Rule 28 which prescribed NIL AV.	<b>Explanation to Rule 43</b> Ocean freight on export cargo excluded from deemed non-exempted supplies as it is now naturally taxable with 5%.
<b>Registration</b>	<b>Revocation Application:</b> Application time for Revocation of Cancellation of Registration: now 90+180 Days.  <b>Bank Details: Rule 10 A</b> Furnishing bank account details within 30 days of grant of registration or before furnishing GSTR 01 (Whichever is Earlier)	<b>Bio-matric at the time of Registration:</b> Now Applicable in GUJRAT and Pondicherry. <b>Suspension of Registration</b> Where- - Anomaly in ITC and output Liability as per Rule 21 or - Contravention of Rule 10A Then Notice to the person Within 30 days why registration should not be cancelled.	

	<p><b>Physical Verification:</b> [During physical Verification presence taxpayer not required]  <b>Before Registration in case of :</b></p> <ul style="list-style-type: none"> <li>- Not to opt for Aadhaar Authentication</li> <li>- Opt for, but failed</li> <li>- Suggested by Artificial Intelligence</li> <li>- Suggested by officer</li> </ul> <p>and maximum Time to upload report by Officer :  5 days in advance of Granting Registration.</p> <p><b>After Registration in case of :</b></p> <ul style="list-style-type: none"> <li>- Suggested by Artificial Intelligence</li> <li>- Suggested by officer</li> </ul> <p>Maximum Time to upload report by Officer:15 days.</p>	<p><b>Withdraw of suspension:</b></p> <ul style="list-style-type: none"> <li>- Registration Suspended but not cancelled due to above reason then</li> <li>- Suspension shall be revoked</li> <li>- after filling of return or Compliance of Rule 10A.</li> </ul>	
<p><b>Manner of Payment</b></p>		<p><b>Online money gaming</b></p> <ul style="list-style-type: none"> <li>- Online money gaming supplier from outside India</li> <li>- may make deposit through International Money Transfer.</li> </ul> <p><b>Rule 88D :ITC Comparison @ Available in 2B and claimed in 3B then –</b></p> <ul style="list-style-type: none"> <li>- Intimation to registered person on email</li> <li>- Pay an amount of difference amount with Interest or</li> <li>- Explain the reason</li> <li>- Within 7 days.</li> <li>- If no reply provided or not paid or reply not acceptable then a show cause notice shall be issued and demand order will be made.</li> <li>-</li> </ul>	
<p><b>TDS /TCS</b></p>		<p><b>Composition dealer of Goods</b></p> <ul style="list-style-type: none"> <li>- ECO shall Collect TCS and Furnish GSTR 8.</li> </ul> <p><b>Multiple ECOs Involved</b></p> <ul style="list-style-type: none"> <li>- TCS Compliances shall be fulfilled by Supplier Side ECO only.</li> <li>- Where Supplier is also ECO then buyer side ECO shall fulfil TCS compliance.</li> <li>-</li> </ul>	

<p><b>Return</b></p>	<ul style="list-style-type: none"> <li>•</li> </ul>	<p><b>Online money gaming</b> Return form GSTR 5A: to be filed by 20<sup>th</sup> of Next Month</p> <p><b>Maximum time to file Return /Statements</b></p> <ul style="list-style-type: none"> <li>- GSTR 1 u/s 37</li> <li>- GSTR 3B and other Returns under section 39</li> <li>- Annual Return u/s 44</li> <li>- GSTR 9B (TCS Statement under section 52)</li> </ul> <p>Can be filed only upto 3 years from due date.</p> <p><b>New Restriction on filing GSTR 1</b> In case of non-compliance of</p> <ul style="list-style-type: none"> <li>- Rule 88 D [ITC Comparison]and</li> <li>- Rule 10A [Furnishing bank Details]</li> </ul> <p>Then GSTR 1 can not be filed.</p>	
<p><b>Refund</b></p>	<p><b>Section54(6)</b> Following words removed “excluding the amount of input tax credit provisionally accepted” Because of Removal of Section 42 and 43 in easy wordings provisional ITC concept has already been removed so it is corresponding amendment.</p> <p><b>Section 56 and Rule 94</b> Following Days will not be counted in computation of Interest Period (1) Where officer is satisfied that full or part amount is not admissible</p> <ul style="list-style-type: none"> <li>- then he shall issue a notice to applicant to respond within 15 days.</li> <li>- Now in response any period beyond 15 days will not be counted.</li> </ul> <p>(2) Where there is an issue in bank Account then any period taken in furnishing or validating correct bank details will not be counted.</p>	<p><b><u>Circular: Refund Under Rule 89(4) Refund in Zero Rated Supply</u></b> <b>Export value of Goods</b></p> <ul style="list-style-type: none"> <li>(a) FOB Value of Goods or Invoice Value (Lower)</li> </ul> <p>Or</p> <ul style="list-style-type: none"> <li>(b) 1.5 Times of Value in Domestic Market</li> </ul> <p>[Whichever is lower]</p>	

<b>Assessments</b>	<p><b>Section 62 In Case of Non filer</b> After Best Judgement earlier 30 days were given for payment of dues, Now 60 days + additional 60 Days given for payment of Dues.</p> <p>However where payment is made after first 60 days then need to pay Additional Fee of Rs. 100 per Day after first 60 days.</p>		
<b>Demand and Recovery</b>	<p><b>Rule 142(3)</b> Order word replaced with Intimation</p> <p><b>Rule 142B</b> Intimation of amount liable to be recovered. Here Intimation means notice of recovery.</p> <p><b>Rule 159 :Provisional Attachment of Property</b> Relaxation from attachment on Written Instruction of Commissioner or 1 Year from provisional Attachment order (whichever is Earlier)</p>	CA Rajkumar	
<b>Penalties</b>	<p><b>Section 122 (1B) Penalty for ECO</b> Rs 10,000 or Amount of Tax (whichever is Higher) for non-compliance of conditions related to micro Level Supplier of Goods.</p> <p><b>Section 132</b> Amount of Tax exceed 1 crore but does not</p>		<p><b>Section 132 (1)</b> Following three points removed..</p> <p>(g) Obstructs or prevent an officer</p>



exceed 2 crore [in this value bracket imprisonment shall be given only in 1 case] which is as follows

**“issue of invoice without supply [clause (b)]”**

**Imprisonment:** 6 Month to 1 year with fine

False information or fake accounts with an intention to evade tax without any monetary limit [Falls under clause (f) ONLY ]

Imprisonment: 6 Month with fine

### **Section 138: Compounding of Offences**

#### **How many Times Compound**

- Offence of 132(1)(b): No supply but invoice issued : NO compounding
- For other offences: one time opportunity
- Offences Notified by Government: Compounding Not allowed

#### **Compounding Fees**

Minimum 25% of Tax

Maximum 100% of Tax

\*For offences having value more than 5 Cr ND Fall under Section 132(1)(a), (c), (d), (e) - then 50% to 75% of tax amount

\*For offences having value more than 2 Cr to 5 Crore and fall under Section 132(1)(a), (c), (d), (e) then 40% to 60% of tax amount.

\*For Rest of the cases: 25% of tax amount.

(j) Tamper or destroy evidence or documents

(k) Fails to supply any information or supplies false information

<b>Appeals</b>	<p><b>GST Appellate Tribunal</b></p> <ul style="list-style-type: none"> <li>- National bench and regional benches renamed as <b>Principal bench</b></li> <li>- State Bench and Area benches renamed as <b>State bench.</b></li> <li>-</li> </ul> <p><b>Corresponding effects of above amendment in</b>  Section 117 : Appeal to HC  Section 118: Appeal to Supreme Court  Section 119 : Sums due to be paid before filling appeal to HC and SC</p> <p><b>Section 114 [Redrafted]</b>  Financial and administrative powers over GST-AT. shall be exercised by <b>President.</b></p> <p><b>Rule 108/109</b></p> <ul style="list-style-type: none"> <li>- Appeal filed electronically</li> <li>- Provided that appeal may be filled manually along with documents if Commissioner notified Or Demand order not available on Portal.</li> </ul>	<p><b>Section 109 Constitution of Appellate Tribunal and Benches</b></p> <ul style="list-style-type: none"> <li>• CG Shall establish GST Appellate tribunal</li> <li>• Power of AT exercised by Principal and State benches</li> <li>• Principal bench situated in Delhi</li> <li>• State benches constituted by CG on request of SG</li> <li>• GST-AT shall hear the appeal against order of AA/RA</li> <li>• President shall distribute the business of GST-AT</li> <li>• Cases up to 50 Lakh may be heard by single member</li> <li>• Difference in opinion <ul style="list-style-type: none"> <li>➤ State Bench Matter: President refers matters to Same state Bench Member first and second Another state bench member</li> <li>➤ Principal bench matter: President refers matter to another member of principal bench first and second member of state bench.</li> </ul> </li> <li>• Govt may transfer a member from one bench to another (Any State) after consulting with president.</li> <li>• However technical member of state bench transfer in another bench of same state.</li> <li>• Defect in constitution shall not effect decision of GST-AT.</li> </ul>	
<b>E Way Bill</b>		<p><b>New Rule 138 F</b>  Information to be furnished in case of Intra state movement of Gold, precious stone etc.  Where Consignment Value &gt; 2 Lakh or more as specified by commissioner.</p> <ul style="list-style-type: none"> <li>- Only Part “A” of E- way Bill is required to be furnished.</li> <li>- Rest of the provisions shall apply normally.</li> </ul>	
<b>Ethics Under GST</b>	Newly Chapter Added: See from Book		

# Custom Laws

<b>Import and Export Procedure</b>		<p><b>Section 47: Post Paid Manner (Deferred Payment)</b> Central Government may under exceptional circumstances allow payment to be made on a different due date.</p> <p><b>Eligible importer</b> shall be permitted to make deferred payment if</p> <ul style="list-style-type: none"><li>➤ He has paid duty within due date</li><li>➤ Paid the differential duty within one day along with Interest</li></ul> <p><b>Section 51A Electronic Cash ledger</b> Payment not required to paid through Electronic Cash ledger</p> <ul style="list-style-type: none"><li>- Accompanied baggage</li><li>- Where custom automated system is not in place</li><li>- Etc.</li></ul> <p><b>Payment required to paid through Electronic Cash ledger</b></p> <ul style="list-style-type: none"><li>- Any duty of custom including Cesses and surcharges</li><li>- IGST and compensation cesses</li><li>- Interest, Penalty and Fees payable under the said Act or CTA, 1975</li></ul>	
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Best wishes  
CA Raj kumar