PAYMENT OF TAX



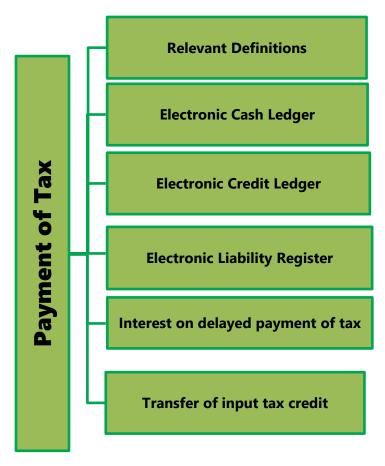
Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 31.10.2020

LEARNING OUTCOMES

After studying this Chapter, you will be able to -

- describe three kinds of ledgers/register to be maintained by the taxable person-electronic cash ledger, electronic credit ledger and electronic liability register.
- understand the methodology of cross utilization of credit.
- comprehend and apply the chronological order in which the liability of a taxable person has to be discharged.
- identify and analyse the circumstances in which penal interest is levied.
- procedure for transfer of input tax credit between Central and State Government

CHAPTER OVERVIEW



1. INTRODUCTION

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST

(CGST), going into the account of the Central Government and the State GST(SGST)/UTGST, going into the account of the concerned State Government. For any inter-state supply, tax to be paid is Integrated GST (IGST) having components of both CGST and SGST.



In addition, certain categories of registered persons will be required to pay to the Government account tax deducted at source (TDS) and tax collected at source

(TCS)¹. In addition, wherever applicable, interest, penalty, fees and any other payment will also be required to be made.

The introduction of E-ledgers is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are of two types. One set is prepared and updated by the Tax payer – Electronic Cash Ledger and Electronic Credit Ledger. Second set is prepared and updated on the basis of returns furnished by the Registered person or Tax authority i.e. Electronic Liability register.

Once a taxpayer is registered on common portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dash board at all times.

Chapter X of the CGST Act, 2017 prescribes the provisions relating to payment of tax containing sections 49 to 53A. Bird's eye view of coverage under these sections is as under-

- section 49 discusses the three ledgers namely the electronic cash ledger, electronic credit ledger and electronic liability register,
- section 50 discusses about the interest on delayed payment of tax.
- Section 51 lays down the circumstances in which tax deduction at source (TDS) becomes mandatory.
- Section 52 deals with the circumstances when tax is to be collected at source (TCS) by the Electronic Commerce Operator.
- Further, the manner of transfer of ITC is laid down in section 53 and
- transfer of certain amounts is discussed in section 53A.

Chapter IX of CGST Rules, 2017 deals with provisions relating to payment of tax.

Provisions of payment of tax under CGST Act, 2017 have also been made applicable to IGST Act, 2017 vide section 20 of the IGST Act, 2017.

Before proceeding to understand the provisions of section 49, 50, 53, 53A & the relevant rules, let us first go through few relevant definitions.

¹It may be noted that sections 51 & 52 dealing with provisions relating to TDS & TCS will be dealt in detail at the Final Level.

2. RELEVANT DEFINITIONS





- Agent means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].
- Authorised bank shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act [Section 2(14)].

Business includes

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business:
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) activities of a race club including by way of totalisator or a license to bookmaker or activities of a licensed bookmaker in such club; and

- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities [Section 2(17)].
- Central Tax means the central goods and services tax levied under Section 9 [Section 2(21)].
- Common portal means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- **Council** means the Goods and Services Tax Council established under article 279A of the Constitution [Section 2(36)].
- **Electronic Cash ledger** means the electronic cash ledger referred to in subsection (1) of Section 49 [Section 2(43)].
- Electronic Credit ledger means the electronic credit ledger referred to in subsection (2) of section 49 [Section 2(46)].
- Integrated tax means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58)].
- Input tax in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes
 - the integrated goods and services tax charged on import of goods;
 - the tax payable under the provisions of sub-sections (3) and (4) of section 9;
 - the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
 - the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
 - the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy [Section 2(62)].

- Input Tax Credit means the credit of input tax [Section 2(63)].
- local authority means
 - a "Panchayat" as defined in clause (d) of article 243 of the Constitution;

- a "Municipality" as defined in clause (e) of article 243P of the Constitution;
- a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund:
- a Cantonment Board as defined in section 3 of the Cantonments Act, 2006:
- a Regional Council or District Council constituted under the Sixth Schedule to the Constitution;
- a Development Board constituted under article 371 and article 371J of the Constitution; or
- a Regional Council constituted under article 371A of the Constitution. [Section 2(69)].
- Notification means a notification published in the Official Gazette and the expression "notify" and "notified" shall be construed accordingly [Section 2(80)].
- Output tax in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis[Section 2(82)].

Person includes:-

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a firm;
- (e) a limited liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central Act, State Act, or Provincial Act or a Government Company as defined in clause (45) of section 2 of the Companies Act, 2013;

- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to co-operative societies:
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860;
- (m) trust; and
- (n) every artificial juridical person, not falling within any of the above [Section 2(84)].
- Recipient of supply of goods or services or both, means—
 - (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
 - (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
 - (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,
 - and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].
- State Tax means the tax levied under any State Goods and Services Tax Act [Section2(104)].
- Supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].
- Taxable person means a person who is registered or liable to be registered under Section 22 or section 24[Section 2(107)].

Valid return means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].

After going through the various definitions relevant to this Chapter, let us discuss the provisions of Chapter X of the CGST Act, 2017.

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

	STATUTORY PROVISIONS		
Section 49	Payn	nent of tax, interest, penalty and other amounts	
Sub-Section	Clause	Particulars	
(1)	Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.		
(2)	person sh with sect	The input tax credit as self-assessed in the return of a registered verson shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be rescribed.	
(3)	making a amount p there und	the amount available in the electronic cash ledger may be used for aking any payment towards tax, interest, penalty, fees or any other mount payable under the provisions of this Act or the rules made there under in such manner and subject to such conditions and ithin such time as may be prescribed.	
(4)	The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the		

	Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.		
(5)	The amount of input tax credit available in the electronic credit ledger of the registered person on account of—		
	(a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;		
	(b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;		
	(c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax; Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;		
	(d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax; Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax		
	(e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and		
	(f) the State tax or Union territory tax shall not be utilised towards payment of central tax.		
(6)	The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount		

	payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.			
(7)	All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.			
(8)	Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—			
	(a) self-assessed tax, and other dues related to returns of previous tax periods;			
	(b) self-assessed tax, and other dues related to the return of the current tax period;			
	(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74;			
(9)	Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.			
(10)	A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.			
(11)	Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section(1).			

Explanation.—For the purposes of this section,—				
	(a)	the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;		
	(b)	the e	expression,—	
		(i)	"tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and	
		(ii)	"other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made there under.	
Section 53A	Trai	nsfer	of certain amounts	
	Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union territory Goods and Services Tax Act, the Government shall, transfer to the State tax account or the Union territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.			



ANALYSIS

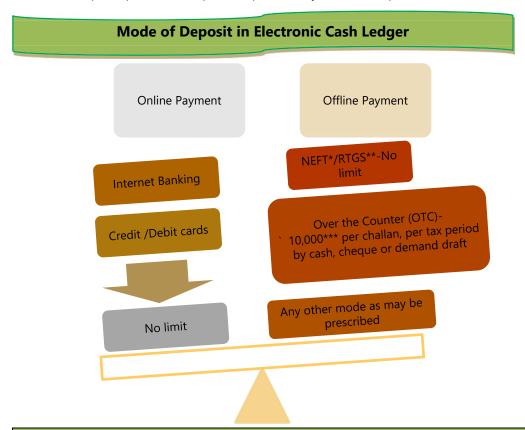
A. ELECTRONIC CASH LEDGER [SECTION 49(1), (3), (6), (10)& (11) READ WITH RULE 87 OF CGST RULES]

The Electronic Cash Ledger contains a summary of all the deposits/payments made by a tax payer. Electronic Cash Ledger is maintained on the GST Portal.

Any deposit made towards payment of tax, interest, penalty, late fee or any other amount will be credited to the electronic cash ledger. Any debit to the electronic cash ledger represents payment therefrom towards tax, interest, penalty, late fee or any other amount.

The deposit in the electronic cash ledger shall be made through any of the following modes, namely:-

- (i) Internet Banking through authorised banks;
- (ii) Credit card or Debit card through the authorised bank;
- (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- (iv) Over the Counter payment through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:



- *NEFT stands for National Electronic Fund Transfer.
- **RTGS stands for Real Time Gross Settlement.
- ***any amount as per FAQs on "offline payments: over the counter" web-hosted on https://www.gst.gov.in.

It may be noted that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment will 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.

Non-applicability of Over the Counter payment limit on deposits to be made by

Proper officer or any other officer authorized

to recover outstanding dues including attachment proceedings or sale of moveable/ immoveable properties to collect the amount by
way of
cash/cheque/demand
draft during any
investigation/enforceme
nt activity /any ad hoc
deposit

Government Departments

Persons notified by Commissioner

Payment by Challan



CPIN stands for Common portal Identification Number. It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. CPIN remains valid for a period of 15 days.

CIN or Challan Identification Number is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code. CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant Government account held with them. It is an indication that the payment has been realized and credited to the appropriate Government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

- **BRN** or Bank Reference Number is the transaction number given by the bank for a payment against a Challan
- **E-FPB** stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for PAN India transaction.

The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS Transactions, RBI will act as E-FPB.

- **Are manual Challans applicable as allowed earlier under the VAT regimes?**
 - Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.
- How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?
 - There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

Other Aspects relating to Challan

- Any person, or a person on his behalf, can generate a challan in prescribed form on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.
- E- challan validity is for 15 days. The commission for making payment through e-challan has to be borne by the person making the payment.

Validity of challan-15 days

Any unregistered person has to make payment on the basis of temporary identification number generated through common portal.

- The mandate form obtained after making NEFT/RTGS payment has to be submitted in the Bank. The validity of the mandate form is 15 days.
- On successful credit of amount in the concerned (Central/State) Government Account maintained in the authorized bank, a Challan Identification Number (CIN) will be generated by the collecting bank which will be indicated in the challan.
- On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the person on whose behalf the deposit is made and the common portal will generate a receipt to this effect.
- If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not been reflected in the common portal, the person making the deposit or the person on whose behalf the deposit has been made, can make a representation in prescribed form i.e. FORM GST PMT-07 through the common portal or e-gateway through which the payment has been made.
- Date of credit into the treasury of the State Government/Central Government is deemed to be the date of debit in the electronic cash ledger and not the actual date of deposit of amount in the electronic cash ledger of the taxable person.
- In case any discrepancy is noticed in electronic cash ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form.

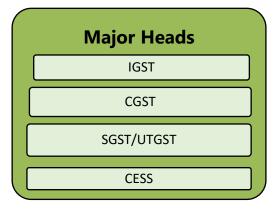
Manner of utilization of amount reflected in Electronic Cash Ledger

Sub-section 3 of section 49 of the CGST Act lays down the following:

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

In the e-ledger, information is kept minor head-wise for each major head. The ledger is displayed major head-wise i.e., IGST, CGST, SGST/UTGST, and CESS. Each major head is divided into five minor heads: Tax, Interest, Penalty, Fee, and Others.

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





New sub-sections (10) and (11) inserted in section 49 of the CGST Act, 2017 w.e.f 01.01.2020 vide Finance Act, 2019 provides a facility to the registered person to transfer an amount from one (major/minor) head to another (major/minor) head in the electronic cash ledger.

The amount available in the electronic cash ledger can be utilised for payment of any liability for the major and minor heads. For instance, if the registered person has made a deposit of tax erroneously i.e. by virtue of human error, under a particular head instead of a specific head, the same can be transferred to the respective intended head vide Form GST PMT-09.

This Form can be used either for

- (i) transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads or
- (ii) for any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger.

For instance, a registered person has deposited a sum of ₹1,000 under the head of "Interest" column of CGST & ₹1,000 under the head of "Interest" column of SGST, instead of the head "Fee". Such amount can be transferred using Form GST PMT-09 for making a transfer to the head "Fee". The said transfer is required using the above Form, because when the Registered person has to make the remittance of Tax/Interest/Penalty/ Fee/ Other amount at a stage "Offset Liabilities" in any of the GST Returns/ Forms for Tax payments through Electronic Cash Ledger, adequate amount should be available under the respective head of account.

Prior to the above amendment, the Registered person has to claim a refund of such erroneous deposit or unutilized amounts using the prescribed Form and make a fresh deposit of tax for utilization under the appropriate head

The new section 53A provides for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.

ILLUSTRATION 1

M/s. Daksha Enterprises has made a cash deposit of $\ref{10,000}$ under minor head 'tax' of major head 'SGST'. It has a liability of $\ref{2,000}$ for minor head "Interest" under the major head "SGST".

State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

ANSWER

The Registered person is allowed to transfer the amount available under any minor head of a major head to any of the minor head of the same or other major head as per Section 49(10) of the CGST Act vide Form PMT-09.

Therefore, in the given case, amount of ₹ 10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of ₹ 2,000 under minor head 'interest' of the same major head, after making a due transfer entry using Form GST PMT-09 from the minor head of 'tax' to 'interest'.

B. ELECTRONIC CREDIT LEDGER [SECTION 49(2),(4)&(5), SECTION 49A, SECTION 49B READ WITH RULE 86, <u>RULE 86A</u> AND RULE 88A OF CGST RULES]

Sub-section (2) of section 49 of the CGST Act provides that the self-assessed **input tax credit (ITC)** by a registered person shall be credited to its Electronic Credit Ledger



Non-utilisation of ITC for tax liability under reverse charge mechanism

The amount available in the electronic credit ledger may be used for making

any payment towards output tax under CGST or IGST. It is pertinent to note that "output tax" in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods and/or services made by him or by his agent but excludes tax payable by him on reverse charge basis. Thus,

Input Tax Credit as self-assessed in monthly returns will be reflected in the Electronic Credit Ledger. The credit in this ledger can be used to make payment of ONLY TAX and not for other amounts such as interest, penalty, fees etc.

ITC cannot be utilised for tax payable under reverse charge mechanism.



Manner of utilisation of ITC [Combined reading of section 49(5), 49A, 49B, rule 88A and Circular No. 98/17/2019 GST dated 23.04.2019]²

Output Input			SGST/UTGST	
IGST	(1)	(2) [refer1(i)]	(2) [refer1(i)]	
CGST	(2) [refer 2 & 3(i)]	(1) [refer 2 & 3]	Not allowed	
SGST/ UTGST	(2) [refer 2 & 4(i)]	Not allowed	(1) [refer 2 & 4]	

- 1. Available IGST credit in the credit ledger should first be utilized towards payment of IGST.
 - (i) Remaining amount if any, can be utilized towards the payment of CGST and SGST/UTGST in any order and in any proportion, i.e. ITC of IGST can be utilized either against CGST or SGST.
- 2. Entire ITC of IGST is to be fully utilised first before the ITC of CGST or SGST/UTGST can be utilized.
- 3. Available CGST Credit in the credit ledger shall first be utilized for payment of CGST.

²The detailed provisions have already been discussed in Chapter-6: "Input tax credit".

- (i) Remaining amount if any, will be utilized for payment of IGST
- 4. Available SGST /UTGST credit in the credit ledger shall first be utilized for payment of SGST/UTGST.
 - (i) Remaining amount if any, will be utilized for payment of IGST, only when credit of CGST is not available for payment of IGST



CGST credit cannot be utilized for payment of SGST/UTGST.

Similarly, SGST/UTGST credit cannot be utilized for payment of CGST.

Conditions of use of amount available in electronic credit ledger [Rule 86A]

In case the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, has reasons to believe that ITC available in the electronic credit ledger has been fraudulently availed or is ineligible, he may prohibit use of ITC for discharge of any liability under section 49 or for claim of any refund of any unutilised amount. [Such provisions have been discussed in detail in Chapter 6: Input Tax Credit under Heading: How ITC is Utilized.]

Common Points for Electronic Cash & Credit Ledger

- Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger.
- If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in prescribed form

C. ELECTRONIC LIABILITY REGISTER [SECTION 49(7), (8) & (9) READ WITH RULE 85 OF CGST RULES]

Sub-section (7) of section 49 enumerates about the third kind of ledger [Auto updated on common portal] viz. **Electronic Liability Register**. While the terms "Electronic Cash Ledger" and "Electronic Credit Ledger" are defined in the Act, the term "Electronic Liability Register" is not

Electronic Liability Register will reflect the total tax liability of a taxpayer for a particular tax period.

defined. The Section lays down that all liabilities of a taxable person will be maintained in a separate register.

Order of discharge of tax and other dues

Sub-section (8) prescribes the chronological order in which the liability of a taxable person has to be discharged:

- self -assessed tax and other dues for the previous tax periods have to be discharged first.
- the self -assessed tax and other dues for the current period have to be discharged next.
- Once these two steps are exhausted, thereafter any other amount payable including **demand determined under section 73 or section 74** to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last. This sequence has to be mandatorily followed.

The expression "other dues" referred above mean interest, penalty, fee or any other amount payable under the Act or the rules made there under.

Presumption that incidence of tax is passed on

Sub-section (9) of Section 49 contains a deeming clause. This part of the section provides that when a taxable person has paid the GST under the corresponding Act, the taxable person is deemed to have passed on the incidence of such payment of tax to the recipient of such goods and /or services. Thus, if tax has been paid under the CGST Act, 2017 then the taxable person is deemed to have passed on the incidence of such payment of CGST to the recipient. This is subject to the contrary being proved. Onus to establish that incidence of tax has not been passed on to the recipient, becomes relevant in case of Section 54 dealt with "Refund of Tax"

Chapter IX of CGST Rules provide the following:

(I) Debit to electronic liability register:

- all amounts payable towards tax, interest, late fee and any other amount as per return filed;
- all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;
- interest payable under Section 50.

any interest amount that may accrue from time to time.

(II) Debit to Electronic Credit/Cash ledger:

Debit to Electronic Credit Ledger and Credit to Electronic Liability Register	Debit to Electronic Cash Ledger and Credit to Electronic Liability Register		
Payment of all the liabilities of a registered person as per his return subject to section 49 or section 49A or section 49B.	Payment of all the liabilities of a registered person as per his return subject to section 49 or section 49A or section 49B.		
	Payment of TDS deducted under section 51, TCS deducted by e-commerce operator under section 52, amount payable under reverse charge basis, amount payable under section 10, amount payable towards payment of interest, penalty, fee or any other amount under the Act.		

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

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

4. INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]

	STATUTORY PROVISIONS	
Section 50	Interest on delayed payment of tax	
Sub-section Particulars		
(1)	Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council. Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger ³ .	
(2)	The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.	
(3)	A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.	

³ The new Proviso has been inserted in Section 50(1) of the CGST Act vide the Finance (No. 2) Act 2019, which has become effective from 1st September 2020.



ANALYSIS

The tax dues which are not paid within the stipulated time are liable to interest payment. This mechanism is automatic in nature by virtue of the provisions laid under any tax laws. On similar lines, section 50 of the CGST Act, 2017 provides for applicability of interest for default in payment of taxes within the stipulated time. Under GST law, a registered person, can make the payment of tax through electronic credit ledger or electronic cash ledger in terms of section 49 of CGST Act, 2017. Usually, the balance in electronic credit ledger is exhausted first before utilizing the balance available in the electronic cash ledger. This practice is adopted for a better working capital management.

In case a registered person does not have sufficient amount available in electronic credit ledger to pay the tax dues for a particular tax period. Also, the registered person does not have sufficient money for making deposit of balance tax amount in electronic cash ledger. In such a situation, GST common portal doesn't have a mechanism to allow a registered person to make part payment of taxes.

If the law maker demands tax dues along with interest on the gross payments i.e. tax paid through electronic cash ledger and credit ledger, it may be an unhealthy practice from business perspective. To counter such recovery mechanism, a proviso has been inserted under Section 50 to provide that when a registered person has paid his taxes through a return specified under Section 39 of CGST Act, 2017 belatedly, interest shall be applicable only on the net taxes paid through electronic cash ledger and not on the gross taxes paid for such tax period

Proviso to sub-section(1) has been inserted vide Section 100 of Finance Act, 2019 and effect of such insertion has been given effect from 01.09.2020. However, corresponding retrospective amendment in CGST Act, 2017 is yet to be brought in by the suitable legislation. However, CBIC has issued F. No. CBEC-20/01/08/2019-GST dated: 18th September, 2020 for giving instructions to the filed formations for giving effect to 39th GST Council decision of collecting interest under Section 50(1) only on the net tax liability paid through cash w.e.f. 01.07.2017. Accordingly, Interest if any payable by the registered person for delay in remittance of taxes beyond the stipulated due date on account of delay in filing of return under section 39, shall be demanded only on the net cash liability of taxes and not on the gross tax liability

When interest is payable?

Interest is payable in case of delay in payment of tax, in full or in part within the prescribed period.

Rate of interest

The rate of interest shall be notified by the Government on the basis of recommendation of the Council. However, such rate to be notified **shall not exceed** 18% in case of belated payment of tax i.e. on failure to pay tax (or part of tax) to the Government's account. [Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum].

Computation of period for calculation of interest

The period of interest will be from the date following the due date of payment to the actual date of payment of tax.

Other relevant points relating to interest

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

Note: Since the provisions of section 42(10) and 43(10) of the CGST Act are practically not in operation, the provisions relating to interest payment under section 50(3) have not been discussed.

ILLUSTRATION 2

Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 2020 on 15^{th} April, 2020. The prescribed due date to file the said GSTR3B was 20^{th} February, 2020. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹ 36,500 which was paid on 15^{th} April, 2020. Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

ANSWER

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

Thus, the amount of interest payable by Mr. Alok is as under:-

Period of delay = 21st February, 2020 to 15th April, 2020 = 54 days

Hence, amount of interest = ₹ 36,500 x 18% x 54/365 = ₹ 972

ILLUSTRATION 3

M/s ABC Ltd., have filed their GSTR3B for the month of July, 2020 within the due date prescribed under Section 39 i.e. 20.08.2020. Post filing of the return, the registered person has noticed during September 2020 that tax dues for the month of July, 2020 have been short paid for ₹40,000. M/s ABC Ltd., has paid the above shortfall of ₹40,000, through GSTR3B of September 2020, filed on 20.10.2020 [payment through Cash ledger - ₹30,000 and Credit ledger ₹10,000]. Examine the Interest payable under the CGST Act, 2017.

What would be your answer if, GSTR3B for the month of July 2020 has been filed belatedly on 20.10.2020 and the self-assessed tax of \ref{tay} 40,000/- has been paid on 20.10.2020 [payment through electronic cash ledger - \ref{tay} 30,000 and electronic credit ledger \ref{tay} 10,000]

Notes:

- There exists adequate balance in Electronic Cash & Credit ledger as on 31.07.2020 for the above short fall
- No other supply has been made nor tax payable for the month of July, 2020 other than ₹40,000/- missed out to be paid on forward charge basis
- Ignore the effect of leap year, if applicable in this case.

ANSWER

Interest is payable under Section 50 of the CGST Act, 2017 in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

As per proviso to sub-section (1) of Section 50, interest is payable on the net tax liability paid in cash, only if the return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return.

In the above scenario, M/s ABC Ltd., has defaulted in making the payment for ₹ 40,000 on self-assessment basis in the return for the month of July, 2020. Accordingly, interest is payable on the gross liability and proviso of subsection 50(1) shall not be applicable.

Thus, the amount of interest payable by M/s ABC Ltd., is as under:-

Period of delay = 21st August, 2020 to 20th October, 2020 = 60 days

Hence, amount of interest = ₹ 40,000 x 18% x 60/365 = ₹ 1,184

Alternatively, if M/s ABC Ltd., have filed the return for the month of July,2020 on 20.10.2020, beyond the stipulated due date of 20.08.2020 and if the self-assessed tax for July, 2020 has been paid on 20.10.2020, Interest under proviso to Section 50(1) shall be payable on the tax paid through Electronic Cash Ledger only.

Hence Interest is payable from 21st August 2020 till 20th October 2020 = 60days

Amount of Interest = ₹ 30,000 x 18% x 60/365 = ₹ 888



5. TRANSFER OF INPUT TAX CREDIT [SECTION 53 OF CGST ACT & SECTION 18 OF IGST ACT]

If the amount of CGST is utilised towards dues of IGST then, in terms of section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.

Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in IGST account to the CGST/UTGST account.

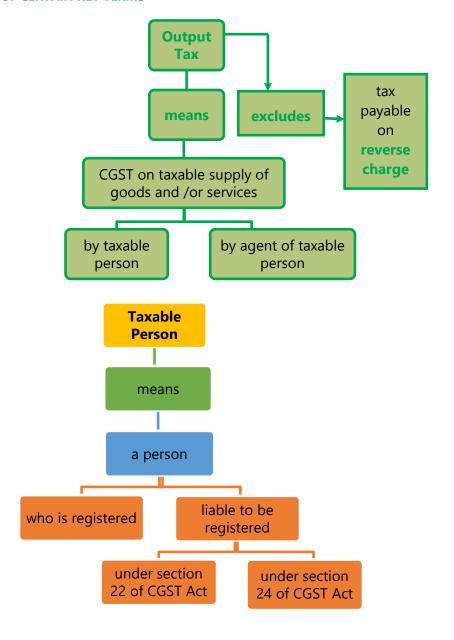
However, if the amount of IGST is utilised towards dues of SGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and will be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government.



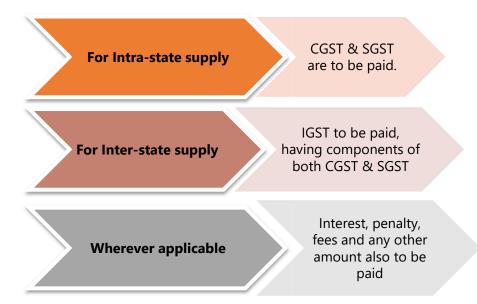
6. LET US RECAPITULATE

The provisions relating to payment of tax, interest and other amounts have been summarised by way of table and diagrams to help students remember and retain the provisions in a better and effective manner:-

DEFINITIONS OF CERTAIN KEY TERMS



Payments to be made in GST regime



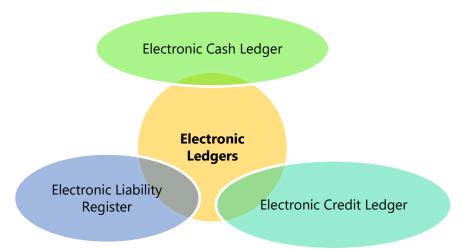
Key Features of Payment process

- Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;
- Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;
- Convenience of making payment online;
- Realtime data for tax collection in electronic format;
- Faster remittance of tax revenue to the Government Account;
- Paperless transactions;
- Speedy Accounting and reporting;
- Electronic reconciliation of all receipts;
- Simplified procedure for banks;
- Warehousing of Digital Challan.

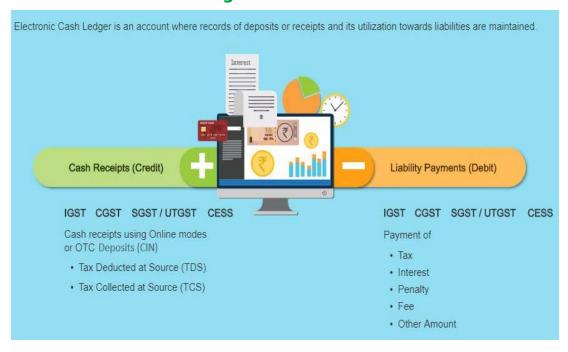
What are E-Ledgers/register?

Electronic ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic liability register.

Types of Electronic ledgers/register



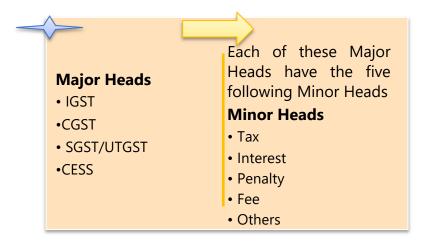
A. Electronic Cash Ledger



Modes of Deposit in Electronic Cash Ledger



Major and Minor Heads of Payment



Cross utilization of funds across major or minor heads - Possible

Date of deposit of tax dues

Whi	Which date is considered as date of deposit of the tax dues?		
(i)	Date of presentation of cheque	×	
(ii)	Date of payment	×	
(iii)	Date of credit of amount in the account of government by Debit of Electronic Cash Ledger/Electronic credit ledger	√	

B. Electronic credit ledger

Order of utilisation of input tax credit available in electronic credit ledger

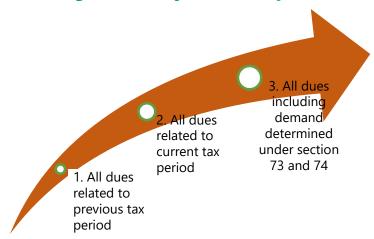
ITC	Order of utilisation			
	(1) (2)			
IGST	IGST	CGST/SGST/UTGST- any proportion		
ITO	ITC of IGST to be completely exhausted mandatorily			
CGST	CGST IGST			
ITC of CGST has been utilized fully before utilizing SGST for payment of IGST				
SGST/UTGST	SGST/UTGST	IGST		



The CGST credit cannot be utilized for payment of SGST/UTGST.

The SGST/UTGST credit cannot be utilized for payment of CGST.

Electronic liability register Order of discharge of liability of taxable person



Manner of making payment

Through debit of Electronic Credit Ledger

In cash, by debit in the Electronic Cash Ledger

Through debit of Credit Ledger of the tax payer maintained on the Common portal – ONLY Tax can be paid. Payment can be made in cash, by debit in the Cash Ledger of the tax payer maintained on the common portal.

E-Ledgers/Register

Electronic Cash Ledger

- •It will reflect all deposits made in cash, and TDS/TCS made on account of the tax payer.
- •This ledger can be used for making **ANY PAYMENT** towards tax, interest, penalty, fees or any other amount on account of GST.

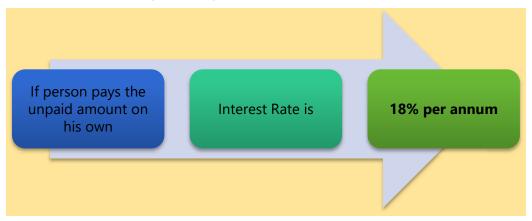
Electronic Credit Ledger

- •It will reflect Input Tax Credit as self-assessed in monthly returns and credited on Provisional basis.
- •The credit in this ledger can be used to make payment of **ONLY TAX** i.e. output tax and not other amounts such as interest, penalty, fees etc.

Electronic Liability
Register

• Electronic Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.

Interest on delayed payment of tax [Section 50]



Interest payable on the net cash liability of taxes [Section 50]

Interest payable on tax declared and paid in GSTR-3B filed after due date

Tax paid
through
Credit Ledger

Tax Paid
through Cash
Ledger

Interest
applicable
only on the
Cash portion
of Tax

Interest payable on the gross tax liability [Section 50]

Interest payable on tax paid subsequent to payment of self-assessed tax in GSTR-3B filed within due date

Tax paid
through Credit
Ledger

Tax Paid
through Cash
Ledger

Interest
applicable on
the tax paid
through Cash
and Credit
Ledger

Ledger

Payment of Tax via Electronic Ledger

A. Electronic Cash Ledger

(Assume it as an account statement provided by bank, for easy understanding)

Debit Amount (DR)	Credit Amount (CR)
 Credit amount of this ledger may be used for payment of tax, interest, fees etc. Remaining credit balance amount after payment of above tax etc. will be refunded to taxable person. 	 Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc. TDS/TCS claimed

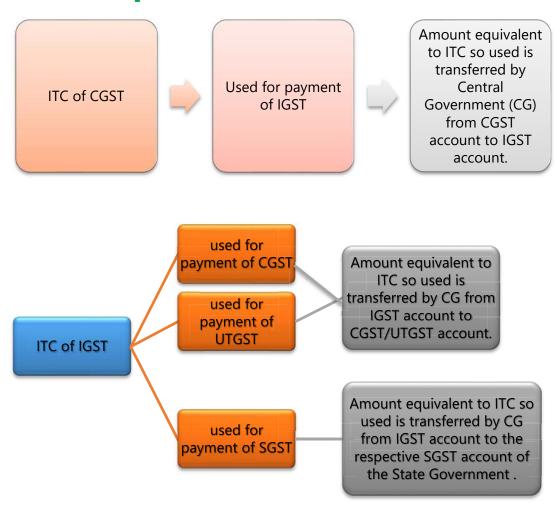
B. Electronic Credit ledger

	Debit Amount (DR)		Credit Amount (CR)
•	Credit amount of this ledger may be used for payment of output tax viz IGST, CGST, SGST, UTGST, CESS	•	Input Tax credit as self-assessed in the return in the form of IGST, CGST, SGST, UTGST, CESS
	•		

C. Electronic Liability Register

	Debit Amount (DR)		Credit Amount (CR)
•	Amount payable towards tax, interest, fees etc.	•	Electronic cash ledger
•	Tax or interest payable		
•	Any other dues		
•	Amount payable towards output tax	•	Electronic credit ledger

Transfer of input tax credit [Section 53 of CGST Act & section 18 of IGST Act]



7. TEST YOUR KNOWLEDGE

- 1. Examine the authority vested under CGST Act, 2017 for preventing a registered person from utilising the input tax credit availed in a fraudulent manner?
- 2. Mr. A has deposited a sum of ₹ 30,000 under minor head of "Interest" column for the major head "IGST". At the time of filing GSTR-3B for a particular tax period, he noticed that there is no sufficient amount under the minor head 'Tax' towards payment of ₹ 30,000. When approached with the Jurisdictional Tax officer, Mr. A was guided to deposit the tax amount under proper head of account and claim a refund for the remittance of amount deposited under head "interest". Examine the relevant provisions of CGST Act, 2017 towards payment of tax and compliance with the law.
- 3. M/s PPC Ltd., has availed Input Tax credit for ₹ 54,000/- IGST during February 2020 on a particular purchase. Accounting records for the above purchase, indicate that IGST paid to the supplier is ₹ 45,000/- as per the bill received. GSTR1 uploaded by the supplier for the above supply indicates ₹ 45,000/- as tax paid. Examine as per GST provisions, what value shall be updated in the ledgers maintained on behalf of M/s PPC Ltd., on the common portal
- 4. M/s ABC & Co., have defaulted in filing the return under Section 39 of CGST Act, 2017 i.e. GSTR-3B for the month of March, 2020 within the specified due date. Reason for such delay is attributable to delay in closure of Books for March 2020, which have been finalised during May 2020. The GST Common portal prompted for payment of late fees payable under Section 47 of CGST Act, 2017 for a sum of ₹ 2,000 under CGST and SGST each. Accountant, of M/s ABC & Co., sought your confirmation for payment of such late fees through the balance available in Electronic Credit Ledger for the late fees. Give your guidance in this regard
- 5. How many types of electronic ledger/register are there?
- 6. What are the main features of GST payment process?
- 7. Are principles of unjust enrichment applicable for payment made under GST?
- 8. State the name of output tax under GST, where any of the input tax credit under GST can be availed?
- 9. Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September, 2020 and wishes to pay his IGST liability for

the month. Since he is making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

- (a) Are manual challans allowed under GST?
- (b) What is the validity period of the challan?
- (c) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?
- 10. Suhasini is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid ₹ 75,000 to various vendors. The total input tax involved on the goods and services procured by her is ₹ 13,500. Out of the total bills paid by her, one bill for ₹ 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is ₹ 2,700.

Suhasini is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.

Do you think Suhasini is right? Explain with reasons.



8. ANSWERS/HINTS

- 1. Every registered person, shall avail the input tax credit through a return filed under Section 39 of CGST Act, 2017. Input Tax credit availed shall be credited to electronic credit ledger under section 41 of the CGST Act, 2017 on a provisional basis. As per provisions contained in Rule 86A, In case the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, has reasons to believe that ITC available in the electronic credit ledger has been fraudulently availed or is ineligible, he may prohibit use of ITC for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.
- 2. Provisions of Section 49(10) of CGST Act, 2017 permit a registered person for transferring the amount deposited under any of the minor head i.e. tax, interest, penalty, fees or others to any of the heads under

IGST/CGST/SGST/UTGS and make the payment of taxes there upon. Accordingly, Mr. A need not deposit the tax amount under head " tax" and claim a refund for the remittance of amount deposited under head "interest. Rather, using the Form GST PMT09, such amount can be transferred suomoto on the common portal from "interest" to "tax" head and tax liability be paid

3. M/s PPC Ltd., have accounted and paid ₹ 45,000/- as IGST to the supplier concerned. However, availment of input tax credit has been made for ₹ 54,000/-.

As per Section 49(2) of CGST Act, 2017 "The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed."

Accordingly, electronic credit ledger of M/s PPC Ltd., shall be updated with a value of ₹ 54,000/- as per self- assessed return to be filed for February 2020, though the input tax credit shown by the supplier is only for ₹ 45,000/-.

4, Section 49(3) of the CGST Act, 2017 provides that the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in prescribed manner.

Further, section 49(4) provides that the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in prescribed manner.

Accordingly, as per the combined reading of the above provisions, late fees shall be paid only through electronic cash ledger and not possible through electronic credit ledger. Thus, contention of the accountant of M/s ABC & Co., is not correct and the above amount shown on the common portal has to be deposited in Electronic Cash Ledger under appropriate minor head, through any of the specified modes .

- **5.** (a) Electronic cash ledger
 - (b) Electronic credit ledger
 - (c) Electronic liability register

- **6.** The main features of GST payment process are as follows:-
 - (a) Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;
 - (b) Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;
 - (c) Convenience of making payment online;
 - (d) Realtime data for tax collection in electronic format;
 - (e) Faster remittance of tax revenue to the Government Account;
 - (f) Paperless transactions;
 - (g) Speedy Accounting and reporting;
 - (h) Electronic reconciliation of all receipts;
 - (i) Simplified procedure for banks;
 - (j) Warehousing of Digital Challan.
- 7. Yes, as per Section 49(9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.
- **8.** IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.
- **9.** As per the provisions of CGST Act, 2017 read with relevant rules, the deposit in electronic cash ledger can be made through any of the following modes, namely:-
 - (i) Internet Banking through authorised banks;
 - (ii) Credit card or Debit card through the authorised bank;
 - (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
 - (iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft.

Thus, offline mode is also permitted under GST subject to specified conditions.

- (a) Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.
- (b) Challan is valid for a period of 15 days.
- (c) 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 CGST Act, 2017 to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess.
- **10.** The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax [Section 49(4)]. Output tax in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].
 - Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger. Thus, Suhasini is wrong and she will need to pay the GST of ₹ 2,700 on security service through electronic cash ledger.