

RAGHAV ACADEMY

CMA FINAL GR-IV

PAPER 18

IDT : PART A

GST

THEORY & PRACTICALS

BY

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BASICS OF GST

DIFFERENCE BETWEEN DIRECT AND INDIRECT TAX

PAYER AND SUFFEROR OF TAX IS SAME PERSON	PAYER AND SUFFEROR OF TAX IS NOT THE SAME PERSON
INCOME BASED TAXES	SUPPLY BASED TAXES
RATE OF TAXES ARE DIFFERENT FROM PERSON TO PERSON	RATE OF TAXES ARE NOT DIFFER FROM PERSON TO PERSON
ENTIRE REVENUE GOES TO CENTRAL GOVERNMENT OF INDIA	REVENUE SOURCE TO CENTRAL GOVERNMENT OF INDIA AS WELL AS STATE GOVERNMENTS (I.E. CGST AND SGST)
PREVIOUS YEAR INCOME ASSESSED IN THE ASSESSMENT YEAR	THERE IS NO PREVIOUS YEAR AND ASSESSMENT YEAR CONCEPT
CENTRAL BOARD OF DIRECT TAXES (CBDT) IS THE REGULATOR	CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS (CBIC) IS THE REGULATOR
PROGRESSIVE NATURE	REGRESSIVE NATURE

CONSTITUTION [101ST AMENDMENT] ACT, 2016

Constitution (122nd Amendment) Bill, 2014 Received The Assent Of The President Of India On 8th September, 2016 And Became Constitution (101st Amendment) Act, 2016, Which Paved The Way For Introduction Of Gst In India.

ARTICLE 246A

AS PER ARTICLE 246A, THE POWER TO LEVY GST HAS BEEN GIVEN TO THE PARLIAMENT AS WELL AS TO LEGISLATURE OF EVERY STATE.

A. CGST – ENACTED BY CENTRAL GOVERNMENT OF INDIA.	B. IGST – ENACTED BY CENTRAL GOVERNMENT OF INDIA.	C. SGST – ENACTED BY RESPECTIVE STATE GOVERNMENTS	D. UTGST – ENACTED BY CENTRAL GOVERNMENT OF INDIA
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POWER TO LEVY CENTRAL EXCISE DUTY

The power to levy central excise duty on goods manufactured or produced in India is still available in respect of the following products:

A. PETROLEUM CRUDE;	B. HIGH SPEED DIESEL;	C. MOTOR SPIRIT (COMMONLY KNOWN AS PETROL)	D. NATURAL GAS;	E. AVIATION TURBINE FUEL;	F. TOBACCO AND TOBACCO PRODUCTS.
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POWER TO IMPOSE TAX ON SALE

THE POWER TO IMPOSE TAX ON SALE OF THE FOLLOWING PRODUCTS IS STILL PROVIDED TO THE STATE GOVERNMENTS:

A. PETROLEUM CRUDE;	B. HIGH SPEED DIESEL ;	C. MOTOR SPIRIT (COMMONLY KNOWN AS PETROL);	D. NATURAL GAS;	E. AVIATION TURBINE FUEL;	F. ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION
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ARTICLE 366(12A)

AS PER DEFINITION GIVEN IN ARTICLE 366(12A), GST COVERS ALL THE GOODS EXCEPT ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION. IT MEANS NO GST CAN BE LEVIED ON ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION.

PRESENT SYSTEM OF STATE EXCISE DUTY AND SALES TAX ON ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION WILL CONTINUE.

RELEVANT ACTS

THE FOLLOWING BILLS BECAME AN ACT ON 12TH APRIL 2017:

• CENTRAL GOODS AND SERVICES TAX BILL, 2017	• INTEGRATED GOODS AND SERVICES TAX BILL, 2017	• UNION TERRITORY GOODS AND SERVICES TAX BILL, 2017	• GOODS AND SERVICES TAX (COMPENSATION TO STATES) BILL, 2017
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IMPLEMENTATION OF GST IN INDIA

GOODS AND SERVICES TAX (GST) HAS BEEN IMPLEMENTED IN INDIA W.E.F.

1ST JULY, 2017.

WHAT IS GST

A TAX ON SUPPLY OF GOODS OR SERVICES, OR BOTH, EXCEPT TAXES ON SUPPLY OF ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION	VALUE ADDED TAX
A LEVY ON SALE OR SERVICE OR BOTH.	DESTINATION BASED CONSUMPTION TAX.
OFFERS COMPREHENSIVE AND CONTINUOUS CHAIN OF TAX CREDIT.	BURDEN BORNE BY FINAL CONSUMER.
ELIMINATE CASCADING EFFECT OF TAX	BRINGS UNIFORM TAX STRUCTURE ALL OVER INDIA.

ADVANTAGES OF GST

ONE NATION ONE TAX.	REMOVAL OF BUNDLED INDIRECT TAXES
REMOVAL OF CASCADING EFFECT OF TAXES.	INCREASED EASE OF DOING BUSINESS
RESULTANTLY BOOST TO MAKE IN INDIA INITIATIVE.	BOOST EXPORT AND MANUFACTURING ACTIVITY, GENERATE MORE EMPLOYMENT AND THUS INCREASE GDP

GST IS A CURE FOR ILLS OF EXISTING INDIRECT TAX (EXAMPLE 1 TO 3)

THE GIVEN STATEMENT IS TRUE.	CASCADING AFFECT OF TAX IS ONE OF THE VITAL CAUSE-TO-CAUSE ILL OF EXISTING INDIRECT TAX.	IT MEANS, A TAX THAT IS LEVIED ON A GOOD AT EACH STAGE OF THE PRODUCTION PROCESS UP TO THE POINT OF BEING SOLD TO THE FINAL CONSUMER.	IT IS ALSO KNOWN AS TAX ON TAX.	ONE OF THE FUNDAMENTAL FEATURES OF GST IS THE SEAMLESS FLOW OF INPUT CREDIT ACROSS THE CHAIN (FROM THE MANUFACTURE OF GOODS TILL IT IS CONSUMED) AND ACROSS THE COUNTRY.
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ONE NATION - ONE TAX (INDIA AS WELL AS J&K)**GST EXTENDS TO WHOLE OF INDIA INCLUDING THE STATE OF JAMMU AND KASHMIR.**

ON

7TH JULY, 2017

THE JAMMU AND KASHMIR GOODS AND SERVICES TAX BILL, 2017 WAS PASSED BY THE STATE LEGISLATURE, EMPOWERING THE STATE TO LEVY STATE GST ON INTRA-STATE SUPPLIES WITH EFFECT

FROM

8TH JULY, 2017

DUAL GST MODEL

SGST	• STATE GST • COLLECTED BY THE STATE GOVERNMENT
CGST	• CENTRAL GST • COLLECTED BY THE CENTRAL GOVERNMENT
IGST	• INTEGRATED GST • COLLECTED BY THE CENTRAL GOVERNMENT ON INTER-STATE SUPPLY OF GOODS AND SERVICES

GST – IN UNION TERRITORIES WITHOUT LEGISLATURE

INDIA IS A UNION OF STATES. THE TERRITORY OF INDIA COMPRISES OF THE TERRITORIES OF THE STATES AND THE UNION TERRITORIES. CURRENTLY, THERE ARE 28 STATES AND 8 UNION TERRITORIES; OF WHICH, TWO (DELHI AND PONDICHERRY) ARE HAVING LEGISLATURE.

LAW SAME AS SIMILAR TO STATE GST CAN BE FORMULATED FOR UNION TERRITORY WITHOUT LEGISLATURE, BY THE PARLIAMENT.

THE FOLLOWING ARE 5 UNION TERRITORIES WITHOUT LEGISLATURE:

1. CHANDIGARH	2. LAKSHADWEEP	3. DADRA AND NAGAR HAVELI AND DAMAN & DIU
4. ANDAMAN AND NICOBAR ISLANDS	5. JAMMU & KASHMIR	6. LADDAKH

GOODS AND SERVICES TAX NETWORK (GSTN)

<p>GOODS AND SERVICES TAX NETWORK (GSTN) IS A [SECTION 8 OF THE COMPANIES ACT, 2013, (I.E. NOT FOR PROFIT COMPANIES)], NON-GOVERNMENT, PRIVATE LIMITED COMPANY.</p>	<p>TECHNOLOGY BACKBONE FOR GST IN INDIA.</p>
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GST BEING A DESTINATION BASED TAX, THE INTER- STATE TRADE OF GOODS AND SERVICES WOULD NEED A ROBUST SETTLEMENT MECHANISM AMONGST THE STATES AND THE CENTRE.

THIS IS POSSIBLE ONLY WHEN THERE IS A STRONG IT INFRASTRUCTURE AND SERVICE BACK BONE WHICH ENABLES CAPTURE, PROCESSING AND EXCHANGE OF INFORMATION AMONGST THE STAKEHOLDERS (INCLUDING TAX PAYERS, STATES AND CENTRAL GOVERNMENTS, ACCOUNTING OFFICES, BANKS AND RBI).

AS A RESULT GOODS AND SERVICES TAX NETWORK (GSTN) HAS BEEN SET UP.

FUNCTIONS OF THE GSTN

<ul style="list-style-type: none"> • FILING OF REGISTRATION APPLICATION 	<ul style="list-style-type: none"> • FILING OF RETURN 	<ul style="list-style-type: none"> • CREATION OF CHALLAN FOR TAX PAYMENT 	<ul style="list-style-type: none"> • SETTLEMENT OF IGST PAYMENT (LIKE A CLEARING HOUSE) 	<ul style="list-style-type: none"> • GENERATION OF BUSINESS INTELLIGENCE AND ANALYTICS ETC
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GST COUNCIL

AS PER ARTICLE 279A, THE PRESIDENT OF INDIA CONSTITUTED THE GST COUNCIL ON 15TH SEPTEMBER, 2016.

COMPOSITION OF GST COUNCIL

<p>THE GST COUNCIL SHALL CONSIST OF UNION FINANCE MINISTER AS A CHAIRPERSON, UNION MINISTER OF STATE IN CHARGE OF FINANCE AS A MEMBER, THE STATE FINANCE MINISTER OR STATE REVENUE MINISTER OR ANY OTHER MINISTER NOMINATED BY EACH STATE AS A MEMBER OF THE COUNCIL.</p>	<p>THE GST COUNCIL SHALL SELECT ONE OF THEM AS VICE CHAIRPERSON OF COUNCIL.</p>
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GUIDING PRINCIPLE OF THE GST COUNCIL

THE MECHANISM OF GST COUNCIL WOULD ENSURE HARMONIZATION ON DIFFERENT ASPECTS OF GST BETWEEN THE CENTRE AND THE STATES AS WELL AS AMONG STATES. IT HAS BEEN PROVIDED IN THE CONSTITUTION (101ST AMENDMENT) ACT, 2016 THAT THE GST COUNCIL, IN ITS DISCHARGE OF VARIOUS FUNCTIONS, SHALL BE GUIDED BY THE NEED FOR A HARMONIZED STRUCTURE OF GST AND FOR THE DEVELOPMENT OF A HARMONIZED NATIONAL MARKET FOR GOODS AND SERVICES.

ROLE / FUNCTIONS OF GST COUNCIL

GST COUNCIL IS TO MAKE RECOMMENDATIONS TO THE CENTRAL GOVERNMENT AND THE STATE GOVERNMENTS ON

• TAX RATES,	• EXEMPTIONS,	• THRESHOLD LIMITS,	• DISPUTE RESOLUTION,	• GST LEGISLATIONS INCLUDING RULES AND NOTIFICATIONS ETC.
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INTER-STATE VS INTRA-STATE STOCK TRANSFERS

INTRA-STATE STOCK TRANSFER IS TAXABLE ONLY WHEN ENTITY HAS MORE THAN ONE REGISTRATION IN ONE STATE.	FOR EXAMPLE, FACTORY LOCATED IN TAMIL NADU AND WAREHOUSE IS ALSO LOCATED IN THE SAME STATE (I.E. TAMIL NADU) HOWEVER, REGISTERED SEPARATELY UNDER GST, TRANSFERS BETWEEN THEM TREATED AS SUPPLY.	HENCE, CGST PLUS SGST WILL BE LEVIED.	INTER-STATE STOCK TRANSFER IS TAXABLE AS IGST
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QUESTIONS AND ANSWERS

Q. 1

Service Tax and VAT on Restaurant Bill:

Particulars	Amount (Rs.)
Total Food Bill	1,000
Service charges @ 10%	100
Total	1,100
VAT @ 14.5% on Rs. 1,100	159.50
Total Bill (before Service Tax)	1,259.50
Service Tax @ 14% on Z 440 (i.e., 1,100 x 40%)	61.60
Add: Swachh Bharat Cess 0.5% on Rs. 440	2.20
Add: Krishi Kalyan Cess 0.5% on Rs. 440	2.20
Total Bill payable by customer	1,325.50
Rounded off	1,326.00

Q. 2

Invoice of a manufacturer cum seller:

Particulars	Value in (Rs.)
Value of Goods	1,00,000
Add: Excise duty 12.5%	12,500
Taxable Turnover	1,12,500
Add: VAT 14.5%	16,313
Invoice Price	1,28,813

Q. 3

Mr. C of Calicut being a dealer purchased goods from Mr. H of Hyderabad by paying central sales tax of Rs. 2,000. Since, CST is not allowed as Input Tax Credit against VAT payable on local sales, VAT is calculated inclusive of CST causing cascading of tax.

Q. 4

Ganesh Trading has head office in Telangana and two branches (i.e. Branch office -I in Telangana and Branch office -II in Andhra Pradesh). Stock transfers between Head office and Branch office within the same state where no separate registrations, GST is not levied. Whereas stock transfers between Head office and Branch office at inter state level, IGST will be levied.

Q. 5

Mr. C of Chennai supplied goods/services for Rs. 20,000 to Mr. M of Madurai. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- (a) Total price charged by Mr. C.
- (b) Who is liable to pay GST?

Answer:

Particulars	Value in (Rs.)
Supply of goods/services	20,000
Add: CGST 9%	1,800
Add: SGST 9%	1,800
(a) Total price charged by Mr. C from Mr. M for local supply of goods or services.	23,600
(b) Mr. C is liable to pay GST.	

Note:

- (1) Location of supplier and place of supply both within the same State of Tamil Nadu. Therefore, CGST & SGST applicable.
- (2) The CGST & SGST charged on Mr. M for supply of goods/services will be remitted by Mr. C to the appropriate account of the Central and State Government respectively.

Q. 6

Mr. M of Madurai supplied goods/services for Z 24,000 to Mr. S of Selam. Mr. M purchased goods/services for Rs. 23,600 (inclusive of CGST 9% and SGST 9%) from Mr. C of Chennai. Find the following:

- Total price charged by Mr. M for supply of goods/services and
- Who is liable to pay GST.
- Net liability of GST.

Answer:

Particulars	Value in (Rs.)
Value charged for supply of goods/services	24,000
Add: CGST 9%	2,160
Add: SGST 9%	2,160
(a) Total price charged by Mr. M from Mr. S for local supply of goods/services.	28,320
(b) Mr. M is liable to pay GST.	

Particulars	CGST (Rs.)	SGST (Rs.)
Output tax	2,160	2,160
Less: Input Tax Credit (ITC)	(1,800)	(1,800)
(c) Net tax liability of Mr. M	360	360

Note:

- By giving input tax credit, Government is not looser of revenue.

Particulars	Revenue to Central Government (Rs.)	Revenue to State Government (Rs.)
Supply of goods/services by Mr. C to Mr. M	1,800	1,800
Add: supply of goods/services by Mr. M to Mr. S	360	360
Total	2,160	2,160

Inter-state supply of goods or services or both:

Q. 7

Mr. C of Chennai purchased goods at intra state as well as at inter state level by paying SGST RS. 6,000, CGST RS.6,000 and IGST RS.12,000. Subsequently Mr. C sold these goods to Mr. H of Hyderabad (Trader) for RS. 2,00,000 (IGST applicable @18%). Thereafter Mr. H of Hyderabad sold these goods to Mr. S of Secunderabad (Consumer) for Z3,00,000 (CGST & SGST @18%). Find the Net GST liability of Mr. C and Mr. H. Also find net revenue to the State and Central Government.

Particulars of Mr. C of Chennai	Value in (Rs.)	ITC ALLOWED
Output tax IGST	36,000	
Less: Input Tax Credit (ITC)		
IGST	(12,000)	1st IGST
CGST	(6,000)	2nd CGST
SGST	(6,000)	3rd SGST
Net tax paid to Central Government by Mr. C	12,000	

Since, dealer has used SGST of Tamil Nadu to the extent of Rs. 6,000/- in payment of IGST, Tamil Nadu State (i.e. exporting State) has to transfer Rs. 6,000/- to the credit of the Centre.

IGST of Rs. 36,000/- is availed as credit by Telangana buyer (i.e. Mr. H of Hyderabad).

Particulars of Mr. H of Hyderabad	CGST (Rs.)	SGST (Rs.)	ITC ALLOWED
Output tax	27,000	27,000	
Less: Input Tax Credit (ITC)			
W.e.f. 1-4-2019 section 49A of CGST Act, 2017 read with Rule 88A of CGST Rules, 2017: IGST credit can be adjusted equally between CGST and SGST	(27,000)	(9,000)	

or any other proportion at the option of the assessee.			
Net tax paid to State Government by Mr. H	Nil	18,000	

Since, dealer has used IGST of Rs. 9,000/- to pay the SGST of Telangana State, the Centre has to transfer Rs. 9,000/- to the Telangana State (i.e. importing State).

Revenue to the Centre = Rs. 36,000 - 9,000 = Rs. 27,000 i.e. 9%

Revenue to the State = Rs. 18,000 + 9,000 = Rs. 27,000 (i.e. 9%)

Total Revenue to the Government = 18% (One Nation-One Tax)

Q. 8

Mr. A registered person under GST located in Tamil Nadu, sold goods worth Rs. 10,000 after manufacture to Mr. C of Chennai. Subsequently, Mr. C sold these goods to Mr. H of Hyderabad for Rs. 17,500. Mr. H being a trader finally sold these goods to customer Mr. S of Secunderabad for Rs. 30,000.

Applicable rates of CGST= 9%, SGST=9% and IGST=18%.

Find the net tax liability of each supplier of goods and revenue to the government.

Answer:

Since, Mr. A supplied goods to Mr. C in Tamil Nadu itself, it is an intra-state sale and both CGST @ 9% and SGST @ 9% will apply.

Mr. C of Chennai supplied goods to Mr. H of Hyderabad. Since, it is an interstate sale, IGST@18% will apply.

Mr. H of Hyderabad (Telangana) supplied goods to Mr. S of Secunderabad (Telangana). Once again it is an intrastate sale and both CGST @ 9% and SGST @ 9% will apply.

Statement showing Net tax liability of Mr. A and revenue to Government:

Particulars	Value in (Rs.)	CGST in (Rs.)	SGST in (Rs.)	IGST in (Rs.)	Remarks
Mr. A to Mr. C	10,000	900	900	Nil	Value addition Rs. 10,000
Less: ITC	Nil	Nil	Nil	Nil	
Net liability of Mr. A		900	900	Nil	
		Revenue to Centre Rs. 900	Revenue to Tamil Nadu Rs. 900		

Statement showing net tax liability of Mr. C and revenue to the Government

Particulars	Value in (Rs.)	CGST in (Rs.)	SGST in (Rs.)	IGST in (Rs.)	Remarks
Mr. C to Mr. H	17,500	Nil	Nil	3,150	
Less: ITC		(900)	(900)	(1,800)	1st CGST [2nd SGST]
Net liability of Mr. C		Nil	Nil	1,350	Value added Rs. 7,500 x 18%

Since, Mr. C a dealer has used SGST of Tamil Nadu to the extent of Rs. 900/- in payment of IGST, Tamil Nadu State (i.e. exporting State) has to transfer Rs. 900/- to the credit of the Centre.

Tamil Nadu (exporting state) revenue = Rs. 0 (i.e. 900 - 900)

Total revenue to the Centre = Rs. 3,150

i.e. Rs. 1,350 + 900 received from Tamilnadu + 900

CGST already collected from Mr. A in 1st intra-state supply)

Statement showing net tax liability of Mr. H and revenue to the Government

Particulars	Value in (RS.)	CGST in (RS.)	SGST in (RS.)	IGST in (RS.)	Remarks
Mr. H to Mr. S	30,000	2,700	2,700	Nil	
Less: ITC		(2,700)	(450)	(3,150)	W.e.f. 1-4-2019 section 49A of CGST Act, 2017 read with Rule 88A of CGST Rules, 2017: IGST credit can be adjusted equally between CGST and SGST or any other proportion at the option of the assessee after payment of IGST.
Net liability of Mr. H		Nil	2,250	Nil	

Since, Mr. H a dealer has used IGST of Rs. 450/- to pay the SGST of Telangana State, the Centre has to transfer Rs. 450/- to the Telangana State (i.e., importing State).

Net revenue to the Telangana State = Rs. 2,700 (i.e. 2,250 + 450)

Net Revenue to the Centre = Rs. 2,700 (i.e. 3,125 - 450)

Total revenue to the Government = Rs. 5,400 (i.e. 30,000 x 18%)

This is called as one nation one tax.

Q. 9

Mr. C of Tamil Nadu supplied goods/services for Rs. 20,000 to Mr. M of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- (a) Total price charged by Mr. C.
- (b) Who is liable to pay GST?

Answer:

Particulars	Value in (Rs.)
Supply of goods/services	20,000
Add: IGST 18%	3,600
(a) Total price charged by Mr. C from Mr. M for inter-state supply of goods or services.	23,600
(b) Mr. C is liable to pay GST.	

Note:

(1) Location of supplier and place of supply are in different States. Therefore, IGST is applicable.

(2) The IGST charged on Mr. M for supply of goods/services will be remitted by Mr. C to the account of the Central Government.

Q. 10

Mr. M of Maharashtra supplied goods/services for Rs. 35,000 to Mr. P of Pune. Mr. M purchased goods/services for Rs. 23,600 (inclusive of IGST 18%) from Mr. C of Tamil Nadu. SGST and CGST rate on supply of goods and services is 9% each. Find the following:

- (a) Total price charged by Mr. M for supply of goods/services and
- (b) Who is liable to pay GST.
- (c) Net liability of GST.

Answer:

Particulars	Value in (Rs.)
Value charged for supply of goods/services	35,000
Add: CGST 9%	3,150
Add: SGST 9%	3,150
(a) Total price charged by Mr. M from Mr. P for local supply of goods/services.	41,300
(b) Mr. M is liable to pay GST.	

Particulars	CGST (Rs.)	SGST (Rs.)	
Output tax	3,150	3,150	W.e.f. 1-4-2019 section 49A of CGST Act, 2017 read with Rule 88A of CGST Rules, 2017:
Less: Input Tax Credit (ITC) IGST	(3,150)	(450)	IGST credit can be adjusted equally between CGST and SGST or any other proportion at the option of the assessee.
(c) Net tax liability of Mr. M	Nil	2,700	

Note:

(1) By giving input tax credit Government is not looser of revenue.

Particulars	Revenue to Central Government (RS.)	Revenue to Tamil Nadu State Government (RS.) (Exporting State)	Revenue to Maharashtra State Government (RS.) (Importing State)
Supply of goods/services by Mr. C to Mr. M	3,600	-	-
Add: supply of goods/services by Mr. M to Mr. P	Nil	-	2,700
Add: Transfer by Centre to Maharashtra State	(450)	-	450
Total	3,150	-	3,150

Q. 11

Mr. Mr. Raman, a supplier of goods, pays GST under regular scheme. The amount of input tax credit (ITC) available and output tax liability under different tax heads is as under:

Head	Output tax liability (RS.)	ITC (RS.)
IGST	2,000	4,000
CGST	800	2,000
SGST/UTGST	2,500	500

Compute the minimum GST payable in cash by Mr. Raman. Make suitable assumptions as required.

Answer:

Particulars	IGST	CGST	SGST/UTGST	Remark
Output tax	2,000	800	2,500	W.e.f. 1-4-2019 section 49A of
Less: Input Tax Credit (ITC) IGST	(2,000)	Nil	(2,000)	CGST Act, 2017 read with Rule 88A of CGST Rules, 2017: IGST credit can be adjusted equally between CGST and SGST or any other proportion at the option of the assessee.
Less: Input Tax Credit (ITC) CGST	Nil	(2,000)	NA	
Less: Input Tax Credit (ITC) SGST	Nil	NA	(5,00)	
Net cash payable by Mr. Raman	Nil	Nil	Nil	
Excess ITC c/f	Nil	(1,200)	Nil	

Q. 12

What is GSTN? State the functions of GST council.

Answer

The Goods and Service Tax Network (or GSTN) is a non-profit, non-government organization. It will manage the entire IT system of the GST portal, which is the mother database for everything GST. This portal will be used by the government to track every financial transaction, and will provide taxpayers with all services - from registration to filing taxes and maintaining all tax details.

Functions of the GST Council:

GST Council is basically entrusted with task to make recommendations on the different aspects of GST to the Union as well as states. GST Council under the Constitution is required to make recommendations on the following:

- (a) The taxes, cesses and surcharges which may be subsumed in the goods and services tax;
- (b) The goods and services that may be subjected to, or exempted from the goods and services tax;
- (c) Model GST Laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
- (d) The threshold limit of turnover below which goods and services may be exempted from goods and services tax;
- (e) Any special rates for a specified period, to raise additional resources during any natural calamity or disaster.

Q. 13

Write short note on 'Business' under GST Law.

Answer

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. Provisions by a club, association, society, or any such body 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. Services provided by a race club by way of totalisator or a license to book maker in such club; and
- I. Any activity or transaction undertaken by Central Government, a State Government or any local authority in which they are engaged as public authorities.

Q. 14

Write a short note on “Advantages of GST”

Answer

Advantages of GST are as follows:

- (i) One Nation One Tax.
- (ii) Removal of bundled indirect taxes such as VAT, CST, CAD, SAD, Service Tax, and Excise.
- (iii) Removal of cascading effect of taxes i.e. removes tax on tax.
- (iv) Increased ease of doing business.

- (v) Lower cost of production, increase in demand will lead to increase in supply. Hence, this will ultimately lead to rise in the production of goods. Resultantly boost to make in India initiative.
- (vi) It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth.

Q. 15

State the advantages of indirect taxes.

Answer

Advantages of Indirect Taxes:

- (i) Since the price of commodity or service is already inclusive of indirect taxes, the customer i.e. the ultimate tax payer does not feel a direct pinch while paying indirect taxes and hence, resistance to indirect taxes is much less compared to resistance to direct taxes.
- (ii) Indirect taxes are easier to collect as indirect taxes are mainly on goods/commodities/services, for which record keeping, verification and control is relatively easy (at least in organized sector). Manufacturing activities are carried out mainly in organized sector, where records and controls are better.
- (iii) Tax evasion is comparatively less in indirect taxes in organized sector due to convenience of control
- (iv) Collection costs of indirect taxes as percentage of tax collected are lower in indirect taxes compared to direct taxes.
- (v) Government can levy higher taxes on luxury goods, which reduces the wasteful expenditure.

Q. 16

State the characteristics of indirect taxes.

Answer

Characteristics of indirect taxes:

1. Indirect Tax is a tax where incidence and impact fall on two different persons.
2. Indirect Tax is regressive in nature.
3. The taxable event is the purchase / sale / manufacture of goods and provision of services.
4. Levied & collected from the consumer but paid/ deposited to the Exchequer by the Assessee / Dealer.
5. Tax burden is shifted or the subsequent / ultimate user.
6. At the time of sale or purchases or rendering of services.

Q. 17

State the differences between direct taxes and indirect taxes.

Answer

Difference between Direct Taxes and Indirect Taxes:

Direct Taxes	Indirect Taxes
1. Payer of tax and sufferer of tax one and same (i.e. impact and incidence on the same person)	1. Payer of tax not sufferer of tax whereas sufferer of tax is not paying directly to the Government (i.e. impact on one head and incidence on other head)
2. It is income based taxes	2. It is supply based taxes
3. Rate of taxes are different from person to person	3. Rate of duties are not differ from person to person
4. Entire revenue goes to Central Government of India	4. Revenue source to Central Government of India as well as State Governments (i.e. CGST and SGST)
5. Previous year income assessed in the assessment	5. There is no previous year and assessment

year	year concept
6. Central Board of Direct Taxes (CBDT) is an important part of Department of Revenue.	6. Central Board of Excise and Customs (CBEC) is an important part of Department of Revenue. The Central Board of Excise & Customs is being renamed as the Central Board of Indirect Taxes & Customs (CBIC), after getting legislative approval.
7. It is progressive in nature.	7. It is regressive in nature.

Q. 18

Write a short note on “GST Council”

Answer

GST Council: As per Article 279A of the Constitution of India, the President of India is empowered to constitute Goods and Services Tax Council. The President of India constituted the GST Council on 15th September, 2016.

The GST Council shall consist of Union Finance Minister as a Chairperson, Union Minister of State in charge of Finance as a member, the State Finance Minister or State Revenue Minister or any other Minister nominated by each State as a member of the Council. The GST Council shall select one of them as Vice Chairperson of Council.

Guiding principle of the GST Council: The mechanism of GST Council would ensure harmonization on different aspects of GST between the Centre and the States as well as among States. It has been provided in the Constitution (101st Amendment) Act, 2016 that the GST Council, in its discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

Functions of the GST Council: GST Council is to make recommendations to the Central Government and the State Governments on

- Tax rates,
- Exemptions,
- Threshold limits,
- Dispute resolution,
- GST legislations including rules and notifications etc.

Q. 19

State the benefits which the Country will get from GST.

Answer

Answer:

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.

The significant benefits of GST are discussed hereunder:

- (1) Removal of cascading effect of taxes: Introduction of GST would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax and allowing set-off of prior-stage taxes, it would mitigate the ill effects of cascading and pave the way for a common national market.
- (2) Removal of bundled indirect taxes: GST will subsume majority of existing indirect tax levies both at Central and State level into one tax i.e., GST which will be leviable uniformly on goods and services. This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.
- (3) Reduction in overall tax burden of consumers: For the consumers, the biggest gain would be in terms of a reduction in the overall tax burden on goods, which is currently estimated at 25% - 30%.
- (4) More competitive products: Introduction of GST would also make our products competitive in the domestic and international markets. Studies show that this would instantly

spur economic growth. Thus, GST will give a major boost to the 'Make in India¹' initiative of the Government of India.

(5) Increase in Government's revenue: There may also be revenue gain for the Centre and the States due to widening of the tax base, increase in trade volumes and improved tax compliance.

(6) Easier administration: Last but not the least, this tax, because of its transparent character, would be easier to administer.

Q. 20

State the differences between direct taxes and indirect taxes.

Answer

Answer:

Difference between Direct Taxes and Indirect Taxes:

	Basis	Direct Taxes	Indirect Taxes
1.	Meaning	Direct tax is referred to as the tax, levied on person's income and wealth and is paid directly to the government.	Indirect tax is referred to as the tax, levied on a person who consumes the goods and services and is paid indirectly to the government.
	Nature	It is progressive in nature.	It is regressive in nature.
3.	Incidence and impact	Falls on the same person. Assessee, himself bears such taxes. Thus, it pinches the taxpayer.	Falls on different person. Tax is recovered from the assessee who passes such burden to another person. Thus, it does not pinch the taxpayer.
	Example	Income tax	GST, Customs Duty.
5.	Evasion Imposition and collection	Tax evasion is possible Imposed on and collected from the same person.	Tax evasion is hardly possible because it is included in the price of goods and services. Imposed on and collected from consumers of goods and services but paid and deposited by the assessee.
7	Burden	Cannot be shifted	Can be shifted.

Q. 21

Write short note on "GST Council"

Answer:

GST Council: As per Article 279A of the Constitution of India, the President of India is empowered to constitute Goods and Services Tax Council. The President of India constituted the GST Council on 15th September, 2016.

The GST Council shall consist of Union Finance Minister as a Chairperson, Union Minister of State in charge of Finance as a member, the State Finance Minister or State Revenue Minister or any other Minister nominated by each State as a member of the Council. The GST Council shall select one of them as Vice Chairperson of Council.

Guiding principle of the GST Council: The mechanism of GST Council would ensure harmonization on different aspects of GST between the Centre and the States as well as among States. It has been provided in the Constitution (101st Amendment) Act, 2016 that the GST Council, in its discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

Functions of the GST Council: GST Council is to make recommendations to the Central Government and the State Governments on

- Tax rates,

- Exemptions,
- Threshold limits,
- Dispute resolution,
- GST legislations including rules and notifications etc.

Q. 22

What are the taxes subsumed in GST?

Answer:

Taxes subsumed in GST

(A) Central taxes subsumed in GST

1. Central Excise Duty
2. Additional Excise Duty
3. Service Tax
4. Additional Custom Duty known as Countervailing Duty

(B) State Taxes subsumed in GST

1. Sales Tax
2. Purchase tax
3. Luxury tax
4. Octroi and Entry Tax

Q. 23

What are the functions of the GSTN?

Answer:

Functions of the GST Council are as follows:

1. Filing of registration application,
2. Filing of return,
3. Creation of challan for tax payment,
4. Settlement of IGST payment,
5. Generation of business intelligence and analytics.

Q. 24

State the differences between direct taxes and indirect taxes.

Answer:

Difference between Direct Taxes & Indirect Taxes:

	Direct Taxes	Indirect Taxes
Meaning	Direct Taxes are those taxes where the incidence and impact falls on the same person.	Indirect Tax is a tax where incidence and impact fall on two different person.
Nature of tax	Direct Tax progressive in nature.	Indirect Tax is regressive in nature.
Taxable Event	Taxable Income of the Assessee	Purchase / Sale / Manufacture of goods and provision of services.
Levy & Collection	Levied and collected from the Assessee.	Levied & collected from the consumer but paid/ deposited to the Exchequer by the Assessee / Dealer.
Shifting of Burden	Directly borne by the Assessee. Hence, cannot be shifted.	Tax burden is shifted or the subsequent / ultimate user.
Collected	After the income for a year is earned or valuation of assets is determined on the valuation date.	At the time of sale or purchases or rendering of services.

Q. 25

"Recovery from buyer is an essential condition for levy of indirect taxes" — Critically examine. [2]

Answer:

In general, indirect taxes are recovered from buyer, but it is not an essential feature of indirect taxes. Tax on goods or services will be valid even if it is not recovered or recoverable from buyer. It is valid liability of manufacturer / seller / service provider. Therefore, it can be said that recovery from buyer is not an essential condition for levy of indirect taxes.

Q. 26

What is GST Council? Who are the members of it? State the matters on which GST Council makes recommendations.

Answer:

Goods and Services Tax Council (GST Council) is an apex constitutional body. It was constituted by virtue of Article 279A(1) of the Constitution. It is a joint forum of the centre and the States.

GST Council consists of following members —

1. Union Finance Minister - Chairperson
2. Union Minister of State, in-charge of Revenue of Finance - Member
3. Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government - Members.

As per Article 279A(4), the GST Council will make recommendations to the Union and the States on the matter governing the following:

1. The taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in GST.
2. The goods and services that may be subjected to, or exempted from GST.
3. The threshold limit of turnover below which goods and services may be exempted from GST.
4. The rates including floor rates with bands of GST.
5. Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster.
6. Special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand, and
7. The date on which GST be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.
8. Any other matter relating to GST, as the Council may decide.

Q. 27

State the function of the GSTN (Goods & Services Tax Network).

Answer:

Functions of GSTN (Goods & Services Tax Network):

Creation of common and shared IT infrastructure for taxpayers has been assigned to GSTN and these are:

- Filing of registration application,
- Filing of return,
- Creation of challan for tax payment,
- Settlement of IGST payment (like a clearing house),
- Generation of business intelligence and analytics etc.

All statutory functions to be performed by tax officials under GST like approval of registration, assessment, audit, appeal, enforcement etc. will remain with the respective tax departments.

Q. 28

Write a short note on “GST Council”

Answer:

GST Council: The President of India is empowered to constitute Goods and Services Tax Council. The President of India constituted the GST Council on 15th September, 2016.

The GST Council shall consist of Union Finance Minister as a Chairperson, Union Minister of State in charge of Finance as a member, the State Finance Minister or State Revenue Minister or any other Minister nominated by each State as a member of the Council. The GST Council shall select one of them as Vice Chairperson of Council.

The mechanism of GST Council would ensure harmonization on different aspects of GST between the Centre and the States as well as among States. It has been provided in the Constitution (101st Amendment) Act, 2016 that the GST Council, in its discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

GST Council is to make recommendations to the Central Government and the State Governments on—

- tax rates,
- exemptions,
- threshold limits,
- dispute resolution,
- GST legislations including rules and notifications etc.

Q. 29

State briefly the features of the GSTN, i.e., the role assigned to GSTN in India.

Answer:

Functions of the GSTN (i.e. Role assigned to GSTN):

Creation of common and shared IT infrastructure for functions facing taxpayers has been assigned to GSTN. These functions and areas are:

- Filing of registration application
- Filing of return,
- Creation of challan for a tax payment
- Settlement of IGST payment (like a clearing house),
- Generation of business intelligence and analytics etc. for the use of the Department

All statutory functions to be performed by tax officials under GST like approval of registration, assessment, audit, appeal, enforcement etc. will remain with the respective tax departments.

Q. 30

What are the salient features of Integrated Goods and Services Tax (IGST)?

Answer:

The following are some of the salient features of IGST:

- The Central Government would administer and levy taxes on IGST
- Seller/service provider in the origin state is to charge IGST on interstate supply of goods and/or services. $IGST = CGST + SGST/UTGST$
- Interstate Seller/Service provider shall use his input CGST and input SGST for payment of IGST, i.e. he shall pay net IGST.
- Inter-state Buyer/Service recipient shall avail input tax credit on the basis of tax invoice for payment of his own IGST, CGST or SGST/UTGST
- Both, the seller/service provider and the buyer/service recipient shall report these transactions in the respective e-returns
- The exporting state/U.T. will transfer the SGST/UTGST portion to Central Government and Central Government will transfer that SGST/UTGST to importing State/U.T.

- Stock transfer to branch/depot in other state/UT. will also attract IGST. Where the stock transfer is from branch in one city to a branch in another city but within the same State/UT. it does not attract any IGST or CGST and SGST unless the each branch is separately registered and it has separate verticals.
- IGST will be levied on Import of Goods and/or Services. Therefore, import will attract basic custom duty plus IGST.

Q. 31

What is GST? What are its advantages?

Answer:

- Goods and Services tax means a tax on supply of goods or services, or both, except taxes on supply of alcoholic liquor for human consumption (Article 366[12A] of Constitution of India).
- GST is a value added tax levy on sale of goods or provision of services or both.
- GST is a destination based consumption tax.

The advantages of GST are as under:

- GST has brought about uniform tax structure all over Indian - one nation - one tax.
- GST has simplified taxation and eliminated multiple taxes, removing of bundled indirect taxes such as VAT, CST, Service Tax, CAD, SAD and Excise.
- GST has increase ease of doing business in India.
- The lower cost of production due to elimination of cascading effect of tax, has resulted in reduction in prices, increasing demand, ultimately leading to rise in the production and supply of goods, boosting make in India initiative, boosting exports, generating more employment and increase in GDP leading to substantive economic growth.

Q. 32

Why direct taxes are called progressive and indirect taxes are regressive?

Answer:

Direct taxes are "progressive" as they depend on the paying capacity of the assessees. Person who earns more is taxed at maximum rates compared to person who earn less.

Whereas, Indirect taxes do not depend on the paying capacity of the assessees and taxes are levied without any discrimination. Since the indirect tax rate is uniform for a commodity, the tax payable on the commodity is same irrespective of the person who purchases it. Hence, indirect taxes are termed as "regressive".

Q. 33

What do you mean by GST Council? What is its guiding principle? What are its functions?

Answer:

As per Article 279A of the Constitution of India, the President of India is empowered to constitute Goods and Services Tax Council. The President of India constituted the GST Council on 15th September, 2016. The GST Council shall consist of Union Finance Minister as a Chairperson, Union Minister of State in charge of Finance as a member, the State Finance Minister or State Revenue Minister or any other Minister nominated by each State as a member of the Council. The GST Council shall select one of them as Vice Chairperson of Council.

Guiding principle of the GST Council:

The mechanism of GST Council would ensure harmonization on different aspects of GST between the Centre and the States as well as among States. It has been provided in the Constitution (101st Amendment) Act, 2016 that the GST Council, in its discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

Functions of the GST Council:

GST Council is to make recommendations to the Central Government and the State Governments on

- Tax rates,
- Exemptions,
- Threshold limits,
- Dispute resolution,
- GST legislations including rules and notifications etc.

Q. 34

State the advantages of GST.

Answer:

Advantages of GST

- (a) One Nation One Tax.
- (b) Removal of bundled indirect taxes such as VAT, CST, Service tax, CAD, SAD, and Excise.
- (c) Removal of cascading effect of taxes i.e. removes tax on tax.
- (d) Increased ease of doing business;
- (e) Lower cost of production, increases demand will lead to increase supply. Hence, this will ultimately lead to rise in the production of goods. Resultantly boost to make in India initiative.
- (f) It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth.

Q. 35

Why the Seventh Schedule of the Constitution of India is important from taxation perspective?

Discuss.

Answer:

Seventh Schedule to Constitution (referred to in Article 246) indicates bifurcation of powers to make laws, between Union Government and State Governments. Parliament has exclusive powers to make laws in respect of matters given in List I (called Union List) of the Seventh Schedule. List II(State List) contains entries under jurisdiction of States. List III (Concurrent List) contains entries where both Union and State Governments can exercise power.

List I - Union List: Entries in this list relevant to taxation provisions are as follows -

- (1) Tax on income other than agricultural income (Entry No.82)
- (2) Customs Duty (including export duties) (Entry No.83)
- (3) Excise Duty excluding duty on alcoholic liquors for human consumption, opium, narcotic drugs, but including medicinal and toilet preparations containing alcoholic liquors, opium or narcotics. (Entry No.84)
- (4) Corporation Tax (Entry No.85)
- (5) Taxes on inter-state sale or purchase of goods other than sale of newspapers (Entry No.92A)
- (6) Taxes on inter-state consignment of goods (Entry No.92B)
- (7) Service Tax (Entry No.92C)
- (8) Any other matters not included in List II or List III.

List II - State List: Entries in this list relevant to taxation provisions are as follows -

- (1) Tax on agricultural income (Entry No.46);
- (2) Excise duty on alcoholic liquors, opium and narcotics (Entry No.51);
- (3) Tax on entry of goods into a local area for consumption, use or sale therein (usually called "Octroi") (Entry No.52);
- (4) Taxes on sale or purchase of goods other than sale of newspapers except inter-state sale of purchase (Entry No.54)

List III - Concurrent List: (Concurrent List contains the areas in which both the centre and state governments can make laws concurrently.)

This list does not specify any law relating to taxation. In other words, there is no head of taxation under the concurrent list and hence Union and the States have no concurrent power of taxation. The following are some items listed in the concurrent list, such as:
Entry No. 17A - Forest income Entry No. 25 - Education income

Q. 36

An important disadvantage of the indirect tax regime is its cascading effect. Do you agree? Explain shortly.

Answer:

Cascading Effect: Cascading effect of taxes is one of the major distortions of the Indian taxation regime. Federal structure of our democracy, allows both states and center to levy taxes separately and this has caused this cascading. While Income tax, Excise duty, Service tax and Central Sales tax (CST), Securities Transaction tax is levied by the center; VAT/sales tax, Entry tax, State excise, Property tax, Agriculture tax and octroi is charged by the State governments. There are many possible transactions which come under the ambit of two or more of these taxes and the value of the second tax is calculated on the value arrived at by adding the value of first tax to the value of transaction. For example, manufacturing and sell would be liable to VAT/CST over and above central excise duty.

LEVY & COLLECTION: Part 1

TAXABLE EVENT

Meaning of Taxable Event	A taxable event is any transaction or occurrence that results in a tax consequence. Before levying any tax, taxable event needs to be ascertained. Taxable event under GST law is supply of goods or services or both. It means no supply no GST.
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MEANING OF SUPPLY SECTION 7(1)

Definition as per Section 7(1)	Supply includes – (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business; (b) import of services for a consideration whether or not in the course or furtherance of business; and (c) the activities specified in Schedule I , made or agreed to be made without a consideration;
Parameters of Supply	The term, “supply” has been inclusively defined in the Act. The meaning and scope of supply under GST can be understood in terms of following six parameters, which can be adopted to characterize a transaction as supply: 1. Supply of goods or services. Supply of anything other than goods or services does not attract GST. 2. Supply should be made for a consideration. 3. Supply should be made in the course or furtherance of business. 4. Supply should be made by a taxable person. 5. Supply should be a taxable supply. 6. Supply should be made within the taxable territory
SUPPLY INCLUDES ALL FORMS OF SUPPLY	1. Sale and Transfer: The term sale is defined under various states VAT laws. Sale means a sale of goods made within the State for cash or deferred payment or other valuable consideration but does not include a mortgage, hypothecation, charge or pledge. Sale involves transfer of property in goods from one person to another person for consideration. Under CGST Law sale is treated as supply leviable to GST. However, the definition of Sale has not been provided under the

	<p>GST Law.</p> <ol style="list-style-type: none"> 2. Transfer: the term transfer means, where the ownership may not be transferred but the right in the goods is transferred. 3. Barter: it means the exchange of goods and productive services for other goods and productive services, without the use of money. 4. Exchange: when two persons mutually transfer the ownership of one thing for the ownership of another, neither thing nor both things being money only, the transaction is called an exchange. Exchange offers on products such as televisions, mobile phones and refrigerators are leviable under GST. 5. Licence: where one person grants to another, or to a definite number of other persons, a right to do or continue to do in or upon the immovable property of the grantee, the right is called a licence. 6. Rentals: Periodical payment for use of another's property. Rent is to pay on monthly. 7. Lease: A lease is an agreement whereby the lessor conveys to the lessee in return for a payment or series of payments the right to use an asset for an agreed period of time. A lease may be financial lease or operating lease. 8. Disposal: Disposal normally considered as selling of assets when the organization is about to close down and various assets are required to be disposed of. Such transactions will also be considered as supply of liable to tax under GST Law.
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Exclusion from Supply Section 7(2)

Supply Excludes	<p>(a) activities or transactions specified in Schedule III; or (b) such activities or transactions undertaken by the Central Government, a State Government or Union territory or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council.</p>
Schedule III	<p>Activities specified in Schedule III (i.e. Negative list):</p> <ol style="list-style-type: none"> 1. Services by employee to employer in the course of or in relation to his employment. 2. Services by court or Tribunal 3. Services by Member of Parliament and others

	<p>4. Services by funeral, burial etc.</p> <p>5. Sale of land/Building</p> <p>6. Actionable claim other than lottery, betting and gambling.</p> <p>7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.</p> <p>8. (a) Supply of warehoused goods to any person before clearance for home consumption;</p> <p>(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”</p>
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Goods vs. Services

Section 7(3)	As per Section 7(3), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as— (a) a supply of goods and not as a supply of services; or (b) a supply of services and not as a supply of goods.
Section 7(1A)	Where certain activities or transactions constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or services as referred to in Schedule II .

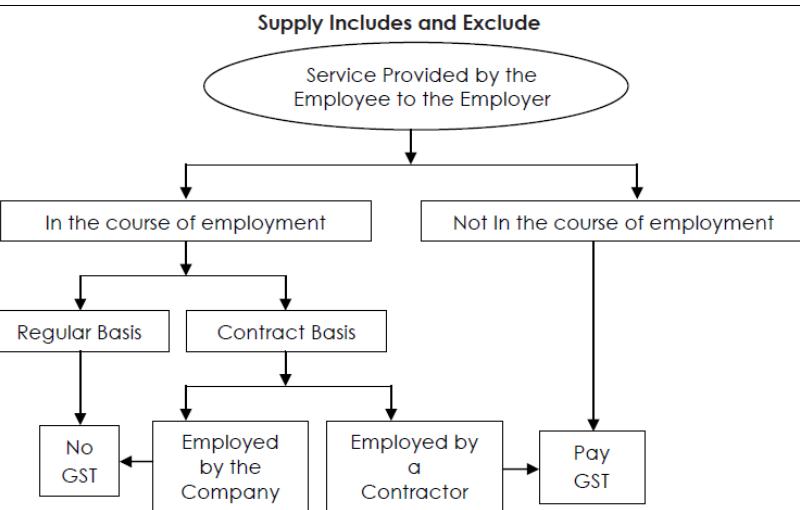
Consideration

Meaning of Consideration	As per Section 2(31) of the CGST Act, 2017 “consideration” in relation to the supply of goods or services or both includes— (a) any payment made or to be made , whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government; (b) the monetary value of any act or forbearance , in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person <u>but shall not include any subsidy</u> given by the Central Government or a State Government: Provided that a <u>deposit given</u> in respect of the supply of goods or services or both <u>shall not be considered as payment</u> made for such supply unless the supplier applies such deposit as consideration for the said supply;
Transaction without	Any transaction involving supply of goods or services or both <u>without consideration is not a supply unless</u> it is deemed to be a supply under

Consideration	GST Law (i.e. Schedule I of the CGST Act, 2017, Activities to be treated as supply even if made without consideration).
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Schedule I
ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT
CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.	All kind of disposal or transfer of business assets made by an entity on permanent basis even without consideration will be treated as supply <u>provided input tax credit has been availed on such assets.</u>
2. Supply of goods or services or both between related persons or between distinct persons	<p>As per Explanation to Section 15,</p> <p>(a) persons shall be deemed to be “related persons” if—</p> <ul style="list-style-type: none"> (i) such persons are officers or directors of one another’s businesses; (ii) such persons are legally recognized partners in business; (iii) such persons are employer and employee; (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them; (v) one of them directly or indirectly controls the other; (vi) both of them are directly or indirectly controlled by a third person; (vii) together they directly or indirectly control a third person; or (viii) they are members of the same family; <p>Section 2(49) of CGST Act, 2017, Family means:-</p> <p>(i) The spouse and children of the person, and</p> <p>(ii) The parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.</p> <p>(b) the term “person” also includes legal persons;</p> <p>(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.</p> <p>Supply between Employer and Employee</p>

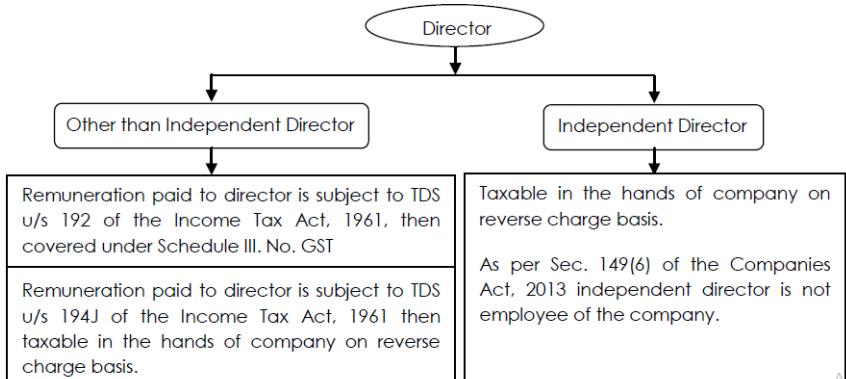


Whether all the directors including managing director is an employee of the company?

Director	Contractual relationship of master and servant	GST is liable to pay	Who is liable to pay
Managing Director	No	Yes	Company (under RCM)
Whole-time Director	Yes	No	Nil
Executive Director	Yes	No	Nil
Non-Executive Directors	No	Yes	Company (under RCM)
Independent Directors / Nominee Director	No	Yes	Company (under RCM)

Director Remuneration (CBIC Circular No. 140/10/2020 – GST, dated 10-6-2020):

Remuneration paid to Director (Circular No. 140/10/2020 - GST, dated 10-6-2020):



Fringe benefits

“The compensation to employees in the form of money is not a supply. However, fringe benefits are supply of goods or services and are liable to tax if not exempted,” as per the CBEC clarification.

The fringe benefits are transactions in furtherance of business. “Even if supplied without consideration, the same are deemed supply” and will attract GST.

Distinct persons specified under section 25 of CGST Act, 2017:

Every place of business of a person where separate registration is obtained for output supply will be considered as distinct person.

Section 25(4), A person who has obtained or is required to obtain more than one registration, whether in one State or Union Territory or more than one State or Union Territory shall, in respect of each such

	<p>registration, be treated as distinct persons for the purposes of this Act. Section 25(5), Where a person who has obtained or is required to obtain registration in a State or Union Territory in respect of an establishment, has an establishment in another State or Union Territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.</p> <p>Gifts not exceeding ` 50,000/- in value in a financial year by an employer to an employee:</p> <p>Services by employee to an employer in the course of or in relation to his employment shall not be treated as supply of services (Schedule III). However, Gift not exceeding ` 50,000 in value in a financial year by an employer to employee shall not constitute supply of goods or services or both.</p>
3. Supply of goods between Principal and Agent	<p>Supply of goods by the principal to an agent or by the agent to principal will be considered as a supply even if without consideration. The said transactions are leviable under GST.</p>
4. Import of services by a person from a related person	<p>Import of services by a taxable person from a related person or from his establishments located outside India, in the course or furtherance of business shall be treated as “supply”.</p>

Import of Services

Section 7(1)(b) vs Section 7(1)(c) of CGST Act, 2017	<table border="1"> <thead> <tr> <th data-bbox="446 1185 684 1221">Section</th><th data-bbox="684 1185 986 1221">Nature of Service</th><th data-bbox="986 1185 1160 1221">Consideration</th><th data-bbox="1160 1185 1335 1221">Business Test</th></tr> </thead> <tbody> <tr> <td data-bbox="446 1221 684 1257">Section 7(1)(b) of CGST Act</td><td data-bbox="684 1221 986 1257">Import of service</td><td data-bbox="986 1221 1160 1257">Necessarily required</td><td data-bbox="1160 1221 1335 1257">Not required</td></tr> <tr> <td data-bbox="446 1257 684 1432">Section 7(1)(c) of CGST Act</td><td data-bbox="684 1257 986 1432">Import of services by a taxable person from a related person or from any of his other Establishments outside India (i.e. distinct person).</td><td data-bbox="986 1257 1160 1432">Not Required.</td><td data-bbox="1160 1257 1335 1432">Necessarily required.</td></tr> </tbody> </table>	Section	Nature of Service	Consideration	Business Test	Section 7(1)(b) of CGST Act	Import of service	Necessarily required	Not required	Section 7(1)(c) of CGST Act	Import of services by a taxable person from a related person or from any of his other Establishments outside India (i.e. distinct person).	Not Required.	Necessarily required.
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LEVY & COLLECTION: Part 2

COMPOSITE AND MIXED SUPPLY (SECTION 8)

Relevance of Section 8	<p>Composite or Mixed Supply supply is when two or more goods are sold in a combination; it becomes difficult to identify the rate of tax to be levied.</p> <p>For such goods or services, CGST Act, 2017 has provided with two terms:</p> <ul style="list-style-type: none"> (i) Composite supply and (ii) Mixed supply.
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COMPOSITE SUPPLY

Composite Supply	<p>Composite supply consists of two or more goods/services, which is naturally supplied with each other in the ordinary course of business and one of them is a principal supply. The items <u>cannot be supplied separately.</u></p> <p>Note: Principal supply means the supply of goods or services, which constitute the predominant element of a composite supply and to which another supply is ancillary/secondary.</p> <p>Following two conditions are necessary for composite supply:</p> <ul style="list-style-type: none"> (a) Supply of two or more goods or services together, AND (b) It should be a natural bundle and they cannot be separated.
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MIXED SUPPLY

MIXED SUPPLY	<p>In Mixed supply two or more individual supplies combination of goods or services with each other for a single price. Each of these items <u>can be supplied separately and is not dependent</u> on each other.</p> <p>In other words, the combination of goods or services is not bundled due to natural necessities, and they can be supplied individually in the ordinary course of business.</p> <p>For tax liability purpose, mixed supply consisting of two or more supplies shall be treated as a supply of that item which has the <u>highest tax rate.</u></p>
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Supply of external storage battery with UPS, constitutes as 'Mixed Supply'

Switching Avo Electro Power Ltd.	<p>In the case of <i>Switching Avo Electro Power Ltd.</i> (2018) 96 taxmann.com 106 (AAAR-West Bengal), the Appellant Authority for Advance Ruling upheld the ruling of Authority for Advance Ruling that when the storage battery or electric accumulator is supplied separately with the static converter (UPS), it would be considered as a mixed supply or not naturally bundled supply.</p> <p>Here the appellant contended that the UPS cannot function without battery as the same is an integral part of UPS and it is naturally bundled and supplied in conjunction with each other, therefore the supply of static converter along with the external battery should be considered as a composite supply and not mixed supply.</p> <p>However, the AAAR opined that the when a UPS is supplied with built-in batteries in a manner that the supply of the battery is inseparable from the supply of the UPS, and the two items are 'naturally bundled' then it should be treated as a composite supply under Section 2(30) of the CGST Act, but when the storage batteries having multiple uses is supplied with the static converter i.e. UPS, it cannot be said that they are naturally bundled even if the same is supplied under a single contract at a combined single price.</p> <p><u>Therefore, the supply of external storage battery supplied with UPS would be considered as a 'mixed supply'.</u></p>
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LEVY and COLLECTION: Part 3

LEVY and COLLECTION (Section 9 CGST) (Section 5 IGST)

CGST	<p>Section 9(1) of CGST Act, 2017 provides that there shall be levied of tax called Central Goods and Services Tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the CGST Act, 2017 and at such rates, not exceeding 20%.</p> <p>It means maximum GST rate not exceeding 40% (i.e. CGST 20% and SGST 20%) on all intra-state supplies of goods or services.</p>
IGST	<p>Section 5(1) of IGST Act, 2017, provides that there shall be levied of a tax called Integrated Goods and Services Tax (IGST) on all inter-State supplies of goods or services or both at such rates not exceeding 40%.</p> <p>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</p>

Deferred implementation of GST on Certain Items (Section 9(2))

Section 9(2)	<p>Section 9(2) of CGST Act, 2017, GST will be levied on the supply of:</p> <ul style="list-style-type: none"> • Petroleum crude, • High speed diesel, • Motor spirit (commonly known as petrol), • Natural gas and • Aviation turbine fuel <p>Shall be levied with effect from such date as may be notified by the Government of India on the recommendation of the GST Council (similar provision under section 5(2) of IGST Act, 2017).</p>
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REVERSE CHARGE

Section 9(3)	<p>Section 9(3) of CGST Act, 2017 the Government may, on the recommendation of the GST Council, may notify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis (similar provision under section 5(3) of IGST Act, 2017).</p>
Section 9(4)	<p>Section 9(4) of CGST Act, 2017, central tax (i.e. CGST) in respect of the</p>

supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient (Similar provision under section 5(4) of IGST Act, 2017).

Section 9(4) has been amended vide the CGST (Amendment) Act, 2018, as “The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”

The same was amended in order to empower the Central Government is to notify classes of registered persons to pay the tax on reverse charge basis in respect of receipt of supplies of certain specified categories of goods or services or both from unregistered suppliers;

It is to be noted that this provision suspended till 30.09.2019.

Note: Reverse charge provisions would not be applicable if the aggregate value of such supplies of goods or services or both received by a taxable person from any or all the suppliers, who are not registered, does not exceeds ` 5,000 in a day (Vide Notification No. 8/2017 Dt. 28.06.2017).

LEVY and COLLECTION: Part 4

Composition Scheme (SECTION 10)

Basis of Section 10	The Government of India provides for simplified and easy of doing business scheme for payment of taxes and filling of returns to certain categories of taxable person. As a result such taxable person is not required to maintain elaborate records and filing detailed returns. Section 10 of the CGST Act, provides for composition levy to such person.
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COMPOSITE SUPPLY

Composite Supply	Composite supply consists of two or more goods/services, which is naturally supplied with each other in the ordinary course of business and one of them is a principal supply. The items <u>cannot be supplied separately</u> . Note: Principal supply means the supply of goods or services, which constitute the predominant element of a composite supply and to which another supply is ancillary/secondary. Following two conditions are necessary for composite supply: (a) Supply of two or more goods or services together, AND (b) It should be a natural bundle and they cannot be separated.
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MIXED SUPPLY

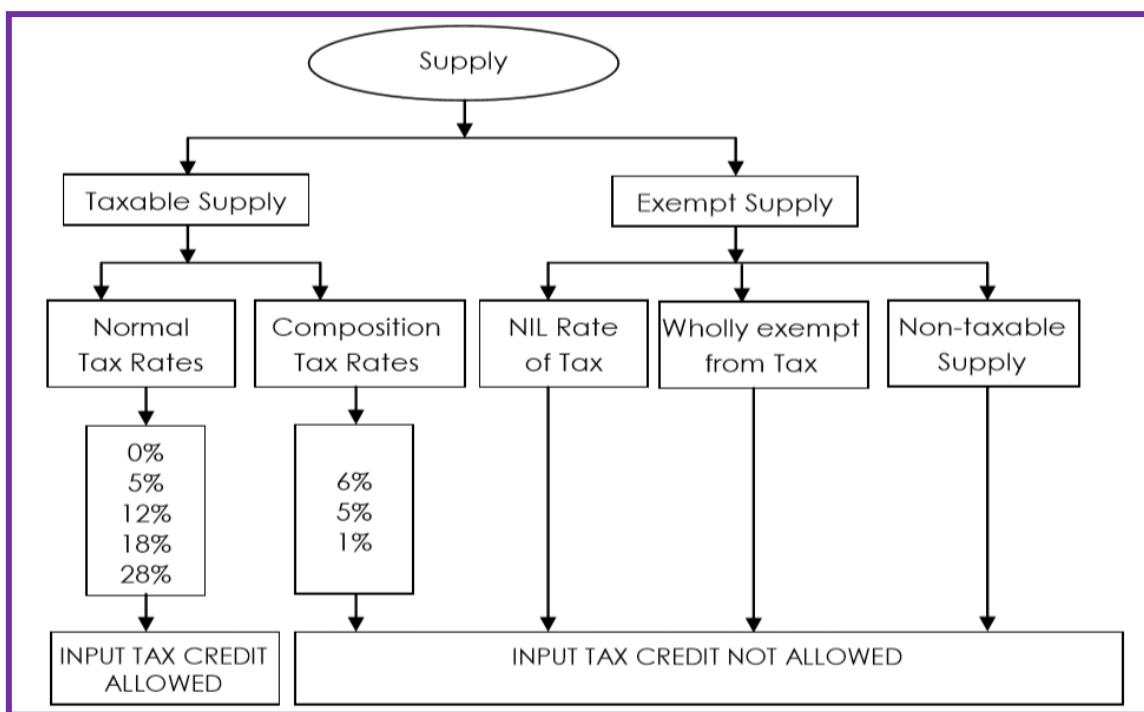
MIXED SUPPLY	In Mixed supply two or more individual supplies combination of goods or services with each other for a single price. Each of these items <u>can be supplied separately and is not dependent</u> on each other. In other words, the combination of goods or services is not bundled due to natural necessities, and they can be supplied individually in the ordinary course of business. For tax liability purpose, mixed supply consisting of two or more supplies shall be treated as a supply of that item which has the <u>highest tax rate</u> .
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Supply of external storage battery with UPS, constitutes as 'Mixed Supply'

Switching Avo Electro Power Ltd.	<p>In the case of Switching Avo Electro Power Ltd. (2018) 96 taxmann.com 106 (AAAR-West Bengal), the Appellant Authority for Advance Ruling upheld the ruling of Authority for Advance Ruling that when the storage battery or electric accumulator is supplied separately with the static converter (UPS), it would be considered as a mixed supply or not naturally bundled supply.</p> <p>Here the appellant contended that the UPS cannot function without battery as the same is an integral part of UPS and it is naturally bundled and supplied in conjunction with each other, therefore the supply of static converter along with the external battery should be considered as a composite supply and not mixed supply.</p> <p>However, the AAAR opined that the when a UPS is supplied with built-in batteries in a manner that the supply of the battery is inseparable from the supply of the UPS, and the two items are ‘naturally bundled’ then it should be treated as a composite supply under Section 2(30) of the CGST Act, but when the storage batteries having multiple uses is supplied with the static converter i.e. UPS, it cannot be said that they are naturally bundled even if the same is supplied under a single contract at a combined single price.</p> <p><u>Therefore, the supply of external storage battery supplied with UPS would be considered as a ‘mixed supply’.</u></p>
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LEVY and COLLECTION: Part 5

TAXABLE AND EXEMPT SUPPLY



MEANING OF EXEMPT SUPPLY

EXEMPT SUPPLY INCLUDES THE SUPPLY OF FOLLOWING TYPE OF GOODS AND SERVICES

SUPPLY ATTRACTING NIL RATE OF TAX;	SUPPLIES WHOLLY EXEMPT FROM TAX;	NON-TAXABLE SUPPLY;
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POWER TO GRANT EXEMPTION

POWER AVAILABLE WITH	CENTRAL GOVERNMENT	ON RECOMMENDATION OF GST COUNCIL	EITHER ABSOLUTELY OR CONDITIONALLY
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ABSOLUTE EXEMPTION VS CONDITIONAL EXEMPTION

ABSOLUTE EXEMPTION	CONDITIONAL EXEMPTION
THIS EXEMPTION IS COMPULSORY. IT IS ALWAYS AVAILABLE UNCONDITIONALLY	THIS EXEMPTION IS AS PER CHOICE OF THE REGISTERED PERSON WHETHER TO AVAL OR NOT

EXEMPTION BY SPECIAL ORDER

TO BE ISSUED BY CENTRAL GOVERNMENT	TO BE RECOMMENDED BY GST COUNCIL	SPECIAL ORDER	ONLY IN EXCEPTIONAL CIRCUMSTANCES
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EXPLANATION TO BE INSERTED IN THE EXEMPTION ORDER

MEANING	TIME LIMIT
Central Government is empowered to clarify the scope of applicability of any notification or special order by inserting an explanation in such notification or order.	Such clarification shall only be issued by notification within ONE year of issuing of notification or special order.

EXEMPTED SUPPLY AND ZERO RATED SUPPLY

Exempted supply	Zero rated supply
Nil Rate	0% Rate
Applicable by Notification to Domestic Tariff Area supplies	Applicable by section to export of goods or services or both
Not eligible for Input Tax Credit	Eligible for Input Tax Credit
Not eligible for refund	Eligible for refund
Not under Value Added Chain	Under Value Added Chain

EXEMPTED GOODS

- 1) Live animals other than live horses
- 2) Meat and edible meat offal
- 3) Fish, crustaceans, molluscs & other aquatic invertebrates
- 4) Dairy produce; bird's eggs; natural honey; edible products of animal origin, not elsewhere specified
- 5) 1. Human hair, unworked, whether or not washed or scoured; waste of human hair
2. Semen including frozen semen
- 6) Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
- 7) Edible vegetables, roots and tubers
 - Potatoes, fresh or chilled.
 - Tomatoes, fresh or chilled.
 - Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled.
 - Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled etc.,
- 8) Edible fruit and nuts; peel of citrus fruit or melons, Coconuts, fresh or dried, whether or not shelled or peeled Bananas, including plantains, fresh or dried, Dates, figs, pineapples, avocados, guavas, mangoes and mangos teens, fresh etc.,
- 9) Coffee, beans, not roasted. Unprocessed green leaves of tea
- 10) Cereals All goods [other than those put up in unit container and bearing a registered brand name. Fresh ginger, other than in processed form etc.,
- 11) Products of milling industry; malt; starches; insulin; wheat gluten
- 12) Oil seeds and oleaginous fruits, miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder
- 13) Lac; gums, resins and other vegetable saps and extracts Lac and Shellac,
- 14) Vegetable plaiting materials; vegetable products, not elsewhere specified or included Betel leaves
- 15) Sugar and sugar confectionery Cane jaggery
- 16) Preparations of cereals, flour, starch or milk; pastrycooks' products
 1. Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki
 2. Pappad, by whatever name it is known, except when served for consumption
 3. Bread (branded or otherwise), except when served for consumption and pizza bread.

- 17) Miscellaneous edible preparations which include Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.
- 18) Beverages, spirit and vinegar. Water other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container
- 19) Residues and waste from the food industries; prepared animal fodder
- 20) Salt; sulphur; earths and stone; plastering materials, lime and cement
- 21) Pharmaceutical products Human Blood and its components
- 22) Organic manure, other than put up in unit containers and bearing a brand name.
- 23) Essential oils and resinoids perfumery, cosmetic or toilet preparations. Kumkum, Bindi, Sindur, Alta
- 24) Miscellaneous chemical products, Municipal waste, sewage sludge, clinical waste
- 25) Plastics and articles thereof Plastic bangles
- 26) Rubber and articles thereof Condoms and contraceptives
- 27) Wood and articles of wood, wood charcoal Firewood or fuel wood
- 28) Paper and paperboard; articles of paper pulp, of paper or of paperboard
- 29) Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
- 30) Raw Silk
- 31) Wool, fine or coarse animal hair; horse hair yarn and woven fabric
- 32) Cotton
 1. Gandhi Topi,
 2. Khadi yarn
- 33) Other vegetable textile fibres; paper yarn, woven fabrics of paper yarns
 1. Coconut, coir fibre
 2. Jute fibres, raw or processed but not spun
- 34) Other made up textile articles, sets, worn clothing and worn textile articles; rags Indian National Flag
- 35) Ceramic products
- 36) Glass and glassware. Bangles (except those made from precious metals)

- 37) Tools, implements, cutlery, spoons and forks of base metal; parts thereof of base metal. Agricultural implements manually operated or animal driven**
- 38) Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof. Handloom [weaving machinery]**
- 39) Aircraft; spacecraft and parts thereof.**
- 40) Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof**
- 41) Musical instruments; parts and accessories of such articles. Indigenous handmade musical instruments**
- 42) Miscellaneous manufactured articles**
1. Slate pencils and chalk sticks.
2. Slates
- 43) Project imports, laboratory chemicals, passengers' baggage, personal importation, ship stores Passenger baggage**

EXEMPTED SERVICES (UNDER CGST & SGST)

1. SERVICES RELATED TO CHARITABLE AND RELIGIOUS ACTIVITIES

ENTRY 1
SERVICES BY AN ENTITY REGISTERED UNDER SECTION 12AA OF THE INCOME-TAX ACT, 1961 BY WAY OF CHARITABLE ACTIVITIES.

1. “Charitable activities” means activities relating to

- (i) Public health by way of
 - (A) Care or counselling of
 - (I) terminally ill persons or persons with severe physical or mental disability,
 - (II) persons afflicted with HIV or AIDS, or
 - (III) Persons addicted to a dependence forming substance such as narcotics drugs or alcohol; or
 - (B) Public awareness of preventive health, family planning or prevention of HIV infection;
 - (ii) Advancement of religion or spirituality or Yoga (w.e.f. 21-10-2015);
 - (iii) Advancement of educational programmes or skill development relating to,
 - (A) Abandoned, orphaned or homeless children;
 - (B) Physically or mentally abused and traumatized persons;
 - (C) Prisoners; or
 - (D) Persons over the age of 65 years residing in a rural area;
 - (iv) Preservation of environment including watershed, forests and wildlife;
2. Services received from a provider of service located in a non taxable territory by – an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities; ALSO exempted from GST.
3. “The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt.
4. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt.
5. Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.
6. However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable”

ENTRY 13
SERVICES BY A PERSON BY WAY OF—

(A) CONDUCT OF ANY RELIGIOUS CEREMONY;
(B) RENTING OF PRECINCTS OF A RELIGIOUS PLACE MEANT FOR
GENERAL PUBLIC, OWNED OR MANAGED BY AN ENTITY REGISTERED AS A
CHARITABLE OR RELIGIOUS TRUST UNDER SECTION 12AA OF THE
INCOME-TAX ACT, 1961
OR A TRUST OR AN INSTITUTION REGISTERED UNDER SUB CLAUSE (V) OF
CLAUSE (23C) OF SECTION 10 OF THE INCOME-TAX ACT
OR A BODY OR AN AUTHORITY COVERED UNDER CLAUSE (23BBA) OF
SECTION 10 OF THE SAID INCOME-TAX ACT:

PROVIDED THAT NOTHING CONTAINED IN ENTRY (B) OF THIS EXEMPTION SHALL APPLY TO,—

(I) RENTING OF ROOMS WHERE CHARGES ARE `1,000 OR MORE PER DAY;
 (II) RENTING OF PREMISES, COMMUNITY HALLS, KALYANMANDAPAM OR OPEN AREA, AND THE LIKE WHERE CHARGES ARE `10,000 OR MORE PER DAY;
 (III) RENTING OF SHOPS OR OTHER SPACES FOR BUSINESS OR COMMERCE WHERE CHARGES ARE `10,000 OR MORE PER MONTH.

Important Note:

No GST on the supply of services by way of renting of precincts of a religious place meant for the general public by a person. So the GST rate on Services way of renting of precincts of a religious place meant for the general public is to be taken as nil. This implies that if immovable properties owned by charitable trusts like marriage hall, convention hall, rest house for pilgrims, shops situated within the premises of a religious place are rented out, income from letting out of such property is wholly exempt from GST. But if such properties are not situated in the precincts of a religious place meaning thereby not within walls or boundary walls of the religious place, income from such letting out will lose this exemption and income from it will be liable to GST.

ENTRY 60
SERVICES BY A SPECIFIED ORGANISATION IN RESPECT OF A RELIGIOUS
PILGRIMAGE FACILITATED BY ~~THE MINISTRY OF EXTERNAL AFFAIRS,~~
THE GOVERNMENT OF INDIA, UNDER BILATERAL ARRANGEMENT.

W.E.F. 25.1.2018, THE WORDS “THE MINISTRY OF EXTERNAL AFFAIRS,”
SHALL BE OMITTED;

ENTRY 80
SERVICES BY WAY OF TRAINING OR COACHING IN RECREATIONAL
ACTIVITIES RELATING TO—
(A) ARTS OR CULTURE, OR

(B) SPORTS BY CHARITABLE ENTITIES REGISTERED UNDER SECTION 12AA OF THE INCOME-TAX ACT

2. Agriculture related services

ENTRY 24
SERVICES BY WAY OF LOADING, UNLOADING, PACKING, STORAGE OR WAREHOUSING OF RICE.

ENTRY 24A
SERVICE BY WAY OF SERVICES BY WAY OF WAREHOUSING OF MINOR FOREST PRODUCE EXEMPT FROM GST [NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE)].

ENTRY 53A
SERVICES BY WAY OF FUMIGATION IN A WAREHOUSE OF AGRICULTURAL PRODUCE.

ENTRY 54
SERVICES RELATING TO CULTIVATION OF PLANTS AND REARING OF ALL LIFE FORMS OF ANIMALS, EXCEPT THE REARING OF HORSES, FOR FOOD, FIBRE, FUEL, RAW MATERIAL OR OTHER SIMILAR PRODUCTS OR AGRICULTURAL PRODUCE BY WAY OF—

- (A) AGRICULTURAL OPERATIONS DIRECTLY RELATED TO PRODUCTION OF ANY AGRICULTURAL PRODUCE INCLUDING CULTIVATION, HARVESTING, THRESHING, PLANT PROTECTION OR TESTING;**
- (B) SUPPLY OF FARM LABOUR;**
- (C) PROCESSES CARRIED OUT AT AN AGRICULTURAL FARM INCLUDING TENDING, PRUNING, CUTTING, HARVESTING, DRYING, CLEANING, TRIMMING, SUN DRYING, FUMIGATING, CURING, SORTING, GRADING, COOLING OR BULK PACKAGING AND SUCH LIKE OPERATIONS WHICH DO NOT ALTER THE ESSENTIAL CHARACTERISTICS OF AGRICULTURAL PRODUCE BUT MAKE IT ONLY MARKETABLE FOR THE PRIMARY MARKET;**
- (D) RENTING OR LEASING OF AGRO MACHINERY OR VACANT LAND WITH OR WITHOUT A STRUCTURE INCIDENTAL TO ITS USE;**
- (E) LOADING, UNLOADING, PACKING, STORAGE OR WAREHOUSING OF AGRICULTURAL PRODUCE;**
- (F) AGRICULTURAL EXTENSION SERVICES;**

(G) SERVICES BY ANY AGRICULTURAL PRODUCE MARKETING COMMITTEE OR BOARD OR SERVICES PROVIDED BY A COMMISSION AGENT FOR SALE OR PURCHASE OF AGRICULTURAL PRODUCE.

(H) W.E.F. 25.1.2018, SERVICES BY WAY OF FUMIGATION IN A WAREHOUSE OF AGRICULTURAL PRODUCE.

ENTRY 55

CARRYING OUT AN INTERMEDIATE PRODUCTION PROCESS AS JOB WORK IN RELATION TO CULTIVATION OF PLANTS AND REARING OF ALL LIFE FORMS OF ANIMALS, EXCEPT THE REARING OF HORSES, FOR FOOD, FIBRE, FUEL, RAW MATERIAL OR OTHER SIMILAR PRODUCTS OR AGRICULTURAL PRODUCE

Agriculture or Agricultural Produce includes the following exempt from GST:

Breeding of Fish

Rearing of Silk Worms

Cultivation of Ornamental Flowers

Horticulture

Forestry

Poultry Farm

Important Note:

Exemption not available on Loading, Packing, Warehousing of Processed Agricultural Products like Tea, Coffee Beans, Pulses etc.

As per CBIC Circular, processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits & cashew nuts etc. fall outside the definition of agricultural produce given in Notification No. 11/2017-CT(R) and 12/2017-CT(R) and therefore the exemption from GST is not available to their loading, packing, warehousing etc.

Plantation Crops like rubber, tea or coffee also covered under agricultural produce exempt from GST:

Plantation of Rubber

Tea Plantation

Plantation of Coffee

ENTRY 55A

SERVICES BY WAY OF ARTIFICIAL INSEMINATION OF LIVESTOCK (OTHER THAN HORSES) [NOTIFICATION NO. 14/2018- CENTRAL TAX (RATE)]

3. EDUCATIONAL SERVICES

ENTRY 66
SERVICES PROVIDED—

(A) BY AN EDUCATIONAL INSTITUTION TO ITS STUDENTS, FACULTY AND STAFF;

“(AA) W.E.F. 25.1.2018, BY AN EDUCATIONAL INSTITUTION BY WAY OF CONDUCT OF ENTRANCE EXAMINATION AGAINST CONSIDERATION IN THE FORM OF ENTRANCE FEE;”

(B) TO AN EDUCATIONAL INSTITUTION, BY WAY OF,—

(I) TRANSPORTATION OF STUDENTS, FACULTY AND STAFF;

(II) CATERING, INCLUDING ANY MID-DAY MEALS SCHEME SPONSORED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT OR UNION TERRITORY;

(III) SECURITY OR CLEANING OR HOUSEKEEPING SERVICES PERFORMED IN SUCH EDUCATIONAL INSTITUTION;

(IV) SERVICES RELATING TO ADMISSION TO, OR CONDUCT OF EXAMINATION BY, SUCH INSTITUTION; UPTO HIGHER SECONDARY:

W.E.F. 25.1.2018, THE WORDS “UPTO HIGHER SECONDARY” SHALL BE OMITTED; AS A RESULT, SERVICES RELATING TO ADMISSION TO, OR CONDUCT OF EXAMINATION PROVIDED TO ALL EDUCATIONAL INSTITUTIONS, AS DEFINED IN THE NOTIFICATION IS EXEMPT FROM GST.

(V) “W.E.F. 25.1.2018, SUPPLY OF ONLINE EDUCATIONAL JOURNALS OR PERIODICALS:”;

W.E.F. 25.1.2018, PROVIDED THAT NOTHING CONTAINED IN SUB-ITEMS (I), (II) AND (III) OF ITEM (B) SHALL APPLY TO AN EDUCATIONAL INSTITUTION OTHER THAN AN INSTITUTION PROVIDING SERVICES BY WAY OF PRE-SCHOOL EDUCATION AND EDUCATION UPTO HIGHER SECONDARY SCHOOL OR EQUIVALENT.

W.E.F. 25.1.2018, “PROVIDED FURTHER THAT NOTHING CONTAINED IN SUB-ITEM (V) OF ITEM (B) SHALL APPLY TO AN INSTITUTION PROVIDING SERVICES BY WAY OF,—

(I) PRE-SCHOOL EDUCATION AND EDUCATION UPTO HIGHER SECONDARY SCHOOL OR EQUIVALENT; OR

(II) EDUCATION AS A PART OF AN APPROVED VOCATIONAL EDUCATION COURSE.”; IT MEANS, TO EXEMPT SUBSCRIPTION OF ONLINE EDUCATIONAL JOURNALS/PERIODICALS BY EDUCATIONAL INSTITUTIONS WHO PROVIDE DEGREE RECOGNIZED BY ANY LAW FROM GST. “EDUCATIONAL INSTITUTION” MEANS AN INSTITUTION PROVIDING SERVICES BY WAY OF,—

(A) PRE-SCHOOL EDUCATION AND EDUCATION UPTO HIGHER SECONDARY SCHOOL OR EQUIVALENT;

(B) EDUCATION AS A PART OF A CURRICULUM FOR OBTAINING A QUALIFICATION RECOGNISED BY ANY LAW FOR THE TIME BEING IN FORCE;

(C) EDUCATION AS A PART OF AN APPROVED VOCATIONAL EDUCATION COURSE;

Mess or canteen services:

CBIC Circular No. 28/2/2018-GST, dated 8-1-2018 read with File No. 354/03/2018, dated 18-1-2018:

If the catering services, i.e. supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service to the concerned educational institution and attracts GST of 5% provided that credit of input tax charged on goods and services used in supplying the service has not been taken, w.e.f. 15-11-2017. If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered under entry no. 66(a) of notification No. 12/2017-Central Tax (Rate). The Ministry also noted that if schools upto higher secondary level supply food directly to students, the same would be exempt from the GST.

4. Health care services

ENTRY 46
SERVICES BY A VETERINARY CLINIC IN RELATION TO HEALTH CARE OF ANIMALS OR BIRDS.

ENTRY 73
SERVICES PROVIDED BY THE CORD BLOOD BANKS BY WAY OF PRESERVATION OF STEM CELLS OR ANY OTHER SERVICE IN RELATION TO SUCH PRESERVATION.

ENTRY 74
SERVICES BY WAY OF—

(A) HEALTH CARE SERVICES BY A CLINICAL ESTABLISHMENT, AN AUTHORISED MEDICAL PRACTITIONER OR PARA-MEDICS;

(B) SERVICES PROVIDED BY WAY OF TRANSPORTATION OF A PATIENT IN AN AMBULANCE, OTHER THAN THOSE SPECIFIED IN (A) ABOVE.

Exempted Services	Taxable Services
Services in recognized systems of medicines in India are exempt. Nursing staff, physiotherapists, technicians, lab assistants, 108 services etc. w.e.f. 1-4-2015 Ambulance services provided by an entity which is not a clinical establishment or an authorised medical practitioner or paramedics would also be exempt from GST.	Hair transplant or cosmetic or plastic surgery, except when undertaken due to congenital defects, developmental abnormalities, injury.

As per Section 2(h) of the Clinical Establishments Act, 2010 the following systems of medicine are recognized systems of medicines:

1. Allopathy
2. Yoga
3. Naturopathy
4. Ayurveda
5. Homoeopathy
6. Siddha
7. Unani
8. Any other system of medicine that may be recognized by the Central Government.

Pranic healing treatment: taxable supply of services

Acupressure treatment: taxable supply of services

Acupuncture treatment: taxable supply of services

Reiki treatment: taxable supply of services Reiki is an ancient Eastern healing method that uses energy to balance the mind, body and spirit. Reiki is one of the oldest healing systems in use today.

Colour therapy: taxable supply of services

Ambulance services provided by Private Service provider to the Government exempted from GST:

Vide Circular No. 51/25/2018-GST, dated 31st July, 2018, the CBIC has clarified that the services provided by the Private Service Providers (PSPs) to the State Governments by way of transportation of patients in an ambulance on behalf of the State Governments against consideration, would be exempt from payment of GST (covering by Serial No. 3 and 3A of Notification No. 12/2017- Central Tax (Rate), date 28.06.2017).

Under GST, the functions of 'Health and sanitation' is entrusted to Panchayats under Article 243 G of Constitution and functions of 'Public health' is entrusted to Municipalities under Article 243W of the Constitution, thus, the ambulance services are an activity in relation to the functions entrusted to Panchayats and Municipalities under Article 243G and 243W of the Constitution. Therefore, the same would be covered by Serial No. 3 and 3A of Notification No. 12/2017-Central Tax (Rate), date 28.06.2017, i.e. GST would be exempted where pure services has been provided to Central Government, State Government, Union Territory Government, local authority and governmental authority by way of an activity in relation to the function entrusted to Panchayats under Article 243G or Municipalities under Article 243W of the Constitution.

5. Services provided by Government

ENTRY 4

SERVICES BY CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY, LOCAL AUTHORITY OR GOVERNMENTAL AUTHORITY BY WAY OF ANY ACTIVITY IN RELATION TO ANY FUNCTION ENTRUSTED TO A MUNICIPALITY UNDER ARTICLE 243W OF THE CONSTITUTION.

ENTRY 5

SERVICES BY A GOVERNMENTAL AUTHORITY BY WAY OF ANY ACTIVITY IN RELATION TO ANY FUNCTION ENTRUSTED TO A PANCHAYAT UNDER ARTICLE 243G OF THE CONSTITUTION. NOTIFICATION NO. 32/2017-CENTRAL TAX (RATE), DATED 13.10.2017, THIS NOTIFICATION EXTENDS THE EXEMPTION FROM GST TO CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY, LOCAL AUTHORITY ALONG WITH GOVERNMENTAL AUTHORITY.

ENTRY 6

SERVICES BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY EXCLUDING THE FOLLOWING SERVICES—

- (A) SERVICES BY THE DEPARTMENT OF POSTS BY WAY OF SPEED POST, EXPRESS PARCEL POST, LIFE INSURANCE, AND AGENCY SERVICES PROVIDED TO A PERSON OTHER THAN THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY;**
- (B) SERVICES IN RELATION TO AN AIRCRAFT OR A VESSEL, INSIDE OR OUTSIDE THE PRECINCTS OF A PORT OR AN AIRPORT;**
- (C) TRANSPORT OF GOODS OR PASSENGERS; OR**
- (D) ANY SERVICE, OTHER THAN SERVICES COVERED UNDER ENTRIES (A) TO (C) ABOVE, PROVIDED TO BUSINESS ENTITIES.**

ENTRY 7

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY TO A BUSINESS ENTITY WITH AN AGGREGATE TURNOVER OF "SUCH AMOUNT IN THE PRECEDING FINANCIAL YEAR AS MAKES IT ELIGIBLE FOR EXEMPTION FROM REGISTRATION IN THE PRECEDING FINANCIAL YEAR.

EXPLANATION: FOR THE PURPOSES OF THIS ENTRY, IT IS HEREBY CLARIFIED THAT THE PROVISIONS OF THIS ENTRY SHALL NOT BE APPLICABLE TO—

(A) SERVICES,—

(I) BY THE DEPARTMENT OF POSTS BY WAY OF SPEED POST, EXPRESS PARCEL POST, LIFE INSURANCE, AND AGENCY SERVICES PROVIDED TO A PERSON OTHER THAN THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY;

(II) IN RELATION TO AN AIRCRAFT OR A VESSEL, INSIDE OR OUTSIDE THE PRECINCTS OF A PORT OR AN AIRPORT;

(III) OF TRANSPORT OF GOODS OR PASSENGERS; AND

(B) SERVICES BY WAY OF RENTING OF IMMOVABLE PROPERTY.

ENTRY 8

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY TO ANOTHER CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY:

PROVIDED THAT NOTHING CONTAINED IN THIS ENTRY SHALL APPLY TO SERVICES—

(I) BY THE DEPARTMENT OF POSTS BY WAY OF SPEED POST, EXPRESS PARCEL POST, LIFE INSURANCE, AND AGENCY SERVICES PROVIDED TO A PERSON OTHER THAN THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY;

(II) IN RELATION TO AN AIRCRAFT OR A VESSEL, INSIDE OR OUTSIDE THE PRECINCTS OF A PORT OR AN AIRPORT;

(III) OF TRANSPORT OF GOODS OR PASSENGERS

ENTRY 9

SERVICES PROVIDED BY CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR A LOCAL AUTHORITY WHERE THE CONSIDERATION FOR SUCH SERVICES DOES NOT EXCEED `5,000:

PROVIDED THAT NOTHING CONTAINED IN THIS ENTRY SHALL APPLY TO—

- (I) SERVICES BY THE DEPARTMENT OF POSTS BY WAY OF SPEED POST, EXPRESS PARCEL POST, LIFE INSURANCE, AND AGENCY SERVICES PROVIDED TO A PERSON OTHER THAN THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY;
- (II) SERVICES IN RELATION TO AN AIRCRAFT OR A VESSEL, INSIDE OR OUTSIDE THE PRECINCTS OF A PORT OR AN AIRPORT;
- (III) TRANSPORT OF GOODS OR PASSENGERS:

PROVIDED FURTHER THAT IN CASE WHERE CONTINUOUS SUPPLY OF SERVICE, AS DEFINED IN SUB-SECTION (33) OF SECTION 2 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017, IS PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR A LOCAL AUTHORITY, THE EXEMPTION SHALL APPLY ONLY WHERE THE CONSIDERATION CHARGED FOR SUCH SERVICE **DOES NOT EXCEED `5,000 IN A FINANCIAL YEAR.**

ENTRY 9C

SUPPLY OF SERVICE BY A GOVERNMENT ENTITY TO CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY, LOCAL AUTHORITY OR ANY PERSON SPECIFIED BY CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY AGAINST CONSIDERATION RECEIVED FROM CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY, IN THE FORM OF GRANTS [VIDE NOTIFICATION NO. 33/2017 CENTRAL TAX (RATE) DT 13.10.2017].

“Government Entity” means an authority or a board or any other body including a society, trust, corporation,— (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority”.

ENTRY 9D

SERVICES BY AN OLD AGE HOMES RUN BY CENTRAL GOVERNMENT, STATE GOVERNMENT OR ENTITY UNDER SECTION 12AA OF THE INCOME TAX ACT, 1961, TO RESIDENTS FOR CONSIDERATION UPTO `25,000 PER MONTH PER MEMBER IS EXEMPTED FROM GST [VIDE NOTIFICATION NO. 14/2018 –CENTRAL TAX (RATE)]

ENTRY 34A

SERVICES SUPPLIED BY CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY TO THEIR UNDERTAKINGS OR PUBLIC SECTOR UNDERTAKINGS (PSUS) BY WAY OF GUARANTEEING THE LOANS TAKEN BY SUCH UNDERTAKINGS OR PSUS FROM THE FINANCIAL INSTITUTIONS.

[NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE)].

ENTRY 47

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY BY WAY OF—

(A) REGISTRATION REQUIRED UNDER ANY LAW FOR THE TIME BEING IN FORCE;

(B) TESTING, CALIBRATION, SAFETY CHECK OR CERTIFICATION RELATING TO PROTECTION OR SAFETY OF WORKERS, CONSUMERS OR PUBLIC AT LARGE, INCLUDING FIRE LICENSE, REQUIRED UNDER ANY LAW FOR THE TIME BEING IN FORCE

ENTRY 61

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY BY WAY OF ISSUANCE OF PASSPORT, VISA, DRIVING LICENCE, BIRTH CERTIFICATE OR DEATH CERTIFICATE.

ENTRY 62

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY BY WAY OF TOLERATING NON-PERFORMANCE OF A CONTRACT FOR WHICH CONSIDERATION IN THE FORM OF FINES OR LIQUIDATED DAMAGES IS PAYABLE TO THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY UNDER SUCH CONTRACT.

ENTRY 63

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY BY WAY OF ASSIGNMENT OF RIGHT TO USE NATURAL RESOURCES TO AN INDIVIDUAL FARMER FOR CULTIVATION OF PLANTS AND REARING OF ALL LIFE FORMS OF ANIMALS, EXCEPT THE REARING OF HORSES, FOR FOOD, FIBRE, FUEL, RAW MATERIAL OR OTHER SIMILAR PRODUCTS

ENTRY 65

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY BY WAY OF DEPUTING OFFICERS AFTER OFFICE HOURS OR ON HOLIDAYS FOR INSPECTION OR CONTAINER STUFFING OR SUCH OTHER DUTIES IN RELATION TO IMPORT EXPORT CARGO ON PAYMENT OF MERCHANT OVERTIME CHARGES.

ENTRY 65B

SERVICES SUPPLIED BY A STATE GOVERNMENT TO EXCESS ROYALTY COLLECTION CONTRACTOR (ERCC) BY WAY OF ASSIGNING THE RIGHT TO COLLECT ROYALTY ON BEHALF OF THE STATE GOVERNMENT ON THE MINERAL DISPATCHED BY THE MINING LEASE HOLDERS.

EXPLANATION.—“MINING LEASE HOLDER” MEANS A PERSON WHO HAS BEEN GRANTED MINING LEASE, QUARRY LEASE OR LICENSE OR OTHER MINERAL CONCESSION UNDER THE MINES AND MINERALS

(DEVELOPMENT AND REGULATION) ACT, 1957 (67 OF 1957), THE RULES MADE THEREUNDER OR THE RULES MADE BY A STATE GOVERNMENT UNDER SUB-SECTION (1) OF SECTION 15 OF THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957. PROVIDED THAT AT THE END OF THE CONTRACT PERIOD, ERCC SHALL SUBMIT AN ACCOUNT TO THE STATE GOVERNMENT AND CERTIFY THAT THE AMOUNT OF GOODS AND SERVICES TAX DEPOSITED BY MINING LEASE HOLDERS ON ROYALTY

IS MORE THAN THE GOODS AND SERVICES TAX EXEMPTED ON THE SERVICE PROVIDED BY STATE GOVERNMENT TO THE ERCC OF ASSIGNMENT OF RIGHT TO COLLECT ROYALTY AND WHERE SUCH

AMOUNT OF GOODS AND SERVICES TAX PAID BY MINING LEASE HOLDERS IS LESS THAN THE AMOUNT OF GOODS AND SERVICES TAX EXEMPTED, THE EXEMPTION SHALL BE RESTRICTED TO SUCH AMOUNT AS IS EQUAL

TO THE AMOUNT OF GOODS AND SERVICES TAX PAID BY THE MINING LEASE HOLDERS AND THE ERCC SHALL PAY THE DIFFERENCE BETWEEN GOODS AND SERVICES TAX EXEMPTED ON THE SERVICE PROVIDED BY

STATE GOVERNMENT TO THE ERCC OF ASSIGNMENT OF RIGHT TO COLLECT ROYALTY AND GOODS AND SERVICES TAX PAID BY THE MINING LEASE HOLDERS ON ROYALTY.”; [NOTIFICATION NO. 14/2018- CENTRAL TAX (RATE) DATED 26TH JULY 2018]

ENTRY 47A

SERVICES BY WAY OF LICENSING, REGISTRATION AND ANALYSIS OR TESTING OF FOOD SAMPLES SUPPLIED BY THE FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA (FSSAI) TO FOOD BUSINESS OPERATORS. [NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE)].

6. Construction services

ENTRY 10

SERVICES PROVIDED BY WAY OF PURE LABOUR CONTRACTS OF CONSTRUCTION, ERECTION, COMMISSIONING, INSTALLATION, COMPLETION, FITTING OUT, REPAIR, MAINTENANCE, RENOVATION, OR ALTERATION OF A CIVIL STRUCTURE OR ANY OTHER ORIGINAL WORKS PERTAINING TO THE BENEFICIARY-LED INDIVIDUAL HOUSE CONSTRUCTION OR ENHANCEMENT UNDER THE HOUSING FOR ALL (URBAN) MISSION OR PRADHAN MANTRI AWAS YOJANA.

“original works” means all new constructions;

- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
- (ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise; Pure labour contract means supplier of service should not utilize any material in supplying the service. It should be a labour contract only.

The Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana scheme where in Housing for All mission will be implemented through four verticals which are as follows:

1. ‘In-situ’ Slum Redevelopment
2. Affordable Housing through credit linked subsidy
3. Affordable Housing in Partnership
4. Subsidy for beneficiary-led individual house construction.

ENTRY 10A

SERVICES SUPPLIED BY ELECTRICITY DISTRIBUTION UTILITIES BY WAY OF CONSTRUCTION, ERECTION, COMMISSIONING, OR INSTALLATION OF INFRASTRUCTURE FOR EXTENDING ELECTRICITY DISTRIBUTION NETWORK UPTO THE TUBE WELL OF THE FARMER OR AGRICULTURALIST FOR AGRICULTURAL USE EXEMPT FROM GST [VIDE NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE)].

ENTRY 11

SERVICES BY WAY OF PURE LABOUR CONTRACTS OF CONSTRUCTION, ERECTION, COMMISSIONING, OR INSTALLATION OF ORIGINAL WORKS PERTAINING TO A SINGLE RESIDENTIAL UNIT OTHERWISE THAN AS A PART OF A RESIDENTIAL COMPLEX.

ENTRY 41A

SERVICE BY WAY OF TRANSFER OF DEVELOPMENT RIGHTS OR FLOOR SPACE INDEX ON OR AFTER 1ST APRIL 2019 FOR CONSTRUCTION OF

RESIDENTIAL APARTMENTS. EXEMPTION IS AVAILABLE ONLY WHEN PROMOTER OR BUILDER PAYING TAX UNDER CONSTRUCTION SUPPLY OF SERVICE.

ENTRY 41B
UPFRONT AMOUNT PAYABLE IN RESPECT OF SERVICE BY WAY OF GRANTING OF LONG-TERM LEASE OF 30 YEARS, OR MORE, ON OR AFTER 01.04.2019, FOR CONSTRUCTION OF RESIDENTIAL APARTMENTS. EXEMPTION IS AVAILABLE ONLY WHEN PROMOTER OR BUILDER PAYING TAX UNDER CONSTRUCTION SUPPLY OF SERVICE.

7. Passenger transportation services

ENTRY 15
TRANSPORT OF PASSENGERS, WITH OR WITHOUT ACCOMPANIED BELONGINGS, BY—

(A) AIR, EMBARKING FROM OR TERMINATING IN AN AIRPORT LOCATED IN THE STATE OF—

- (I) ARUNACHAL PRADESH,**
- (II) ASSAM,**
- (III) MANIPUR,**
- (IV) MEGHALAYA,**
- (V) MIZORAM,**
- (VI) NAGALAND,**
- (VII) SIKKIM, OR**
- (VIII) TRIPURA OR**

(IX) AT BAGDOGRA LOCATED IN WEST BENGAL;

(B) NON-AIRCONDITIONED CONTRACT CARRIAGE OTHER THAN RADIO TAXI, FOR TRANSPORTATION OF PASSENGERS, EXCLUDING TOURISM, CONDUCTED TOUR, CHARTER OR HIRE; OR

(C) STAGE CARRIAGE OTHER THAN AIRCONDITIONED STAGE CARRIAGE.

The GST rate applicable for transport of passengers by air in economy class is 5% with input tax credit allowed on input services.

The GST rate for transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport is also fixed at 5% with input tax credit allowed on input services.

The GST rate for transport of passengers by air in other than economy class is 12% with full input tax credit.

Transportation of Passengers	GST	Input Tax Credit
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by Air	Rate			
		Inputs	Capital goods	Input service
Economic class	5%	Not allowed	Not allowed	Allowed
Business class	12%	Allowed	Allowed	Allowed
Embarking from or terminating in a Regional Connectivity Scheme Airport	5%	Not allowed	Not allowed	Allowed

Regional Connectivity Scheme – exempted from GST Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding: Provided that nothing contained in this entry shall apply on or after the expiry of a period of one year from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

ENTRY 16

SERVICES PROVIDED TO THE CENTRAL GOVERNMENT, BY WAY OF TRANSPORT OF PASSENGERS WITH OR WITHOUT ACCOMPANIED BELONGINGS, BY AIR, EMBARKING FROM OR TERMINATING AT A REGIONAL CONNECTIVITY SCHEME AIRPORT, AGAINST CONSIDERATION IN THE FORM OF VIABILITY GAP FUNDING:

PROVIDED THAT NOTHING CONTAINED IN THIS ENTRY SHALL APPLY ON OR AFTER THE EXPIRY OF A PERIOD OF ONE YEAR FROM THE DATE OF COMMENCEMENT OF OPERATIONS OF THE REGIONAL CONNECTIVITY SCHEME AIRPORT AS NOTIFIED BY THE MINISTRY OF CIVIL AVIATION. W.E.F. 25-1-2018, VIABILITY GAP FUNDING (VGF) FOR A PERIOD OF 3 YEARS FROM THE DATE OF COMMENCEMENT OF RCS AIRPORT FROM THE PRESENT PERIOD OF 1 YEAR.

ENTRY 17

SERVICE OF TRANSPORTATION OF PASSENGERS, WITH OR WITHOUT ACCOMPANIED BELONGINGS, BY—

- (A) RAILWAYS IN A CLASS OTHER THAN— (I) FIRST CLASS; OR (II) AN AIR-CONDITIONED COACH;**
- (B) METRO, MONORAIL OR TRAMWAY;**
- (C) INLAND WATERWAYS;**
- (D) PUBLIC TRANSPORT, OTHER THAN PREDOMINANTLY FOR TOURISM PURPOSE, IN A VESSEL BETWEEN PLACES LOCATED IN INDIA; AND**
- (E) METERED CABS OR AUTO RICKSHAWS (INCLUDING E-RICKSHAWS).**

8. Goods transportation services

ENTRY 18 SERVICES BY WAY OF TRANSPORTATION OF GOODS

- (A) BY ROAD EXCEPT THE SERVICES OF—
 - (I) A GOODS TRANSPORTATION AGENCY;
 - (II) A COURIER AGENCY;
- (B) BY INLAND WATERWAYS.

ENTRY 20 SERVICES BY WAY OF TRANSPORTATION BY RAIL OR A VESSEL FROM ONE PLACE IN INDIA TO ANOTHER OF THE FOLLOWING GOODS—

- (A) RELIEF MATERIALS MEANT FOR VICTIMS OF NATURAL OR MAN-MADE DISASTERS, CALAMITIES, ACCIDENTS OR MISHAP;
- (B) DEFENSE OR MILITARY EQUIPMENT'S;
- (C) NEWSPAPER OR MAGAZINES REGISTERED WITH THE REGISTRAR OF NEWSPAPERS;
- (D) RAIL WAY EQUIPMENT'S OR MATERIALS;
- (E) AGRICULTURAL PRODUCE;
- (F) MILK, SALT AND FOOD GRAIN INCLUDING FLOURS, PULSES AND RICE; AND
- (G) ORGANIC MANURE.

GST Rate and ITC for transportation of Goods by Rail or Vessel:

- The rate is 5% (CGST 2.5% + SGST 2.5%) or IGST @ 5%.
- ITC of Input services available, but not for input Goods.

ENTRY 21 SERVICES PROVIDED BY A GOODS TRANSPORT AGENCY, BY WAY OF TRANSPORT IN A GOODS CARRIAGE OF—

- (A) AGRICULTURAL PRODUCE;
- (B) GOODS, WHERE CONSIDERATION CHARGED FOR THE TRANSPORTATION OF GOODS ON A CONSIGNMENT TRANSPORTED IN A SINGLE CARRIAGE DOES NOT EXCEED `1,500;

- (C) GOODS, WHERE CONSIDERATION CHARGED FOR TRANSPORTATION OF ALL SUCH GOODS FOR A SINGLE CONSIGNEE DOES NOT EXCEED `750;
- (D) MILK, SALT AND FOOD GRAIN INCLUDING FLOUR, PULSES AND RICE;
- (E) ORGANIC MANURE;
- (F) NEWSPAPER OR MAGAZINES REGISTERED WITH THE REGISTRAR OF NEWSPAPERS;
- (G) RELIEF MATERIALS MEANT FOR VICTIMS OF NATURAL OR MAN-MADE DISASTERS, CALAMITIES, ACCIDENTS OR MISHAP; OR
- (H) DEFENSE OR MILITARY EQUIPMENT'S.

ENTRY 21A

“SERVICES PROVIDED BY A GOODS TRANSPORT AGENCY TO AN UNREGISTERED PERSON, INCLUDING AN UNREGISTERED CASUAL TAXABLE PERSON, OTHER THAN THE SPECIFIED RECIPIENTS” ALSO EXEMPT FROM GST [VIDE NOTIFICATION NO. 33/2017 CENTRAL TAX (RATE), DATED 13.10.2017].

ENTRY 21B

SERVICES PROVIDED BY A GOODS TRANSPORT AGENCY, BY WAY OF TRANSPORT OF GOODS IN A GOODS CARRIAGE, TO,—

- (A) A DEPARTMENT OR ESTABLISHMENT OF THE CENTRAL GOVERNMENT OR STATE GOVERNMENT OR UNION TERRITORY; OR
- (B) LOCAL AUTHORITY; OR
- (C) GOVERNMENTAL AGENCIES, WHICH HAS TAKEN REGISTRATION UNDER THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 (12 OF 2017) ONLY FOR THE PURPOSE OF DEDUCTING TAX UNDER SECTION 51 AND NOT FOR MAKING A TAXABLE SUPPLY OF GOODS OR SERVICES.

9. Banking and financial services

ENTRY 26

SERVICES BY THE RESERVE BANK OF INDIA.

Services received by the Reserve Bank of India from outside India in relation to management of foreign exchange reserves also exempt from GST:

For examples:

- External asset management,
- Custodial services,
- Securities lending services etc.

ENTRY 27 SERVICES BY WAY OF—

(A) EXTENDING DEPOSITS, LOANS OR ADVANCES IN SO FAR AS THE CONSIDERATION IS REPRESENTED BY WAY OF INTEREST OR DISCOUNT (OTHER THAN INTEREST INVOLVED IN CREDIT CARD SERVICES);

(B) SALE OR PURCHASE OF FOREIGN CURRENCY AMONGST BANKS OR AUTHORIZED DEALERS OF FOREIGN EXCHANGE OR AMONGST BANKS AND SUCH DEALERS.

As per CBIC Circular No. 102/21/2019-GST, dated 28-6-2019, Penal interest against loan repayment is also treated as interest and covered under entry no. 27 of the Notification No. 12/2017 C.T. Therefore, exempted from GST.

ENTRY 27A SERVICES PROVIDED BY A BANKING COMPANY TO BASIC SAVING BANK DEPOSIT (BSBD) ACCOUNT HOLDERS UNDER PRADHAN MANTRI JAN DHAN YOJANA (PMJDY).

ENTRY 34 SERVICES BY AN ACQUIRING BANK, TO ANY PERSON IN RELATION TO SETTLEMENT OF AN AMOUNT UPTO ₹2,000 IN A SINGLE TRANSACTION TRANSACTED THROUGH CREDIT CARD, DEBIT CARD, CHARGE CARD OR OTHER PAYMENT CARD SERVICE.

EXPLANATION.—FOR THE PURPOSES OF THIS ENTRY, “ACQUIRING BANK” MEANS ANY BANKING COMPANY, FINANCIAL INSTITUTION INCLUDING NON-BANKING FINANCIAL COMPANY OR ANY OTHER PERSON, WHO MAKES THE PAYMENT TO ANY PERSON WHO ACCEPTS SUCH CARD.

ENTRY 39A

SERVICES BY AN INTERMEDIARY OF FINANCIAL SERVICES LOCATED IN A MULTI SERVICES SEZ WITH INTERNATIONAL FINANCIAL SERVICES CENTRE (IFSC) STATUS TO A CUSTOMER LOCATED OUTSIDE INDIA FOR INTERNATIONAL FINANCIAL SERVICES IN CURRENCIES OTHER THAN INDIAN RUPEES (INR). EXPLANATION.—FOR THE PURPOSES OF THIS ENTRY, THE INTERMEDIARY OF FINANCIAL SERVICES IN IFSC IS A PERSON,— (I) WHO IS PERMITTED OR RECOGNISED AS SUCH BY THE GOVERNMENT OF INDIA OR ANY REGULATOR APPOINTED FOR REGULATION OF IFSC; OR (II) WHO IS TREATED AS A PERSON RESIDENT OUTSIDE INDIA UNDER THE FOREIGN EXCHANGE MANAGEMENT (INTERNATIONAL FINANCIAL SERVICES CENTRE) REGULATIONS, 2015; OR (III) WHO IS REGISTERED UNDER THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (INTERNATIONAL FINANCIAL SERVICE CENTRE) GUIDELINES, 2015 AS IFSC INSURANCE OFFICE; OR (IV) WHO IS PERMITTED AS SUCH BY SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI) UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERNATIONAL FINANCIAL SERVICES CENTRES) GUIDELINES, 2015.

10. Life insurance business services

ENTRY 28

SERVICES OF LIFE INSURANCE BUSINESS PROVIDED BY WAY OF ANNUITY UNDER THE NATIONAL PENSION SYSTEM REGULATED BY THE PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA UNDER THE PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY ACT, 2013 (23 OF 2013).

ENTRY 29

SERVICES OF LIFE INSURANCE BUSINESS PROVIDED OR AGREED TO BE PROVIDED BY THE ARMY, NAVAL AND AIR FORCE GROUP INSURANCE FUNDS TO MEMBERS OF THE ARMY, NAVY AND AIR FORCE, RESPECTIVELY, UNDER THE GROUP INSURANCE SCHEMES OF THE CENTRAL GOVERNMENT.

Group Insurance means it covers a defined group of people, for example members of a professional association, or a society or employees of an organization. Group Insurance may offer life cover, health cover, and/or other types of personal insurance.

Group insurance has several advantages chief among which is a life cover made available to members irrespective of age, gender, socio economic background or profession, so long as they belong to the group that is applying for insurance. Premium for these types of insurance is exempt from GST.

ENTRY 29A

SERVICES OF LIFE INSURANCE PROVIDED OR AGREED TO BE PROVIDED BY THE NAVAL GROUP INSURANCE FUND TO THE PERSONNEL OF COAST GUARD UNDER THE GROUP INSURANCE SCHEMES OF THE CENTRAL GOVERNMENT.

ENTRY 29B

SERVICES OF LIFE INSURANCE PROVIDED OR AGREED TO BE PROVIDED BY THE CENTRAL ARMED POLICE FORCES (UNDER MINISTRY OF HOME AFFAIRS) GROUP INSURANCE FUNDS TO THEIR MEMBERS UNDER THE GROUP INSURANCE SCHEMES OF THE CONCERNED CENTRAL ARMED POLICE FORCE EXEMPTED FROM GST.

ENTRY 36

SERVICES OF LIFE INSURANCE BUSINESS PROVIDED UNDER FOLLOWING SCHEMES—

- (A) JANASHREE BIMA YOJANA;
- (B) AAM AADMI BIMA YOJANA;
- (C) LIFE MICRO-INSURANCE PRODUCT AS APPROVED BY THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY, HAVING MAXIMUM AMOUNT OF COVER OF TWO LAKHS RUPEES (W.E.F. 25.1.2018). PRIOR TO 25.1.2018 IT WAS FIFTY THOUSAND RUPEES;
- (D) VARISHTHA PENSION BIMAYOJANA;
- (E) PRADHAN MANTRI JEEVAN JYOTIBIMA YOJANA;
- (F) PRADHAN MANTRI JAN DHANYOGANA;
- (G) PRADHAN MANTRI VAYA VANDAN YOJANA

11. Services provided by specified bodies

ENTRY 30

SERVICES BY THE EMPLOYEES' STATE INSURANCE CORPORATION TO PERSONS GOVERNED UNDER THE EMPLOYEES' STATE INSURANCE ACT, 1948 (34 OF 1948).

ENTRY 31

SERVICES PROVIDED BY THE EMPLOYEES PROVIDENT FUND ORGANISATION TO THE PERSONS GOVERNED UNDER THE EMPLOYEES PROVIDENT FUNDS AND THE MISCELLANEOUS PROVISIONS ACT, 1952 (19 OF 1952).

ENTRY 31A

SERVICES BY COAL MINES PROVIDENT FUND ORGANISATION TO PERSONS GOVERNED BY THE COAL MINES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT, 1948

[NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE)]

ENTRY 31B

SERVICES BY NATIONAL PENSION SYSTEM (NPS) TRUST TO ITS MEMBERS AGAINST CONSIDERATION IN THE FORM OF ADMINISTRATIVE FEE.

[NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE)].

ENTRY 32

SERVICES PROVIDED BY THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA TO INSURERS UNDER THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA ACT, 1999 (41 OF 1999).

ENTRY 33

SERVICES PROVIDED BY THE SECURITIES AND EXCHANGE BOARD OF INDIA SET UP UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 (15 OF 1992) BY WAY OF PROTECTING THE INTERESTS OF INVESTORS IN SECURITIES AND TO PROMOTE THE DEVELOPMENT OF, AND TO REGULATE, THE SECURITIES MARKET.

12. General insurance business services

ENTRY 35

SERVICES OF GENERAL INSURANCE BUSINESS PROVIDED UNDER FOLLOWING SCHEMES—

- (A) HUT INSURANCE SCHEME;
- (B) CATTLE INSURANCE UNDER SWARNAJAYANTI GRAM SWAROZGAR YOJNA (EARLIER KNOWN AS INTEGRATED RURAL DEVELOPMENT PROGRAMME);
- (C) SCHEME FOR INSURANCE OF TRIBALS;
- (D) JANATA PERSONAL ACCIDENT POLICY AND GRAMIN ACCIDENT POLICY;
- (E) GROUP PERSONAL ACCIDENT POLICY FOR SELF-EMPLOYED WOMEN;
- (F) AGRICULTURAL PUMPSET AND FAILED WELL INSURANCE;
- (G) PREMIA COLLECTED ON EXPORT CREDIT INSURANCE;
- (H) WEATHER BASED CROP INSURANCE SCHEME OR THE MODIFIED NATIONAL AGRICULTURAL INSURANCE SCHEME, APPROVED BY THE GOVERNMENT OF INDIA AND IMPLEMENTED BY THE MINISTRY OF AGRICULTURE;
- (I) JAN AROGYA BIMA POLICY;

(J) NATIONAL AGRICULTURAL INSURANCE SCHEME (RASHTRIYA KRISHI BIMA YOJANA);
(K) PILOT SCHEME ON SEED CROP INSURANCE;
(L) CENTRAL SECTOR SCHEME ON CATTLE INSURANCE;
(M) UNIVERSAL HEALTH INSURANCE SCHEME;
(N) RASHTRIYA SWASTHYA BIMA YOJANA;
(O) COCONUT PALM INSURANCE SCHEME;
(P) PRADHAN MANTRI SURAKSHA BIMA YOJNA;
(Q) NIRAMAYA HEALTH INSURANCE SCHEME IMPLEMENTED BY THE TRUST CONSTITUTED UNDER THE PROVISIONS OF THE NATIONAL TRUST FOR THE WELFARE OF PERSONS WITH AUTISM, CEREBRAL PALSY, MENTAL RETARDATION AND MULTIPLE DISABILITIES ACT, 1999 (44 OF 1999).

W.E.F 1-10-2019: EXEMPTION NOTIFICATION HAS BEEN AMENDED TO EXEMPT SERVICES OF GENERAL INSURANCE BUSINESS PROVIDED UNDER “BANGLA SHASYA BIMA” SCHEME.

ENTRY 36A

SERVICES BY WAY OF REINSURANCE OF THE INSURANCE SCHEMES SPECIFIED IN SERIAL NUMBER 35 OR 36. IT IS EXPECTED THAT THE PREMIUM AMOUNT CHARGED FROM THE GOVERNMENT/INSURED IN RESPECT OF FUTURE INSURANCE SERVICES IS REDUCED.

13. Pension schemes

ENTRY 37

SERVICES BY WAY OF COLLECTION OF CONTRIBUTION UNDER THE ATAL PENSION YOJANA.

ENTRY 38

SERVICES BY WAY OF COLLECTION OF CONTRIBUTION UNDER ANY PENSION SCHEME OF THE STATE GOVERNMENTS.

14. BUSINESS FACILITATOR/CORRESPONDENT

ENTRY 39

SERVICES BY THE FOLLOWING PERSONS IN RESPECTIVE CAPACITIES—

(A) BUSINESS FACILITATOR OR A BUSINESS CORRESPONDENT TO A BANKING COMPANY WITH RESPECT TO ACCOUNTS IN ITS RURAL AREA BRANCH;

(B) ANY PERSON AS AN INTERMEDIARY TO A BUSINESS FACILITATOR OR A BUSINESS CORRESPONDENT WITH RESPECT TO SERVICES MENTIONED IN ENTRY (A); OR

(C) BUSINESS FACILITATOR OR A BUSINESS CORRESPONDENT TO AN INSURANCE COMPANY IN A RURAL AREA.

Business facilitators or correspondent services are as follows:

- (a) Enrollment of customers, including collection of biometric and other details, provide card (ID Card, Debit Card, Credit Card), PIN.
- (b) Provide transaction facility:
 - (i) Deposit of money in an account with any bank
 - (ii) Withdrawal of money from an account with any bank
 - (iii) Remittances from an account with a bank to an account with the same or any other bank.
 - (iv) Balance Enquiry and issue Receipts/ Statement of Accounts.
- (c) Disbursal of credit facilities to borrowers involving small amounts strictly as per the instructions of the Bank.
- (d) Other activities:
 - i. Identification of borrowers and classification of activities as per their requirements.
 - ii. Collection and *prima facie* scrutiny of loan applications including verification of primary data.
 - iii. Creating awareness about savings and other products offered by the Bank and education and advice on managing money & debt counseling.
 - iv. Preliminary scrutiny of data and submission of applications to the Bank for its review.
 - v. Promotion, nurturing, monitoring and handholding of Self Help Groups and/or Joint Liability Groups and/ or Credit Groups and others.
 - vi. Facilitating the repayment of dues owed to the bank by its customers.
 - vii. Marketing of third party financial products.

15. Services provided to Government

ENTRY 3

PURE SERVICES (EXCLUDING WORKS CONTRACT SERVICE OR OTHER COMPOSITE SUPPLIES INVOLVING SUPPLY OF ANY GOODS) PROVIDED TO THE CENTRAL GOVERNMENT, STATE GOVERNMENT OR UNION TERRITORY OR LOCAL AUTHORITY OR A GOVERNMENTAL AUTHORITY OR W.E.F. 25.1.2018 GOVT. ENTITY 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.**

ARTICLE 243G OF SCHEDULE XI

- (1) agriculture, including agriculture extensions.
- (2) land improvement, implementation of land reforms , land consolidation & soil conservation.
- (3) minor irrigation, water management & water shed development.
- (4) Animal husbandry, dairying & poultry.
- (5) fisheries
- (6) social forestry & farm forestry.
- (7) minor forestry produce.
- (8) small scale industries, including food processing industries.
- (9) khadi, village & cottage industries.
- (10) rural housing
- (11) drinking water
- (12) fuel & fodder.
- (13) roads, culverts, bridges, ferries, waterways & other means of communication.
- (14) rural electrification, including distribution of electricity.
- (15) non-conventional energy.
- (16) poverty alleviation programmes.
- (17) education including primary & secondary schools., technical training & vocational education.
- (18) adult & non-formal education.
- (19) Libraries.
- (20) cultural activities.
- (21) markets & fairs.
- (22) health & sanitation, including hospitals, primary health centres & dispensaries.
- (23) family welfare
- (24) women & child development.
- (25) social welfare including welfare of handicapped & mental retarded.
- (26) welfare of the weaker sections & in particulars of the SC & ST's (27) public distribution system.
- (28) maintenance of community assets.

TWELFTH SCHEDULE (Article 243W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of Society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter-houses and tanneries.

ENTRY 3A

COMPOSITE SUPPLY OF GOODS AND SERVICES IN WHICH THE VALUE OF SUPPLY OF GOODS CONSTITUTES NOT MORE THAN 25 PER CENT. OF THE VALUE OF THE SAID COMPOSITE SUPPLY PROVIDED TO THE CENTRAL GOVERNMENT, STATE GOVERNMENT OR UNION TERRITORY OR LOCAL AUTHORITY OR A GOVERNMENTAL AUTHORITY OR A GOVERNMENT ENTITY 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

ENTRY 11A

SERVICE PROVIDED BY FAIR PRICE SHOPS TO CENTRAL GOVERNMENT BY WAY OF SALE OF WHEAT, RICE AND COARSE GRAINS UNDER PUBLIC DISTRIBUTION SYSTEM (PDS) AGAINST CONSIDERATION IN THE FORM OF COMMISSION OR MARGIN. NOTIFICATION NO. 21/2017-CENTRAL TAX (RATE), DATED 22ND AUG 2017.

W.E.F 15TH NOVEMBER 2017: "SERVICE PROVIDED BY FAIR PRICE SHOPS TO CENTRAL GOVERNMENT, STATE GOVERNMENT OR UNION TERRITORY BY WAY OF SALE OF FOOD GRAINS, KEROSENE, SUGAR, EDIBLE OIL, ETC. UNDER PUBLIC DISTRIBUTION SYSTEM AGAINST CONSIDERATION IN THE FORM OF COMMISSION OR MARGIN" IS EXEMPT FROM GST [VIDE NOTIFICATION NO. 47/2017- CENTRAL TAX (RATE)]

ENTRY 40

SERVICES PROVIDED TO THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY UNDER ANY INSURANCE SCHEME FOR WHICH TOTAL PREMIUM IS PAID BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY. SERVICES OF RE-INSURANCE OF THE INSURANCE SCHEMES PROVIDED TO THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY UNDER ANY INSURANCE SCHEME FOR WHICH TOTAL PREMIUM IS PAID BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY (I.E. INSURANCE SCHEME EXEMPTED UNDER ENTRY 40) [VIDE NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE) DATED 27TH JULY 2018].

ENTRY 51

SERVICES PROVIDED BY THE GOODS AND SERVICES TAX NETWORK TO THE CENTRAL GOVERNMENT OR STATE GOVERNMENTS OR UNION TERRITORIES FOR IMPLEMENTATION OF GOODS AND SERVICES TAX.

16. Leasing services

ENTRY 41

ONE TIME UPFRONT AMOUNT (CALLED AS PREMIUM, SALAMI, COST, PRICE, DEVELOPMENT CHARGES OR BY ANY OTHER NAME) LEVYABLE IN RESPECT OF THE SERVICE, BY WAY OF GRANTING LONG TERM (THIRTY YEARS, OR MORE) LEASE OF INDUSTRIAL PLOTS, PROVIDED BY THE STATE GOVERNMENT INDUSTRIAL DEVELOPMENT CORPORATIONS OR UNDERTAKINGS TO INDUSTRIAL UNITS. W.E.F.20TH SEPTEMBER 2018:

"EXPLANATION.—FOR THE PURPOSE OF THIS EXEMPTION, THE CENTRAL GOVERNMENT, STATE GOVERNMENT OR UNION TERRITORY SHALL HAVE 50 PER CENT. OR MORE OWNERSHIP IN THE ENTITY DIRECTLY OR THROUGH AN ENTITY WHICH IS WHOLLY OWNED BY THE CENTRAL GOVERNMENT, STATE

GOVERNMENT OR UNION TERRITORY.” [NOTIFICATION NO. 23/2018-CENTRAL TAX (RATE)].

ENTRY 43

SERVICES OF LEASING OF ASSETS (ROLLING STOCK ASSETS INCLUDING WAGONS, COACHES, LOCOS) BY THE INDIAN RAILWAYS FINANCE CORPORATION TO INDIAN RAILWAYS.

17. Legal services

ENTRY 45

SERVICES PROVIDED BY—

(A) AN ARBITRAL TRIBUNAL TO—

(I) ANY PERSON OTHER THAN A BUSINESS ENTITY; OR

(II) A BUSINESS ENTITY WITH AN AGGREGATE TURNOVER UPTO `20 LAKH (`10 LAKH IN THE CASE OF SPECIAL CATEGORY STATES) IN THE PRECEDING FINANCIAL YEAR;

(III) W.E.F. 25.1.2018, THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY, LOCAL AUTHORITY, GOVERNMENTAL AUTHORITY OR GOVERNMENT ENTITY;

(B) A PARTNERSHIP FIRM OF ADVOCATES OR AN INDIVIDUAL AS AN ADVOCATE OTHER THAN A SENIOR ADVOCATE, BY WAY OF LEGAL SERVICES TO—

(I) AN ADVOCATE OR PARTNERSHIP FIRM OF ADVOCATES PROVIDING LEGAL SERVICES;

(II) ANY PERSON OTHER THAN A BUSINESS ENTITY; OR

(III) A BUSINESS ENTITY WITH AN AGGREGATE TURNOVER UPTO `20 LAKH (`10 LAKH IN THE CASE OF SPECIAL CATEGORY STATES) IN THE PRECEDING FINANCIAL YEAR;

(IV) W.E.F. 25.1.2018, THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY, LOCAL AUTHORITY, GOVERNMENTAL AUTHORITY OR GOVERNMENT ENTITY;

(C) A SENIOR ADVOCATE BY WAY OF LEGAL SERVICES TO—

(I) ANY PERSON OTHER THAN A BUSINESS ENTITY; OR

**(II) A BUSINESS ENTITY WITH AN AGGREGATE TURNOVER UPTO `20 LAKH
(`10 LAKH IN THE CASE OF SPECIAL CATEGORY STATES) IN THE
PRECEDING FINANCIAL YEAR OR**

**(III) W.E.F. 25.1.2018, THE CENTRAL GOVERNMENT, STATE GOVERNMENT,
UNION TERRITORY, LOCAL AUTHORITY, GOVERNMENTAL AUTHORITY OR
GOVERNMENT ENTITY.**

**W.E.F. 1-10-2019: AGGREGATE TURNOVER OF UP TO “SUCH AMOUNT IN THE
PRECEDING FINANCIAL YEAR AS MAKES IT ELIGIBLE FOR EXEMPTION
FROM REGISTRATION UNDER THE CENTRAL GOODS AND SERVICES TAX
ACT, 2017 (12 OF 2017)” IS EXEMPT.**

**EARLIER THE TURNOVER WAS SPECIFIED AS “TWENTY LAKH RUPEES
(TEN LAKH RUPEES IN CASE OF A SPECIAL CATEGORY STATE) IN THE
PRECEDING FINANCIAL YEAR” WHICH HAS NOW BEEN RATIONALISED.**

Service Provider	Service Receiver	Taxable	Comments
Arbitral Tribunal	Any person Or Business entity with a turnover up to ` 20 lakhs (` 10 lakhs in case of special category states) in the P.Y.	NO	All types of legal services are exempted.
Arbitral Tribunal	Business entity with a turnover > ` 20 lakhs (> ` 10 lakhs in case of special category states) in the P.Y.	Yes. Business entity is liable to pay GST under reverse charge	All types of legal services like Advisory, consultancy, representational services before any court, tribunal or authority are taxable
Individual Advocate or Firm of Advocates (Other than a senior advocate), by way of legal services	An Advocate or Firm of Advocates or Other than a business entity Or Business entity with a turnover up to ` 20 lakhs (` 10 lakhs in the case of special category states) in the P.Y	No	All type of legal services like Advisory, consultancy, representational services before any Court, Tribunal or Authority are exempted
Individual Advocate or Firm of Advocates	Business entity (includes sole proprietors firm) with a turnover > ` 20 lakhs (> ` 10 lakhs in case of special category states) in	Yes. Business entity is liable to pay GST under Reverse Charge	All types of legal services like Advisory, consultancy, representational services before any Court, Tribunal or

	the P.Y.		Authority are Taxable
Senior advocate by way of legal services	Other than a business entity Or Business entity with a turnover up to ` 20 lakhs (` 10 lakhs in the case of special category states) in the P.Y	No	All types of legal services like Advisory, consultancy, representational services before any court, tribunal or authority are exempted
Senior advocate by way of legal services	Business entity (includes sole proprietors firm) with a turnover > ` 20 lakhs (> ` 10 lakhs in case of special category states) in the P.Y.	Yes. Business entity is liable to pay GST under Reverse Charge	All types of legal services like Advisory, consultancy, representational services before any Court, Tribunal or Authority are Taxable

Service provider	Recipient of service	Taxability	Who Is liable to pay GST
Arbitral Tribunal	Business entity P.Y.	TAXABLE SUPPLY	Recipient is liable to pay GST
Advocates	Turnover > ` 20 lakhs (> ` 10 lakhs in case of special category States)		
Senior Advocates			

Notification 2/2018-Central Tax (Rate) dated 25.1.2018 issued. w.e.f. 25.1.2018, Legal services provided to Government, Local Authority, Governmental Authority and Government Entity exempted.

- Services provided by a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity, EXEMPT;
- Services provided by a senior advocate, by way of legal services to the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity, EXEMPT;

18. Sponsorship of sports events

ENTRY 53**SERVICES BY WAY OF SPONSORSHIP OF SPORTING EVENTS ORGANISED—**

- (A) BY A NATIONAL SPORTS FEDERATION, OR ITS AFFILIATED FEDERATIONS, WHERE THE PARTICIPATING TEAMS OR INDIVIDUALS REPRESENT ANY DISTRICT, STATE, ZONE OR COUNTRY;**
- (B) BY ASSOCIATION OF INDIAN UNIVERSITIES, INTER-UNIVERSITY SPORTS BOARD, SCHOOL GAMES FEDERATION OF INDIA, ALL INDIA SPORTS COUNCIL FOR THE DEAF, PARALYMPIC COMMITTEE OF INDIA OR SPECIAL OLYMPICS BHARAT;**
- (C) BY THE CENTRAL CIVIL SERVICES CULTURAL AND SPORTS BOARD;**
- (D) AS PART OF NATIONAL GAMES, BY THE INDIAN OLYMPIC ASSOCIATION; OR**
- (E) UNDER THE PANCHAYAT YUVA KREEDA AUR KHEL ABHIYAAN SCHEME.**

19. Skill Development services

ENTRY 69**ANY SERVICES PROVIDED BY,—**

- (A) THE NATIONAL SKILL DEVELOPMENT CORPORATION SET UP BY THE GOVERNMENT OF INDIA;**
- (B) A SECTOR SKILL COUNCIL APPROVED BY THE NATIONAL SKILL DEVELOPMENT CORPORATION;**
- (C) AN ASSESSMENT AGENCY APPROVED BY THE SECTOR SKILL COUNCIL OR THE NATIONAL SKILL DEVELOPMENT CORPORATION;**
- (D) A TRAINING PARTNER APPROVED BY THE NATIONAL SKILL DEVELOPMENT CORPORATION OR THE SECTOR SKILL COUNCIL, IN RELATION TO—**
 - (I) THE NATIONAL SKILL DEVELOPMENT PROGRAMME IMPLEMENTED BY THE NATIONAL SKILL DEVELOPMENT CORPORATION; OR**
 - (II) A VOCATIONAL SKILL DEVELOPMENT COURSE UNDER THE NATIONAL SKILL CERTIFICATION AND MONETARY REWARD SCHEME; OR**
 - (III) ANY OTHER SCHEME IMPLEMENTED BY THE NATIONAL SKILL DEVELOPMENT CORPORATION.**

ENTRY 70
**SERVICES OF ASSESSING BODIES EMPANELLED CENTRALLY BY THE
 DIRECTORATE GENERAL OF TRAINING, MINISTRY OF SKILL
 DEVELOPMENT AND ENTREPRENEURSHIP BY WAY OF ASSESSMENTS
 UNDER THE SKILL DEVELOPMENT INITIATIVE SCHEME.**

ENTRY 71
**SERVICES PROVIDED BY TRAINING PROVIDERS (PROJECT
 IMPLEMENTATION AGENCIES) UNDER DEEN DAYAL UPADHYAYA
 GRAMEEN KAUSHALYA YOJANA IMPLEMENTED BY THE MINISTRY OF
 RURAL DEVELOPMENT, GOVERNMENT OF INDIA BY WAY OF OFFERING
 SKILL OR VOCATIONAL TRAINING COURSES CERTIFIED BY THE
 NATIONAL COUNCIL FOR VOCATIONAL TRAINING.**

Exemption to certain training providers

Services provided by training providers (Project implementation agencies) under DeenDayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by National Council For Vocational Training. The exemption is provided subject to the following conditions:

- a) Project implementing agency under DeenDayal Upadhyaya Grameen Kaushalya Yojana under Ministry of Rural Development
- b) The services shall be in the nature of skill or vocational training courses certified by National Council for Vocational Training The service provider may be Government Agency or any private agency but he should provide the services as mentioned above.

20. Performance by an artist

ENTRY 78
**SERVICES BY AN ARTIST BY WAY OF A PERFORMANCE IN FOLK OR
 CLASSICAL ART FORMS OF—**

(A) MUSIC, OR (B) DANCE, OR (C) THEATRE,

**IF THE CONSIDERATION CHARGED FOR SUCH PERFORMANCE IS NOT
 MORE THAN `1,50,000:**

PROVIDED THAT THE EXEMPTION SHALL NOT APPLY TO SERVICE PROVIDED BY SUCH ARTIST AS A BRAND AMBASSADOR.

21. Right to admission to various events

ENTRY 79

SERVICES BY WAY OF ADMISSION TO A MUSEUM, NATIONAL PARK, WILDLIFE SANCTUARY, TIGER RESERVE OR ZOO.

ENTRY 79A

SERVICES BY WAY OF ADMISSION TO A PROTECTED MONUMENT SO DECLARED UNDER THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS ACT 1958 (24 OF 1958) OR ANY OF THE STATE ACTS, FOR THE TIME BEING IN FORCE IS EXEMPT FROM GST. [NOTIFICATION NO.47/2017- CENTRAL TAX (RATE) DATED 14TH NOVEMBER 2017]

ENTRY 81

SERVICES BY WAY OF RIGHT TO ADMISSION TO—

- (A) CIRCUS, DANCE, OR THEATRICAL PERFORMANCE INCLUDING DRAMA OR BALLET;**
- (B) AWARD FUNCTION, CONCERT, PAGEANT, MUSICAL PERFORMANCE OR ANY SPORTING EVENT OTHER THAN A RECOGNISED SPORTING EVENT;**
- (C) RECOGNISED SPORTING EVENT,**
- (D) W.E.F. 25.1.2018, PLANETARIUM,**

WHERE THE CONSIDERATION FOR RIGHT TO ADMISSION TO THE EVENTS OR PLACES AS REFERRED TO IN ITEMS (A), (B), (C) OR (D) ABOVE IS NOT MORE THAN `500 PER PERSON.”

PRIOR TO 25.1.2018, WHERE THE CONSIDERATION FOR ADMISSION IS NOT MORE THAN `250 PER PERSON AS REFERRED TO IN (A), (B) AND (C) ABOVE.

22. Services by an unincorporated body or a non-profit entity

ENTRY 77

SERVICE BY AN UNINCORPORATED BODY OR A NON- PROFIT ENTITY REGISTERED UNDER ANY LAW FOR THE TIME BEING IN FORCE, TO ITS OWN MEMBERS BY WAY OF REIMBURSEMENT OF CHARGES OR SHARE OF CONTRIBUTION—

(A) AS A TRADE UNION;

(B) FOR THE PROVISION OF CARRYING OUT ANY ACTIVITY WHICH IS EXEMPT FROM THE LEVY OF GOODS AND SERVICE TAX; OR

(C) W.E.F. 25.1.2018, UPTO AN AMOUNT OF `7,500 PER MONTH PER MEMBER (PRIOR TO 25.1.2018 IT WAS `5,000 PER MONTH PER MEMBER) FOR SOURCING OF GOODS OR SERVICES FROM A THIRD PERSON FOR THE COMMON USE OF ITS MEMBERS IN A HOUSING SOCIETY OR A RESIDENTIAL COMPLEX.

ENTRY 77A
SERVICES PROVIDED BY AN UNINCORPORATED BODY OR A NON-PROFIT ENTITY REGISTERED UNDER ANY LAW FOR THE TIME BEING IN FORCE, ENGAGED IN,—

(I) ACTIVITIES RELATING TO THE WELFARE OF INDUSTRIAL OR AGRICULTURAL LABOUR OR FARMERS; OR

(II) PROMOTION OF TRADE, COMMERCE, INDUSTRY, AGRICULTURE, ART, SCIENCE, LITERATURE, CULTURE, SPORTS, EDUCATION, SOCIAL WELFARE, CHARITABLE ACTIVITIES AND PROTECTION OF ENVIRONMENT,

TO ITS OWN MEMBERS AGAINST CONSIDERATION IN THE FORM OF MEMBERSHIP FEE UPTO AN AMOUNT OF ONE THOUSAND RUPEES (`1000/-) PER MEMBER PER YEAR.

(NOTIFICATION NO. 14/2018-CENTRAL TAX (RATE) DATED 26TH JULY 2018)

23. Other exempt services

ENTRY 2
SERVICES BY WAY OF TRANSFER OF A GOING CONCERN, AS A WHOLE OR AN INDEPENDENT PART THEREOF.

Services by way of transfer of a going concern, as a whole or an independent part thereof, are exempt from Goods and Services Tax. Therefore, no GST on such sale of business.

ENTRY 9A

SERVICES PROVIDED BY AND TO FÉDÉRATION INTERNATIONALE DE FOOTBALL ASSOCIATION (FIFA) AND ITS SUBSIDIARIES DIRECTLY OR INDIRECTLY RELATED TO ANY OF THE EVENTS UNDER FIFA U-17 WORLD CUP 2017 TO BE HOSTED IN INDIA HAVE BEEN EXEMPTED FROM GST.

PROVIDED THAT DIRECTOR (SPORTS), MINISTRY OF YOUTH AFFAIRS AND SPORTS CERTIFIES THAT THE SERVICES ARE DIRECTLY OR INDIRECTLY RELATED TO ANY OF THE EVENTS UNDER FIFA U-17 WORLD CUP 2017.”;

ENTRY 9AA

SERVICES PROVIDED BY AND TO FEDERATION INTERNATIONALE DE FOOTBALL ASSOCIATION (FIFA) AND ITS SUBSIDIARIES DIRECTLY OR INDIRECTLY RELATED TO ANY OF THE EVENT UNDER FIFA U-17 WOMEN'S WORLD CUP 2020 TO BE HOSTED IN INDIA IS EXEMPTED FROM GST.

PROVIDED THAT DIRECTOR (SPORTS), MINISTRY OF YOUTH AFFAIRS AND SPORTS CERTIFIES THAT THE SERVICES ARE DIRECTLY OR INDIRECTLY RELATED TO ANY OF THE EVENTS UNDER FIFA U-17 WORLD CUP 2020.

ENTRY 9B

SUPPLY OF SERVICES ASSOCIATED WITH TRANSIT CARGO TO NEPAL AND BHUTAN (LANDLOCKED COUNTRIES) HAVE BEEN EXEMPTED FROM GST.

The government of India has removed the goods and services tax on services provided by Indian service providers for transit cargo such as

- transportation,
- insurance,
- shipment,
- container freight station and
- cargo handling charges, among others considering these services provided by the Indian service providers as ‘service export’.

ENTRY 11B

SERVICE PROVIDED BY FAIR PRICE SHOPS TO STATE GOVERNMENTS OR UNION TERRITORIES BY WAY OF SALE OF KEROSENE, SUGAR, EDIBLE OIL, ETC. UNDER PUBLIC DISTRIBUTION SYSTEM (PDS) AGAINST CONSIDERATION IN THE FORM OF COMMISSION OR MARGIN.

NOTIFICATION NO. 21/2017-CENTRAL TAX (RATE), DATED 22ND AUG. 2017.

W.E.F. 15TH NOVEMBER 2017 ENTRY NO. 11B OMITTED.

ENTRY 12

SERVICES BY WAY OF RENTING OF RESIDENTIAL DWELLING FOR USE AS RESIDENCE.

The following are taxable supplies:

- Residential house taken on rent for commercial purposes
- House is given on rent and the same is used as a hotel or a lodge
- Rooms in a hotel or a lodge are let out where tariff per day per room ` 1000 or more.

ENTRY 14

SERVICES BY A HOTEL, INN, GUEST HOUSE, CLUB OR CAMPSITE, BY WHATEVER NAME CALLED, FOR RESIDENTIAL OR LODGING PURPOSES, HAVING DECLARED TARIFF VALUE OF SUPPLY OF A UNIT OF ACCOMMODATION BELOW `1,000 PER DAY OR EQUIVALENT.

ENTRY 19

SERVICES BY WAY OF TRANSPORTATION OF GOODS BY AN AIRCRAFT FROM A PLACE OUTSIDE INDIA UPTO THE CUSTOMS STATION OF CLEARANCE IN INDIA

S.N o.	Transportation of goods by Air	Taxable supply	GST Rate	Remarks
1	Within India	YES	18%	Exemption not granted
2	From India to outside India	NO	NIL	Destination of goods outside India
3	From outside India into India	NO	NIL	Covered under Entry no. 19 of exemption list

ENTRY 19A

SERVICES BY WAY OF TRANSPORTATION OF GOODS BY AN AIRCRAFT FROM CUSTOMS STATION OF CLEARANCE IN INDIA TO A PLACE OUTSIDE INDIA. THIS EXEMPTION GRANTED ONLY TILL 30TH SEPTEMBER 2018. NOW EXTENDED UPTO 30TH SEPTEMBER 2019. W.E.F. 1-10-2019 THIS EXEMPTION FURTHER EXTENDED UPTO SEPTEMBER 2020

ENTRY 19B

SERVICES BY WAY OF TRANSPORTATION OF GOODS BY A VESSEL FROM CUSTOMS STATION OF CLEARANCE IN INDIA TO A PLACE OUTSIDE INDIA.

THIS EXEMPTION GRANTED ONLY TILL 30TH SEPTEMBER 2018 NOW EXTENDED UPTO 30TH SEPTEMBER 2019. W.E.F. 1-10-2019 THIS EXEMPTION FURTHER EXTENDED UPTO SEPTEMBER 2020

ENTRY 22

SERVICES BY WAY OF GIVING ON HIRE:—

- (A) TO A STATE TRANSPORT UNDERTAKING, A MOTOR VEHICLE MEANT TO CARRY MORE THAN TWELVE PASSENGERS; OR**
- (B) TO A GOODS TRANSPORT AGENCY, A MEANS OF TRANSPORTATION OF GOODS. W.E.F. 25.1.2018,**
- (C) MOTOR VEHICLE FOR TRANSPORT OF STUDENTS, FACULTY AND STAFF, TO A PERSON PROVIDING SERVICES OF TRANSPORTATION OF STUDENTS, FACULTY AND STAFF TO AN EDUCATIONAL INSTITUTION PROVIDING SERVICES BY WAY OF PRESCHOOL EDUCATION AND EDUCATION UPTO HIGHER SECONDARY SCHOOL OR EQUIVALENT.**

ENTRY 23

SERVICE BY WAY OF ACCESS TO A ROAD OR A BRIDGE ON PAYMENT OF TOLL CHARGES.

ENTRY 23A

SERVICE BY WAY OF ACCESS TO A ROAD OR A BRIDGE ON PAYMENT OF ANNUITY IS ALSO EXEMPT FROM GST (NOTIFICATION NO. 32/2017-CENTRAL TAX (RATE), DATED 13.10.2017)

ENTRY 24B

SERVICES PROVIDED BY WAY OF STORAGE OR WAREHOUSING OF CEREALS, PULSES, FRUITS, NUTS AND VEGETABLES, SPICES, COPRA, SUGARCANE, JAGGERY, RAW VEGETABLE FIBRES, JUTE ETC. INDIGO, UNMANUFACTURED TOBACCO, BETEL LEAVES, TENDU LEAVES, COFFEE AND TEA EXEMPTED FROM GST.

ENTRY 25

TRANSMISSION OR DISTRIBUTION OF ELECTRICITY BY AN ELECTRICITY TRANSMISSION OR DISTRIBUTION UTILITY.

Services provided by

- The Central Electricity Authority
- A State Electricity Board
- A State Transmission Utility
- A Transmission licensee or distribution licensee under the Electricity Act, are exempted from GST.

Note:

Charges collected by a developer or a housing society for distribution of electricity within a residential complex installation of gensets attract the GST.

ENTRY 42

SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY BY WAY OF ALLOWING A BUSINESS ENTITY TO OPERATE AS A TELECOM SERVICE PROVIDER OR USE RADIO FREQUENCY SPECTRUM DURING THE PERIOD PRIOR TO THE 1ST APRIL, 2016, ON PAYMENT OF LICENCE FEE OR SPECTRUM USER CHARGES, AS THE CASE MAY BE

ENTRY 44

SERVICES PROVIDED BY AN INCUBATEE UPTO A TOTAL TURNOVER OF `50 LAKH IN A FINANCIAL YEAR SUBJECT TO THE FOLLOWING CONDITIONS, NAMELY:—

- (A) THE TOTAL TURNOVER HAD NOT EXCEEDED FIFTY LAKH RUPEES DURING THE PRECEDING FINANCIAL YEAR; AND**
- (B) A PERIOD OF THREE YEARS HAS NOT ELAPSED FROM THE DATE OF ENTERING INTO AN AGREEMENT AS AN INCUBATEE.**

“INCUBATEE” means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products.

ENTRY 48

TAXABLE SERVICES, PROVIDED OR TO BE PROVIDED, BY A TECHNOLOGY BUSINESS INCUBATOR OR A SCIENCE AND TECHNOLOGY ENTREPRENEURSHIP PARK RECOGNISED BY THE NATIONAL SCIENCE AND TECHNOLOGY ENTREPRENEURSHIP DEVELOPMENT BOARD OF THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, GOVERNMENT OF INDIA OR BIOINCUBATORS RECOGNISED BY THE BIOTECHNOLOGY INDUSTRY RESEARCH ASSISTANCE COUNCIL, UNDER THE DEPARTMENT OF BIOTECHNOLOGY, GOVERNMENT OF INDIA.

A “business incubator” is a company that helps new and startup companies to develop by providing services such as management training or office space or equipment’s or some time monitory assistance and capital. Taxable services, provided or to be provided, by

- a Technology Business Incubator or
- a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or
- bio incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India. are exempted from GST.

ENTRY 49

SERVICES BY WAY OF COLLECTING OR PROVIDING NEWS BY AN INDEPENDENT JOURNALIST, PRESS TRUST OF INDIA OR UNITED NEWS OF INDIA.

ENTRY 50

SERVICES OF PUBLIC LIBRARIES BY WAY OF LENDING OF BOOKS, PUBLICATIONS OR ANY OTHER KNOWLEDGE-ENHANCING CONTENT OR MATERIAL.

ENTRY 52

SERVICES BY AN ORGANISER TO ANY PERSON IN RESPECT OF A BUSINESS EXHIBITION HELD OUTSIDE INDIA

ENTRY 56

SERVICES BY WAY OF SLAUGHTERING OF ANIMALS

ENTRY 57

SERVICES BY WAY OF PRE-CONDITIONING, PRECOOLING, RIPENING, WAXING, RETAIL PACKING, LABELLING OF FRUITS AND VEGETABLES WHICH DO NOT CHANGE OR ALTER THE ESSENTIAL CHARACTERISTICS OF THE SAID FRUITS OR VEGETABLES.

ENTRY 58

SERVICES PROVIDED BY THE NATIONAL CENTRE FOR COLD CHAIN DEVELOPMENT UNDER THE MINISTRY OF AGRICULTURE, COOPERATION AND FARMER'S WELFARE BY WAY OF COLD CHAIN KNOWLEDGE DISSEMINATION.

ENTRY 59
SERVICES BY A FOREIGN DIPLOMATIC MISSION LOCATED IN INDIA

ENTRY 64
SERVICES PROVIDED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY BY WAY OF ASSIGNMENT OF RIGHT TO USE ANY NATURAL RESOURCE WHERE SUCH RIGHT TO USE WAS ASSIGNED BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY BEFORE THE 1ST APRIL 2016:

PROVIDED THAT THE EXEMPTION SHALL APPLY ONLY TO TAX PAYABLE ON ONE TIME CHARGE PAYABLE, IN FULL UPFRONT OR IN INSTALMENTS, FOR ASSIGNMENT OF RIGHT TO USE SUCH NATURAL RESOURCE.

ENTRY 65A
SERVICES BY WAY OF PROVIDING INFORMATION UNDER THE RIGHT TO INFORMATION ACT, 2005 – EXEMPT

ENTRY 67

~~Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: (a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management; (b) fellow programme in Management; (c) five year integrated programme in Management. Entry No. 67 Omitted w.e.f. 1-1-2019 (vide CBIC Circular No. 82/01/2019-GST, dated 1-1-2019):~~

1-7-2017 to 30-1-2018	HM's exempted from Entry No. 67 of Notification No. 12/2017 C.T.	HMs were not covered by the definition of educational institutions as given in notification No. 12/2017 Central Tax (Rate), dated 28.06.2017. Thus, they were not entitled to exemption under Sl. No. 66 of the said notification
31-1-2018 to 31-12-2018	Two exemptions, i.e. under Sl. No. 66 and under Sl. No. 67 of notification No. 12/2017 Central Tax (Rate), dated 28.06.2017 are available to the HMs.	As per Hon'ble Supreme Court of India, if there are more exemption notifications available to an assessee, the assessee can claim the one that is more beneficial to him

~~It is further, clarified that with effect from 31st January 2018, all IIMs have become eligible for exemption benefit under Sl. No. 66 of notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017. As such, specific exemption granted to IIMs vide Sl. No. 67 has become redundant. The same has been deleted vide notification No. 28/2018- Central Tax (Rate) dated, 31st December 2018 w.e.f. 1st January 2019.~~

~~Indian Institutes of Managements also provide various short duration/ short term programs for which they award participation certificate to the executives/ professionals as they are considered as “participants” of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of Indian Institutes of Management. Services provided by IIMs as an educational institution to such participants is not exempt from GST.~~

ENTRY 68

SERVICES PROVIDED TO A RECOGNISED SPORTS BODY BY—

(A) AN INDIVIDUAL AS A PLAYER, REFEREE, UMPIRE, COACH OR TEAM MANAGER FOR PARTICIPATION IN A SPORTING EVENT ORGANISED BY A RECOGNIZED SPORTS BODY;

(B) ANOTHER RECOGNISED SPORTS BODY.

Recognised sports body means,

- (i) The Indian Olympic Association
- (ii) Sports Authority of India.
- (iii) A national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliated federations.
- (iv) National sports promotion organizations recognised by the Ministry of Sports and Youth Affairs of the Central Government.
- (v) The International Olympic Association or a federation recognised by the International Olympic Association
- (vi) A federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India.

ENTRY 72

SERVICES PROVIDED TO THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY ADMINISTRATION UNDER ANY TRAINING PROGRAMME FOR WHICH TOTAL EXPENDITURE IS BORNE BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY ADMINISTRATION.

ENTRY 74A

NOTIFICATION NO. 28/2018-CT (R), DATED 31ST DECEMBER 2018: SERVICES PROVIDED BY REHABILITATION PROFESSIONALS RECOGNIZED UNDER THE REHABILITATION COUNCIL OF INDIA ACT, 1992 (34 OF 1992) BY WAY OF REHABILITATION, THERAPY OR COUNSELLING AND SUCH OTHER ACTIVITY AS COVERED BY THE SAID ACT AT MEDICAL ESTABLISHMENTS, EDUCATIONAL INSTITUTIONS, REHABILITATION CENTERS ESTABLISHED BY CENTRAL GOVERNMENT, STATE GOVERNMENT OR UNION TERRITORY OR AN ENTITY REGISTERED UNDER SECTION 12AA OF THE INCOME TAX ACT, 1961 (43 OF 1961).

Circular No. 32/06/2018-GST, dated 12th February 2018:

- (1) Services provided by senior doctors/consultants/technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.
- (2) Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India [para 2(zg) of notification No. 12/2017-CT(Rate)].
- (3) Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.
- (4) Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients not admitted) or their attendants or visitors are taxable.

Authorised Medical Practitioners (i.e. Doctors) are liable to pay GST?

In general Doctors are exempted from GST.

However, they are liable to pay GST in the following cases:

- (a) Supplied services in case of care but not cure (like hair transplant or cosmetic or plastic surgery and so on).
- (b) In case of RCM (where recipient is liable to pay GST).
- (c) Supplied exempted as well as taxable supply of goods or services or both aggregate value exceeds ₹20 lakhs (in case of special category States ₹10 lakhs).

Hence, Doctors are liable to pay GST on taxable supply.

ENTRY 75

SERVICES PROVIDED BY OPERATORS OF THE COMMON BIO-MEDICAL WASTE TREATMENT FACILITY TO A CLINICAL ESTABLISHMENT BY WAY OF TREATMENT OR DISPOSAL OF BIO-MEDICAL WASTE OR THE PROCESSES INCIDENTAL THERETO.

ENTRY 76

SERVICES BY WAY OF PUBLIC CONVENIENCES SUCH AS PROVISION OF FACILITIES OF BATHROOM, WASHROOMS, LAVATORIES, URINAL OR TOILETS

ENTRY 82

SERVICES BY WAY OF RIGHT TO ADMISSION TO THE EVENTS ORGANISED UNDER FIFA U-17 WORLD CUP 2017 HAVE BEEN EXEMPTED FROM CGST [NOTIFICATION NO. 25/2017 CT (R) DATED 21.09.2017].

ENTRY 82A

SERVICES BY WAY RIGHT TO ADMISSION TO THE EVENTS ORGANISED UNDER FIFA U-17 WOMEN'S WORLD CUP 2020 EXEMPTED FROM GST.

EXEMPTED SERVICES UNDER IGST.

ENTRY 1

SERVICES RECEIVED FROM A PROVIDER OF SERVICE LOCATED IN A NON-TAXABLE TERRITORY BY – (A) THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY, A LOCAL AUTHORITY, A GOVERNMENTAL AUTHORITY OR AN INDIVIDUAL IN RELATION TO ANY PURPOSE OTHER THAN COMMERCE, INDUSTRY OR ANY OTHER BUSINESS OR PROFESSION; (B) AN ENTITY REGISTERED UNDER SECTION 12AA OF THE INCOME-TAX ACT, 1961 (43 OF 1961) FOR THE PURPOSES OF PROVIDING CHARITABLE ACTIVITIES; OR (C) A PERSON LOCATED IN A NON-TAXABLE TERRITORY: PROVIDED THAT THE EXEMPTION SHALL NOT APPLY TO – (I) ONLINE INFORMATION AND DATABASE ACCESS OR RETRIEVAL SERVICES RECEIVED BY PERSONS SPECIFIED IN ENTRY (A) OR ENTRY (B); OR (II) SERVICES BY WAY OF TRANSPORTATION OF GOODS BY A VESSEL FROM A PLACE OUTSIDE INDIA UP TO THE CUSTOMS STATION OF CLEARANCE IN INDIA RECEIVED BY PERSONS SPECIFIED IN THE ENTRY. IT MEANS ITEM NO. (I) AND (II) ARE TAXABLE.

ENTRY 2

SERVICES RECEIVED BY THE RESERVE BANK OF INDIA, FROM OUTSIDE INDIA IN RELATION TO MANAGEMENT OF FOREIGN EXCHANGE RESERVES.

ENTRY 3

SERVICES PROVIDED BY A TOUR OPERATOR TO A FOREIGN TOURIST IN RELATION TO A TOUR CONDUCTED WHOLLY OUTSIDE INDIA.

ENTRY 4

W.E.F. 1-10-2019, NOTIFICATION NO. 20/2019- (IT RATE) DATED SEPTEMBER 30, 2019: SO AS TO EXEMPT “SERVICES PROVIDED BY AN INTERMEDIARY WHEN LOCATION OF BOTH SUPPLIER AND RECIPIENT OF GOODS IS OUTSIDE THE TAXABLE TERRITORY”.

OTHER EXEMPTIONS**SERVICES IMPORTED BY UNIT/DEVELOPER IN SEZ EXEMPT FROM IGST.**

All services imported by a unit/developer in the Special Economic Zone (SEZ) for authorized operations are exempted from the whole of the integrated tax leviable thereon under sec 3(7) of Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017 [As per Notification No. 18/2017 -Integrated Tax (Rate) date 5th July 2017].

LEVY and COLLECTION: Part 6

INTRODUCTION	Generally, the supplier of goods or services is liable to pay GST. However, in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism.																										
REVERSE CHARGE	Reverse charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.																										
TYPES OF REVERSE CHARGE	<pre> graph TD A([Person liable to pay GST]) --> B[Supplier (Forward Charge)] A --> C[Recipient (Reverse Charge)] B --> D[Sec. 9(3) of CGST/Sec. 5(3) of IGST: Govt. will decide who is liable to pay GST under Reverse Charge] C --> E[Sec. 9(4) of CGST/Sec. 5(4) of IGST: Taxable suppliers by any unregistered person to a registered person.] </pre>																										
GOODS UNDER REVERSE CHARGE	<table border="1"> <thead> <tr> <th>S.No .</th> <th>Description of supply of goods</th> <th>Supplier of goods</th> <th>R</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Cashew nuts not shelled or peeled.</td> <td rowspan="4">Agriculturist</td> <td rowspan="4">A of</td> </tr> <tr> <td>2.</td> <td>Bidi wrapper leaves (tendu)</td> </tr> <tr> <td>3.</td> <td>Tobacco leaves</td> </tr> <tr> <td>4.</td> <td>Raw Cotton</td> </tr> <tr> <td>5.</td> <td>Priority Sector Lending Certificate</td> <td>Any Registered Person</td> <td>A</td> </tr> <tr> <td>6.</td> <td>Silk yarn</td> <td>Any person who manufactures silk yarn from raw silk or silkwo cocoons for supply of silk yarn.</td> <td>A of</td> </tr> <tr> <td>7.</td> <td>Used vehicles, seized and confiscated goods, old and used</td> <td>Central Government, State Government, Union territory or a</td> <td>A of</td> </tr> </tbody> </table>	S.No .	Description of supply of goods	Supplier of goods	R	1.	Cashew nuts not shelled or peeled.	Agriculturist	A of	2.	Bidi wrapper leaves (tendu)	3.	Tobacco leaves	4.	Raw Cotton	5.	Priority Sector Lending Certificate	Any Registered Person	A	6.	Silk yarn	Any person who manufactures silk yarn from raw silk or silkwo cocoons for supply of silk yarn.	A of	7.	Used vehicles, seized and confiscated goods, old and used	Central Government, State Government, Union territory or a	A of
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		goods, waste and scrap.	local authority.		
8.	Supply of lottery		State Government, Territory or any local authority	Union	Li

SERVICES UNDER REVERSE CHARGE

S. No	Description of supply of service	Supplier of service	Recipient of service	Person liable to pay GST
1.	GTA Services w.e.f. 1st January 2019, Services provided by GTA to Government departments/local authorities exempted which have taken registration only for the purpose of deducting tax under Section 51 not liable under RCM (N. No. 29/2018-CT(R), dated 31st December 2018).	Goods Transport Agency (GTA) Any	Any factory, society, cooperative society, registered person, body corporate, partnership firm, casual taxable person; located in the taxable territory	Recipient.
2.	Legal Services by advocate	An individual advocate, including a senior advocate or a firm of advocates	Any business entity located in the taxable territory	Recipient.
3.	Services supplied by an arbitral tribunal to a business entity	An arbitral tribunal	Any business entity located in the taxable territory	Recipient.
4.	Services provided by way of sponsorship to anybody corporate or partnership firm	Any person	Anybody corporate or partnership firm located in the taxable territory.	Recipient.
5.	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding: — (1) Renting of immovable property (w.e.f. 25.1.2018 RCM apply), and (2)	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory	Recipient.

	Services specified below:— (i) Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.			
5A .	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017.”;	Recipient.
5B	w.e.f. 1-4-2019, Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.	Recipient.
5C	w.e.f. 1-4-2019, Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami,	Any person	Promoter.	Recipient.

	cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter			
6.	Services supplied by a director of a company or a body corporate to the said company or the body corporate	A director of a company or a body corporate	The company or a body corporate located in the taxable territory	Recipient.
7.	Services supplied by an insurance agent to any person carrying on insurance business. w.e.f 25.1.2018, To define insurance agent in the reverse charge notification to have the same meaning as assigned to it in clause (10) of section 2 of the Insurance Act, 1938, so that corporate agents get excluded from reverse charge.	An insurance agent	Any person carrying on insurance business, located in the taxable territory	Recipient
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory	Recipient
9.	Supply of services by music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to musical or artistic works to a	Music composer, photograph her, artist, or the like	Music company, producer or the like, located in the taxable territory	Recipient

	publisher, music company, producer or the like			
9A	w.e.f.1-10-2019: Supplier of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a)of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher	Author	Publisher located in the taxable territory: Provided that nothing contained in this entry shall apply where,(i) the author has taken registration under the CGST and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the services specified (i.e. copyright by author) under forward charge in accordance with Sec 9(1) of CGST Act, 2017 and to comply with all the provisions of CGST Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option	Recipient

			within a period of ONE year from the date of exercising such option; (ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in the Form GST Inv-I to the publisher.	
10.	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient. Non-taxable online recipient means: As per Section 2(16) of the Integrated Goods and Services Tax (IGST) Act, 2017,— <ul style="list-style-type: none"> • any Government, • local authority, • governmental authority, • an individual or • any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory. 	Any person located in a nontaxable territory	Any person located in the taxable territory other than non-taxable online recipient.	Recipient
11.	Services supplied by a person located in non-taxable territory by way of transportation of	A person located in non-taxable territory	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962 (52 of	Importer

	goods by a vessel from a place outside India upto the customs station of clearance in India		1962), located in the taxable territory.	
12.	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory	
13.	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory	
14.	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to,—(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.	Any person other than a body corporate	A registered person, located in the taxable territory.”	Therefore, when Security services are provided to registered persons only then no need to take registration as per Section 23 of CGST Act, 2017. However, when supplier of security services provides services to registered as well as unregistered person then such supplier is required to take registration for supply to unregistered recipient and those under composition.
15.	w.e.f. 1-10-2019:	Any person other	Any body	Recipient

	services provided by way of renting of a motor vehicle provided to a body corporate	than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business.	corporate located in the taxable territory.	
16.	services of lending of securities under Securities Lending Scheme 1997 of Securities and Exchange Board of India (SEBI), as amended	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI.	Borrower i.e. a person who borrows the securities under the scheme through an approved intermediary of SEBI.	Recipient
17.	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India	Recipient
18.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or nonbanking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking Company or a non-banking financial company, located in the taxable territory	Recipient
19.	services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle	Driver	Any person. However, the tax on intraState or interState supplies shall be paid by the Electronic Commerce Operator (ECO)	ECO
20.	services by way of providing accommodation in hotels, inns, guest	Unregistered person Supplying services through Electronic Commerce Operator	Any person. However, the tax on intraState or interState	ECO

	<p>houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under clause (v) of section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (1) of section 22 of the said Central Goods and Services Tax Act.</p>	(ECO).	<p>supplies shall be paid by the Electronic Commerce Operator (ECO).</p>	
<p>Notified services taken from unregistered person liable to tax on reverse charge basis w.e.f 1st April, 2019 (i.e. section 9(4) of the CGST Act, 2017 or section 5(4) of IGST Act, 2017)</p>		<p>1. Supply of such goods and services or both other than services by way of grant of development rights, long term lease of land or FSI which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year.</p> <p>2. Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier)</p> <p>3. Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project</p> <p>In all 3 cases, Receiver is Promoter.</p>		
<p>Compliances in respect of supplies under reverse charge mechanism:</p>		<p>1. As per section 31 of the CGST Act, 2017 read with Rule 46 of the CGST Rules, 2017, every tax invoice has to mention whether the tax in respect of supply in the invoice is payable on reverse charge. Similarly, this also needs to be mentioned in receipt voucher as well as refund voucher, if tax is payable on reverse charge.</p> <p>2. Maintenance of accounts by registered persons: Every registered person is required to keep and maintain records of all supplies attracting payment of tax on reverse charge.</p> <p>3. Any amount payable under reverse charge shall be paid by debiting the electronic cash ledger. In other words, reverse charge liability</p>		

	<p>cannot be discharged by using input tax credit. However, after discharging reverse charge liability, credit of the same can be taken by the recipient, if he is otherwise eligible.</p> <p>4. Invoice level information in respect of all supplies attracting reverse charge, rate wise, are to be furnished separately in the table 4B of GSTR-1.</p> <p>5. Advance paid for reverse charge supplies is also leviable to GST. The person making advance payment has to pay tax on reverse charge basis.</p>
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LEVY and COLLECTION: Part 7

SUPPLY OF GOODS OR SERVICES OR BOTH TO OR BY SPECIAL ECONOMIC ZONE

SUPPLY OF GOODS OR SERVICES OR BOTH TO OR BY SPECIAL ECONOMIC ZONE	<p>As per section 2(za) of the Special Economic Zones Act, 2005, “Special Economic Zone” means each Special Economic Zone notified under the proviso to sub section (4) of section 3 and sub section (1) of section 4 (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone;</p> <p>As per section 2(g) of the Special Economic Zones Act, 2005, “Developer” means a person who, or a State Government which, has been granted by the Central Government a letter of approval under sub section (10) of section 3 and includes an Authority and a Co Developer;</p> <p>As per section 7(5) of the IGST Act, supply of goods or services or both to or by a Special Economic Zone developer or a Special Economic Zone unit, shall be treated to be a supply of goods or services or both in the course of inter-state trade or commerce.</p> <p>In case where the location of the supplier and the place of supply of goods or services are in the same state or same union territory, then the said supply of goods or services shall not be treated as intra-state supply, it will be treated as inter-state supply.</p> <p>Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit, is a “zero rated supply”. Credit of input tax may be availed for making zero-rated supplies.</p>
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LEVY and COLLECTION: Part 8

EXEMPT SUPPLY, NON TAXABLE SUPPLY AND NON GST SUPPLY

Exempt Supply	<p>As per Section 2(47) of the CGST Act, 2017, “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply.</p> <p>Exempt supplies comprise the following three types of supplies:</p> <ul style="list-style-type: none"> • Supplies taxable at a ‘NIL’ rate of tax; • Supplies that are wholly or partially exempted from CGST or IGST, by way of a notification amending Section 11 of CGST Act or Section 6 of IGST Act; • Non-taxable supplies as defined under Section 2(78) – supplies that are not taxable under the Act (For Example Alcoholic liquor for human consumption). <p>Tax need not be paid on these supplies. Input tax credit attributable to exempt supplies will not be available for utilization/setoff.</p>
Non Taxable supply	<p>As per Section 2(78) of the CGST Act, 2017, “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;</p> <p>A transaction must be a ‘supply’ as defined under the GST law to qualify as a non-taxable supply under the GST. Only those supplies that are excluded from the scope of taxation under GST are covered by this definition – i.e., alcoholic liquor for human consumption, articles listed in section 9(2) or in schedule III.</p>
Non GST Supply	<p>Goods or services on which GST is not leviable are called Non GST supply. Input tax credit of inputs and / or input services used in providing non GST supply is not available i.e. no input tax credit on non GST supplies.</p> <p>Third Country sale is an example of non-GST supply. These supplies do not come under the purview of GST law.</p>

CLASSIFICATION OF GOODS AND SERVICES UNDER GST -READING THE RATE SCHEDULE

INTRODUCTION

The term "Classification" is defined as systematic arrangement in groups or categories according to established criteria. Under the given concept, the arrangement of varied items is into mutually exclusive but related classes.

Under the Indirect Tax regimes prevalent across the Globe including India, the classification of various items which are the subject matter of tax, be it goods or services, is an essential and integral part of the whole levy and collection mechanism. It is important both from the taxpayer's perspective and tax collector's perspective to have a definite class or group under which subject matters of tax can be divided. The primary intention of classifying them is to determine whether or not the same would be encumbered by the levy of these taxes and if so, under which category the tax liability would arise.

However, the requirement of classification is not restricted only for understanding the rate of tax on a specific subject matter of tax. The various benefits of classification are as under:

1. Leviability of Tax

Classification of subject matters of tax into various classes identifies the taxable and non - taxable items for determining the scope of leviability of tax through a particular legislation.

2. Goods versus Services

After determining whether a particular subject matter is leviable to tax or not, classification principles further assist in determining if they are taxable as goods or as services. The differentiation between 'goods' and 'services' not only impacts the rate of tax, but also the time, place and value for the tax.

3. Exemptions

The Government exempts specific categories of items from levy of taxation. Exemption from tax is a policy decision of the Government which finds its base from the classification of items into specific categories which are driven by various socio-economic factors.

4. Rate of Tax

The Government is assisted by the principles of classification to identify the demerit and merit rates of various categories of items. Such categorization helps the Government to ensure that the burden of taxation is not regressive for the tax payers and also does not negatively affect the revenue collection for the Government.

5. Standardization and avoiding differentiation

Classification also helps the Government to collect data about various trades and industries in a systematic and standardized manner. Further it helps to bring on par various similar and like items sold by different industries and sizes of business to ensure uniformity.

Classification under Goods and Services Tax

Across the Globe under various GST regimes, classification as a subject is not a complex issue for the simple reason that across the Globe, most economies have a two rate GST structure. Under such structure, the two rates are Merit Rates and Demerit Rates. All the items under the ambit of GST are classified under given two rates only. The merit rate is the rate which is closer to 5% tax bracket and demerit rate is the rate which is within the bracket of 16% to 20%. Hence disputes for classification under GST are less or minimal.

Under the Indian environment, the GST is also indigenous. Hence the issues relating to classification which are not prevalent across the world are applicable in India. There are various reasons which add up to the complexity under the classification in India. One major reason for same is the multiple GST Rate structure. Today, Indian GST has 8 different types of GST Rates namely 0%, 0.25%, 1%, 3%, 5%, 12%, 18% and 28%. Since the industry structures are different and exemptions add to this complex web of multi point rate structure, a situation of arbitrage due to classification arises. Some reasons for such multiple rate structure are:

1. Principle of Equivalence and size of revenue collection

In the context of Indian economy, the size of tax collection from Direct and Indirect Taxes is an important factor for economic prosperity. In developed countries the dependence on tax revenues for Governments is only up to 18% to 22% from total collections, whereas, the benchmark of tax collection dependence in developing countries is between 52% to 54% from total revenue collections. However, in India, dependence on tax collections by Governments is significantly high and ranges from 60% to 64% from the total revenue collections.

Since tax collection contributes significantly to the government revenue, when migration to Goods and Services Tax happened from Central Excise, Service Tax and State VAT regime, there was an anxiety that tax collections should not dip from current levels under GST and ambition of collecting higher tax was obviously pivotal.

Thus the challenge of collecting steady or higher revenue bounded Government to keep the rate of tax at certain levels and it was backed by the Principle of Equivalence. According to this principle, the rate of tax under GST should be within the deviation of up to 3% (either at the higher or at the lower side) from the rate of tax which was applicable cumulatively under Central Excise, Service Tax and State VAT. The rate of taxes under the erstwhile regime was multi fold and chaotic.

Hence with a view to maintain the rate of taxes which were under the erstwhile indirect tax regime, the rates of tax under GST is multifold applicable on different classes of items (be it goods or services) differently.

2. Political Factors

The ideal GST structure in India would have been a 3 layered rate structure comprising of merit rate, demerit rate and standard rate (or mid-point rate). The merit rate would have been ideally an exemption rate whereas demerit rate would have been around 20% (which is now 28%) and mid-point rate around 12% to 15%. But since the consensus formed in Parliament was for a GST rate not greater than 18% the government could not keep items above 18% and if items were pegged to 12% (i.e. mid-point rate) then to offset the revenue deficit more items were pegged to 28% GST Rate. Due to this the rate of 28% had more than 250 items. With increase in political pressure, almost 200 items were taken out of 28% rate subsequently.

In multiple Tax Rate structure, there is always a certain amount of arbitrage created between the tax payer and the tax collector for classification of items. Example the tussle to classify items between the rates 18% or 28% shall be always on the cards. Since the Government in India as explained above, is heavily dependent on the tax collections as its source of revenue, they will always be tempted to classify items at the rate bracket of 28% and for tax payer the situation will be vice-versa. The 10% gap between the rates opens the flood gates for litigation and divergent interpretations. In fact tax rate gap of 7% between 5% and 12% rates is also significant.

Classification disputes are not new in the Indian Taxation system. According to an estimate, currently around 11200 cases are pending before the Supreme Court of India which are pure classification issues under erstwhile Central Excise, Service Tax and VAT regime. Hence India has 70 years of History in the disputes over classification of items under tax legislations.

Applicable Laws Useful For Classification under GST

The scheme of Goods and Services Tax in India is governed through following laws:

- The Central Goods and Services Tax Act, 2017
- The State Goods and Services Tax Act, 2017
- The Integrated Goods and Services Tax Act, 2017
- The Union Territory Goods and Services Tax Act, 2017
- The Goods and Services Tax (Compensation to States) Act, 2017

Under each law, the charge of tax is on supply which has been defined under Section 7. However the various Governments (Central State or UT) derive power to levy and collect taxes at specified rates under Section 9(1) of the CGST Act 2017, Section 5(1) of the IGST Act 2017 and Section 9(1) of the SGST/UTGST Act 2017.

Various Steps in Classification of Goods or Services

Since classification and its principles are of considerable importance for taxability and other allied purposes for goods and services, it is important to understand the process flow which should be followed to identify the correct classification, rate of tax and HSN Code for various items. Various provisions of law which are of assistance in this regard are as under:

1. Definition of 'Goods' and 'Services'
2. Activities listed in Schedule-II
3. Activities listed in Schedule-III
4. Identification of Composite Supplies or Mixed Supplies
5. Identification of HSN Code from the rate notification
6. Applicability of Principles of Interpretation applicable on Customs Tariff Act 1975 now made applicable vide Notification No 01/2017-CT (Rate) dated 28.06.2017.
7. Understanding the Service Code (Tariff) applicable on services in accordance with Annexure to Notification No 11/2017-CT (Rate) dated 28.06.2017.

GENERAL RULE OF INTERPRETATION

If the description read with section or Chapter notes is not enough to correctly classify the goods, then general rules of interpretation have to follow. The principles governing the appropriate classification of goods under the Tariff, as set out in the 'General Rules for Interpretation of this Schedule' to the Customs Tariff are set out below.

Rules to be applied sequentially

Classification is to be first tested on the basis of Rule 1. Only if Rule 1 does not resolve the issue, the other Rules are to be looked at sequentially.

Rule 1: Classification to be determined per the "Headings" Rule 1 states:

The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require.

As stated above, each Section is divided into Chapters. Further, each Chapter within the Sections have Chapter titles.

As per Rule 1, the Section or Chapter Titles cannot be used for classification. The use of Chapter heading alone may not provide an accurate picture of what the Chapter covers. For example the Heading of Chapter 84 refers to nuclear reactors, machinery, etc. but even a hand pump falls under Chapter 84.

According to Rule 1, one should give primacy to the Headings along with Chapter and Section Notes. The above rule lays down the following propositions:

- (a) The titles of sections, Chapters and sub-chapters do not have any legal force.
- (b) Terms of headings read with the related section and Chapter notes are relevant for the purpose of classification.

The rules of interpretation need not be resorted to when classification is possible on the basis of description in headings, sub-heading, along with the Chapter notes and section notes.

The Section Notes and Chapter Notes are part of the Act itself, and have statutory backing. Thus, no further Rule is required to be looked into, if classification is possible on the basis of the Tariff Entry read with Chapter Notes and Section Notes.

For instance, an assessee was manufacturing Aluminum foil cone containers. The assessee was classifying the same under Customs Tariff Heading (CTH) 76.16 [Other articles of aluminum], whereas the Department sought to classify the goods under CTH 48.23 [Other paper, paperboard, cellulose wadding and webs of cellulose fibers; other articles of paper pulp, paper, paper-board]. However, the Tribunal in case of *Monita Containers v. CCE* (2007) 213 ELT 262 (CESTAT) while classifying the product under CTH 76.16, held:

When the Note is specific in its excluding the said goods, they cannot be included by mere reference to the title of Chapter 48: "Paper and Paper board; Articles of Paper Pulp, of Paper or of Paper board", as was sought to be urged on behalf of the Revenue. Even the contention that the Chapter Note will not apply because Rule 3(b) of the Interpretative Rules, is misconceived, as it has been specifically provided in Rule 1 of the Rules for the interpretation of the First Schedule. Therefore, if there is no specific Chapter Note

requiring otherwise, Rule 2 onwards including Rule 3(b) of the Rules for the Interpretation cannot be invoked.

The Supreme Court in case of CCE s M/s Simplex Mills Co Ltd (2005) 181 ELT 345 (SC)(3 Member Bench) held that Rule-1 gives primacy to the Section and Chapter Notes along with terms of the headings. They should be first applied. If no clear picture emerges then only can one resort to the subsequent rules.

Rule 2(a): Classification of incomplete or un-assembled goods

Rule 2(a) of the Interpretation Rule:

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this rule), presented un-assembled or dis-assembled.

According to this Rule, if an incomplete article has the essential characteristics of the final product, then the Tariff Item covering the said final product would also cover the incomplete product, so presented. Further, the finished article would also include the article presented in an unassembled state.

For example, an assessee was manufacturing crayplas shapeless plastic crayon. The assessee was classifying the same under CETH 9609 00 which covers "pencils, crayons, pencil leads, pastels, drawing charcoals, writing or drawing chalks", whereas the Department asserted coverage under sub-heading 3204.19 relating to "pigments and preparation based thereon other than those in unformulated and unstandardized or unprepared form, not ready for use." The Supreme Court in case of Camlin Ltd. v. CCE (2003) 155 ELT 138 (CEGAT) [affirmed in (2005)180 E.L.T. 307 (S.C.)] while classifying the goods under CETH 9609 00, held:

GIR 2(a) also, allows classification of incomplete or unfinished goods having the essential characteristics of complete or finished goods under a heading appropriate to such complete or finished goods. In the instant case, the impugned goods only require to be given the shape of crayons before they can be made into finished crayons and as such, they can be considered as incomplete or unfinished goods.

In another case of LML Ltd. v. CC (1999) 105 ELT 718 (CEGAT) affirmed in 1999 (107)

A119 (S.C.)], it was held that a scooter body unit without engine is classifiable as scooter (CETH 871190). The Court placed reliance on HSN Explanatory Note for Rule 2(a) which states:

"An incomplete or unfinished vehicle is classified as the corresponding complete or finished vehicle provided it has the essential character of the latter [see Interpretative Rule 2(a)] as for example:

- (A) A motor vehicle, not yet fitted with the wheels or tyres and battery.
- (B) A motor vehicle not equipped with its engine or with its interior fittings.
- (C) A bicycle without saddle and tyres.

This Chapter also covers parts and accessories which are identifiable as being suitable for use solely or principally with the vehicles included therein, subject to the provisions of the Notes to Section XVII (see the General Explanatory Note to the Section)."

Determination of "essential characteristics"

In the case of Shivaji Works Ltd. v. CCE (1994) 69 ELT 674 (CEGAT), it was held that the functional test is the correct test for determining the character of a product, i.e. 'primary function' is 'essential characteristic.' Unless the incomplete product is incapable of functioning like the finished goods, this rule is not applicable.

Goods in SKD or CKD condition

According to the second part of Rule 2(a), goods in unassembled condition would be covered along with the finished goods.

This is essential when certain goods are to be dismantled prior to despatch, for convenience of transport.

In the case of CCE s. Scan Machineries, (2009) 234 ELT 282 (CESTAT) the assessee cleared machinery in a phased manner but paid the entire duty at the time of the first clearance of parts, as per trade practice. The clearance was against a single purchase order. It was held that clearance is of a single machine and not as parts of machine.

In case of CC. s Sony India (2008) 231 ELT 385 (SC) while deciding whether import of Colour Television components in CKD condition was assessable as CTVs, the Supreme Court held that components imported were not treatable as complete TV because "Rule 2(a) of Rules for Interpretation of Tariff is applicable only if all components presented at same time for customs clearance. When goods are brought in 94 different consignments then clubbing of all consignments of different dates is not permissible since goods brought are not having essential character of CTV and cannot be taken as complete CTVs. In fact there is no finding that goods brought could make specified number of CTVs. Also a complicated process to be undertaken for making impugned goods useable for assembling CTVs which fails the test of essential character."

In the case of Tata Motors v. CCE (2008) 222 ELT 289 (CESTAT) affirmed in (2016) 337 E.L.T. A99 (S.C.)], it was observed that the expression "as presented" should be given the same meaning as "as cleared." Thus, if different parts were cleared from different units at different points of time, duty can not be demanded by treating them as motor vehicle chassis in CKD condition.

However, the same principle may not be applicable for an import entitlement which is specifically meted out to "parts" as held in case of Union of India v. Tara Chand (1983) 13 ELT 1456 (SC); CC v. Reliance Industries Ltd. (2000) 115 ELT 15.

Rule 2(b): Classification of Mixture or Combinations

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

Rule 2(b) states In case of CC v National Carbon Co. (1989) 41 ELT 433 (Tribunal) the scope of Rule 2(b) was defined as

"It consists of two parts. The first part relates to the mention of material or substance under any heading and it has been set out that the reference to the material or substance shall be taken to include a reference to mixtures of that materials or substances. This part does not talk about finished goods made out of the material or substance. The second part of the rule deals with the goods of a given material or substance mentioned under any heading of the tariff and reference is to be taken to include a reference to goods consisting of such material or substance. This part does not deal with the composite goods made."

On the basis of the same it can be understood that for classification of composite goods made of different materials, interpretative rule 2(b) is not applicable. (Rule 3(b) needs to be referred).

In the case of Dhariwal Industries s. CCE (2014) 304 ELT 585 (CESTAT) maintained in (2015) 319 E.L.T. A123 (S.C.), the assessee was manufacturing "Calcutta meetha pan" which was a mixture of various items, primary ingredient being pan leaf. The product contained 70% of dry dates and mixture of spices and sweetener. It was held that classification, as per Rules 2(b) and 3(b), ought to be under "Fruits, Nuts and Other Edible parts" under CETH 20.08 and not as "pan masala."

While applying the aforesaid rules, some conflict may arise.

For example:

- a mixture or combination containing more than one material may be classified under more than one heading by applying rule 2(b). If it contains two items A and B, one classification may be on the basis of "A" and other on the basis of "B".
- There may be two descriptions which may both be possible In such cases, resort to Rule 3 needs to be made : **Rule 3(a): Prefer the Specific entry over the general entry**

Rule 3(a) states:

3. When by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more heading search refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

Rule 3 stipulates that the Heading that provides the more specific description shall be preferred over an entry with generic description.

In case of *Jyoti Industries v. CCE* (2000) 115 ELT 559 (CEGAT), it was held that Kitchen sink is more appropriately covered under "sanitaryware" (i.e. CTH 7324 [Sanitary ware and parts thereof]) which is a specific description than "household articles of iron and steel" (i.e. CTH 7323 [Household articles of iron and steel]) which is a general description.

In case of *Dunlop India Ltd v UOI* (1983) 13 ELT 1566 (SC), it was held that Vinyl Pyridine latex is classifiable as 'raw rubber' under Item 39 of the Indian Tariff Act, 1934 and not under Item No. 87 as residuary Item or under Item 82(3) as artificial or synthetic resins. The principle was laid down that "when an article is by all standards classifiable under a specific item in the Tariff Schedule it would be against the very principle of classification to deny it the parentage and consign its residuary item".

In case of *Commissioner of VAT v Taneja Mines* (2011) 273 ELT 228 (Delhi) (DB) it was held that religious picture would mean pictures used for purpose of religious worship and propagation. The mere fact that the religious pictures are mounted/framed is a matter of irrelevance. Also, the cost of the item is again irrelevant. Frames are nothing more than accessories for safe keeping and do not give any essential characteristics to the goods. Hence use of gold in religious pictures which depict divinity is in consonance with the concept of the divine. The use of gold plated nickel foil would add ambience to the pictures and thereby increase its value in the aesthetic sense for a man of religious sentiment and theist views.

Rule 3(b): Essential character test for Mixtures or Composite Goods

Rule 3(b) states:

(b) Mixtures, composite goods consisting of different material is or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

In the case of mixtures or composite goods, resort is to be had to determining the material/component of the product which gives it its essential character.

In the case of *CCE v. INARCO* (2015) 318 ELT 604 (SC), it was held that floor tiles containing 13.3% PVC (plastic), 84.9% limestone with plastic as binder is to be classified as 'article of stone, cement' as per the test of 'essential character'.

In the case of *Xerox India Ltd. v. CC, Bombay*, citation where the dispute pertained to classification of digital printers, with several functions (fax, copier, etc), reliance was placed on Rule 3(b) to classify the item under CTH 8471 as printer, since printing emerged as the principal function.

In re Samsung India Electronics P. Ltd. - (2016) 340 ELT 430 (AAR) it was held that mobile phone with zoom camera is to be classified as a phone, and not as camera, as per its primary function.

In A V Venkateswaran, Collector of Customs v. Ramchand Subhraj 1983 (13) ELT 1327 (SC) fountain pens with gold nibs, caps, were held to be classifiable as fountain pens.

However, it is to be noted that the said rule would not apply if the articles have a separate identity. In the case of *CC v. Siyaram Silk Mills* (2009) 235 ELT 241 (CESTAT) where a shirt and tie were sold together, it was held that the set cannot be classified as shirt, and they would be classified as separate items.

Rule 3(c): If both are specific - latter the better

Rule 3(c) states:

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

In case of *Mahindra & Mahindra v. CCE* - (1999) 109 ELT 739 (CEGAT), it was held that iftariff entries 87.03 and 87.04 are equally applicable, then goods will be classifiable under 87.04, as it occurs later in the Tariff.

Rule 4: Akin goods**Rule 4 states:**

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

In the case of CCE vs. KWH Heliplastics Ltd. (1998) 97 ELT 385 (SC), it was observed that in order to resolve the persisting classification dispute, the relationship of the goods under dispute vis-d-vis the description of the goods under the disputed headings should be ascertained. The relationship with a particular heading depends upon the description, purpose and use of goods. If the relationship is established, goods should be classified where they are akin to the description in the Tariff.

Rule 5: Classification of packing containers and packing materials Rule 5 states:

5. In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;

(b) Subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

This provision is made to ensure that the packing and the goods are charged at the same rate of duty.

In the case of Print-o-pack v. CCE (2012) 275 ELT 95 (CESTAT), the assessee was placing sugar cone (i.e. ice-cream cone) in an Aluminium foil cone. It was held that the Aluminium foil cone is used only as packing and the entire item would be classified as 'ice-cream cone' only.

Rule 6: Goods are comparable at the same level only**Rule 6 states:**

6. For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub headings and any related sub headings Notes and, mutatis mutandis, to the above rules, on the understanding that only sub headings at the same level are and Chapter Notes also apply, unless the context otherwise requires.

comparable.

The sub-headings within the same heading are comparable with each other, but not with sub-headings under any other heading. Accordingly, the heading is to be first determined, and then the sub-heading has to be ascertained.

Classification of Parts as per Section/Chapter Notes

Classification of parts is subject to the notes in the Sections and Chapters. Broadly, parts suitable solely for a particular machine generally fall under the same heading/ sub-heading in which the main item falls. However, there are certain exceptions to this general rule.

Parts of General Use

Parts of general use consist of tube and pipe fittings, ropes, cables, chains, screws, bolts, etc. For example, a bolt used in a vehicle will be classified as "bolt" and not as "motor vehicle part."

Part of part is part of whole

In the case of Needle Roller Bearings v. CCE (2000) 124 ELT 577 (CEGAT); Kanwar Sewing Machine, New Delhi v. CC, Bombay (1983) 12 E.L.T. 804 (C.E.G.A.T.), it was held that ball bearings form part of a machine. Hence, a part of a ball bearing is also a part of a machine.

In the case of Nalanda Manufacturing Co.v. CCE (1998) 102 ELT 289 (Tribunal), it was similarly held that part of a refill is also a part of a ball point pen.

The Central Government, on the recommendations of the GST Council, has issued Notifications Number 01/2017-CT (Rate) dated 28.06.2017 prescribing the Rate of Tax (Schedules) for specified goods under CGST/IGST ("Rate Notification"). This Notification is divided into 6 Schedules, as follows:

- (i) 2.5% (Schedule I);
- (ii) 6% (Schedule II);
- (iii) 9% (Schedule III);
- (iv) 14% (Schedule IV);
- (v) 1.5% (Schedule V); and
- (vi) 0.125% (Schedule VI)

The Central Government by way of further Notifications has amended the Rate Notification to specify any change of rate of duty on any commodity, from time to time.

It is pertinent to note that the Explanation to the Rate Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 states thus:

For the purposes of this Notification:

- (iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

Therefore, while the Rate Notification under GST provides the rate of tax on goods and services, in order to interpret these Rate Notifications for purposes of levy of GST, one has to read the same along with the First Schedule (including the Section and Chapter Notes and General Explanatory Notes) of the Customs Tariff Act, 1975 ("Tariff").

The broad outlay of the Customs Tariff Act, 1975, its Schedules, Rules of Interpretation, the Harmonised System of Nomenclature vis-d-vis the Tariff and the relevance of erstwhile classification disputes in the new GST regime are enumerated as under:

Harmonized System of Nomenclature ("HSN")

With increase in international trade, the World Customs Organization ("WCO") developed a Harmonized System of Nomenclature ("HSN"), in order to facilitate trade flow and analysis of trade statistics. The following are the features of the HSN:

- (a) Adopted by 137 countries to ensure uniformity in classification of products;
- (b) Contains about 5,000 commodity groups - each identified by a 6-digit code (it is pertinent to note that both the Tariff in India follow an 8 digit code system for further clarity in trade volumes and a more specific classification of indigenous products);
- (c) Amended over regular intervals of 4/6 years, taking into consideration the technological advancements in any field - last amendment approved by the WCO in 2009, and brought into force with effect from 1-1-2012;
- (d) For ensuring uniformity, WCO has published the Explanatory Notes to various headings/ sub-headings;
- (e) The Customs Tariff in India was aligned to the HSN w.e.f. 28.02.1986 (whereas the Excise tariff was aligned w.e.f. 1-3-1986).

Customs Tariff Act, 1975

Prior to the advent of GST, in order to determine the Customs duty leviable on a particular commodity, one had to refer to the Customs Tariff Act, 1975 ("CTA") for the appropriate classification of the goods. The following are the broad features of the CTA:

Sl. No.	Particulars	Customs Tariff Act, 1975 ("CTA")
1.	Chapter linking the main Act with the Tariff Act	Section 12 of the Customs Act, 1962 states that duties of customs shall be levied at such rates as may be specified under [the Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India.
2.	Number of Schedules	2

3.	Schedules	Import Tariff
		Export Tariff (contains 49 items [as of 01.03.2011] , most of which are exempt)
4.	Sections	21
5.	Chapters	99 (Chapter 77 is blank, reserved for future use)
6.	Columns	5 (Tariff Item, Description of goods, Unit, Standard Rate of duty and Rate of duty for Preferential Area - e.g. Nepal, Myanmar, etc.)

Broad outline of the Tariff

It is of primary importance to understand the structure of the Tariff, and the nomenclature used for various parts of the same, in order to begin classification of any relevant item, which is as set out below:

- (a) Section
- (b) Chapters, and sub-chapters
- (c) Headings and Sub-Headings

Section	Chapter	Headings
• SECTION is a grouping of a number of Chapters which codify a particular class of goods. Each Section is related to a broad class of goods, for instance:	• CHAPTER and sub- chapters contain a particular class of goods, for instance the Section on Prepared foodstuffs, beverages covers Chapters like	• Each chapter is further divided into various HEADINGS and sub- headings depending upon the different type of goods covered within the Chapter, for instance Sugar and Sugar confectionery is further divided into headings like
• Section I : Live Animals	• Chapter 16: Preparations of meat, fish, etc.	a) Cane or beet sugar.
• Section IV - Prepared foodstuffs, beverages	• Chapter 17: Sugar and sugar confectionery	b) Other sugars, molasses (refining of sugar)
• Section XII - Footwear, Headgear, Umbrella, Articles of human hair	• Chapter 18: Cocoa and cocoa preparation	c) Other sugar confectionery

Reading the Tariff

Arrangement of Goods under the Tariff

It is important to first narrow down the search for the relevant classification by scaling it down to a particular Section or Chapter.

It is interesting to note that the various commodities grouped under the Sections, Chapters, etc are arranged in increasing order of manufacturing process required on the said commodity for instance, the Tariff begins with natural products, raw materials, goes on to semi- finished goods and concludes with fully manufactured goods.

Reliance is not to be placed solely on the Section or Chapter Titles to classify the product therein.

Eight-digit classification

Once the search has been restricted to a Specific Chapter, each Chapter begins with a set of Notes that are to be interpreted along with various headings in the Chapter. Such Notes may contain definitions of terms used in the Chapter and specific inclusions and exclusions in the Chapter.

The next portion in the Chapter would comprise a table setting out the Tariff Item, description of goods, Unit, and Rate of duty applicable thereon.

The Indian Tariff System employs the 8-digit format, which is explained below by way of an example.

2008 11 00

Heading Sub - Heading Tariff Item

The rate of duty in the Tariff is mentioned against the respective Tariff Items.

Relevance of Dashes

The dashes at the beginning of the description of a group of items indicate the following:

Dashes	Meaning
(-) single dash	A Group of goods
(- -) Two dashes	Sub - group
(—) Triple dash or (----) Quadruple dash	Sub - sub classification

Examples within Chapter 20 would be as follows:

Tariff Item	Description of Goods	Unit	Rate of Duty (Standard)	Rate of Duty (Preferential)
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or pre- served, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included			
	- Nuts, groundnuts and other seeds, whether or not mixed together			
2008 11 00	– Ground nuts	Kg.	30%	–
2008 19	- Others, including mixtures			
2008 19 10	— Cashew nut, roasted, salted or roasted and salted	g.	45%	--
2008 19 20	— Other roasted nuts and seeds	g.	30%	--

↓ ↓ ↓ ↓ ↓

Heading	Sub-heading	Tariff Item	Unit	Rate of duty
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The Mumbai CESTAT in case of Schenectady Herdilla Ltd v CCE (2007) 208 ELT 110 held that for classification under Tariff headings with double (--) entry before them, the goods have to satisfy specifications of single dash (-) preceding them.

Other facets of the Tariff

- The Third Column of the Tariff - "Unit" - indicated by abbreviations - these are mandatory for use in Customs documents, except when impractical (e.g. oil in kgs).
- The % sign in Column 4 indicates that duty is charged "ad valorem" on the value of goods.
- Only sub-headings at the same level (same dashes) are comparable; for instance, in the above example, cashew nuts, roasted and other roasted nuts is comparable, but cashew nuts and ground nuts are not comparable.

Special provisions in Customs Tariff made applicable to GST Rate Schedule for Goods

Though most of goods are classified as per the above system of HSN, special classification is used in certain cases. Like the following

- All goods imported under "project imports-98.01"
- All laboratory chemicals in packs less than 500 gms or 500 ml -98.02
- All baggage of passengers or member of crew-98.03
- Goods for personal use imported by post or air-98.04
- Stores on board of vessel or aircraft-98.05

These goods will be classified in these headings, irrespective of actual classification as per the Customs Tariff.

Section Notes and Chapter Notes

Each Section and Chapter under the Tariff is accompanied by the notes known as "Section Notes" and Chapter Notes. These are given at the beginning of the Section or Chapter respectively which governs the concerned Section or Chapter as the case may be. In the case of Section Notes, they are applicable to each Chapter which is part of a specific section of the Tariff.

Classification is to be determined only on the basis of description of the heading read with relevant section or Chapter notes. Since these notes are part of Tariff itself, these have full statutory backing. Various Tribunals have held that coverage of respective headings has to be determined in the light of the respective section and Chapter note. Hence in this sense, the section and Chapter note have overriding force over the respective headings and sub-headings.

In Fenner (India) Ltd v CCE (1995) 97 ELT 8 (SC), it was observed that tariff schedule would be determined on terms of headings and any relevant section or Chapter notes. In CC. v Sanghavi Swiss Refills P Ltd (1997) 94 ELT 644 (CEGAT), it was held that section notes and Chapter notes, being statutory in nature, have precedence over functional test of commercial parlance for the purpose of classification.

In the case of interpretation of an exemption notification also, the Supreme Court in the case of Gujarat State Fertilizers Co v CCE (1997) 91 ELT 3 SC laid down the principle in its judgment that Chapter Notes of Chapter of Tariff referred to in the notification have to be read as part and parcel of exemption notification.

Only in cases where a notification is clear and expresses a specific intent the scope of Section Note or Chapter Note as the case may be, is restricted and the language of the notification shall be given preference. It was held so in the case of New Holland Tractors v.s CCE (2010) 253 ELT 249 (CESTAT).

However when a notification grants exemption with reference to a particular heading or sub - heading, the notification will have to be interpreted and applied in the light of section notes and Chapter notes to Tariff as held by CESTAT in case of CCE v Bharat Metal Industries (1999) 105 ELT 494 (CESTAT)

HSN and Classification

At the outset, the HSN Explanatory Notes cannot override and dilute the language under the CTA. However, in case of ambiguity, resort to the HSN is permissible provided there is no conflict with the Headings, Chapter Notes or Tariff Notes. In CCE v. Wood Craft Products Ltd. (1995) 77 ELT 23 (SC), it was held that as per the Statement of Objects and Reasons of Central Excise Tariff Bill, 1985, the new tariff has been introduced, based on HSN to reduce classification disputes. Thus, in case of doubt, the HSN is a safe guide for ascertaining the true meaning of any expression used in the Act, unless there is an expressly different intention indicated in the Tariff itself.

The HSN Explanatory notes have also been held to have overriding effect over trade parlance in case of Health India Laboratories v. CCE (2007) 216 ELT 161 (CESTAT) affirmed in (2008) 22 E.L.T. A133 (S.C.)

At the same time, in the case of New India Industries Ltd. v. CC, Bombay (1994) 73 ELT 723 it was held that the HSN Explanatory Notes have persuasive value but do not have any statutory authority.

Furthermore, in the case of Consolidated Coin Co. P. Ltd. v CCE (2013) 287 ELT 221 (CESTAT), the Court observed that US Customs Rulings may be considered for classification disputes, since both US and India follow the HSN based classification.

Department to prove classification

The burden of proof that a product is classifiable under a particular Tariff head is on the Department and must be discharged by proving that it is so understood by the consumers of products in common parlance. It was held so in case of CCE v. Vicco Laboratories (2005) 179 ELT 17 (SC 3 Member Bench).

Practical Guide for Classification under GST Step-wise approach

In terms of the foregoing, given below is a step-wise approach for classification of goods under GST:

- ✓ **Step 1:** Identify the goods that require classification.
- ✓ **Step 2:** In the Tariff Schedule, commodities are arranged in increasing order of manufacturing process - Identify the broad Sections and Chapters, the said commodity would fall under
- ✓ **Step 3:** By way of application of General Rules of Interpretation, classify the product in terms of the 8-digit-classification
- ✓ **Step 4:** Find the relevant sub-heading, as per Step 3. The GST Rate Schedule (along with amending notifications) has specified various rates, grouped under 4-digit or 6-digit-classification. Further, a particular Heading may appear in several Schedules, for example, CTH 2106 [Food preparations not specified elsewhere]
- ✓ **Step 5:** Find the relevant description of heading in GST Rate Schedule and corresponding Rate

Logical Steps to be followed at the time of classification under Tariff Schedules

- Whether the Section is not applicable on specific goods?
- If yes, no need to look into any of the Chapters within the said Section.
- Whether the Section is applicable on specific goods
- Whether the Chapter is not applicable on specific goods
- If yes, no need to look into any of the Headings within the said Chapter
- If the Chapter is applicable on specific goods

Then, within the Chapter see the description of the Heading which accommodates given Goods. Thereafter find out the sub-heading which covers the given goods.

CLASSIFICATION OF SERVICES AS PER NOTIFICATION

The Central Government, on the recommendations of the GST Council, has issued Notifications Number 11/2017-CT (Rate) dated 28.06.2017 prescribing the Rate of Tax (Schedules) for specified services under CGST/IGST ("Rate Notification").

The Central Government by way of further Notifications amends from time to time the Rate Notification to specify any change of rate of tax on any service, from time to time.

It is pertinent to note that the Explanation to the Rate Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 states thus:

For the purposes of this Notification:

(i)

(ii) Reference to "Chapter", "Section" or "Heading", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter", "Section" and "Heading" in the annexed scheme of classification of services (Annexure).

Along with the rate notification a detailed annexure for scheme of classification of services has been given. However unlike for goods, no method has been prescribed as to how one has to read the given annexure along with the Rate Notification.

Reading the Annexure to Notification No 11/2017-CT Rate dated 28.06.2017

The given annexure is based on a six digit format which is akin to HSN Classification for goods. Section 5 of Chapter 99 of Annexure reads as under:

Annexure: Scheme of Classification of Services

Sl. No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
1	Chapter 99		All Services
2	Section 5		Constructions Services
3	Heading 9954		Constructions Services
4	Group 99541		Constructions Services of Buildings
5		995411	Construction services of single dwelling or multi dwelling or multistoried residential buildings
6		995412	Construction services of other residential buildings such as old age homes, homeless shelters, hostels and the like
7		995413	Construction services of industrial buildings such as buildings used for production activities (used for assembly line activities), workshops, storage buildings and other similar industrial buildings
8		995414	Construction services of commercial buildings such as office buildings, exhibition and marriage halls, malls, hotels, restaurants, airports, rail or road terminals, parking garages, petrol and service stations, theatres and other similar buildings
9		995415	Construction services of other non-residential buildings such as education institutions, hospitals, clinics including veterinary clinics, religious establishments, courts, prisons, museums and other similar buildings
10		995416	Construction services of other buildings nowhere else

11	995417	classified Services involving repair, alterations, additions, replacements, renovation, maintenance or remodeling of the buildings covered above.
----	--------	--

Contents of an Entry

- Here Chapter is of 2 digits (Chapter 99)
- Section is of 1 digit after Chapter (Section 5)
- Heading is of 1 digit after Section (Heading 9954)
- Tariff Item is of 2 digits after Heading (995411)

Principles of Classification

No principles for classification of services have been prescribed under notification for rate or under law for the services. The principles of classification as applicable for Goods cannot be applied on services.. A clue can be taken from the erstwhile service tax provisions and also from CPC (Central Product Classification) by United Nations Statistical Commission whose list of services is akin to the Annexure to Notification No 11/2017-CT

Rate dated 28.06.2017.

Interestingly, The Central Board for Indirect Tax and Customs issued "**Explanatory Notes to the Scheme of Classification of Services**" on 12th June 2018 wherein it has been specified that-

The Scheme of Classification of Services adopted for the purposes of GST is a modified version of the United Nations Central Product Classification.

2. The Explanatory notes for the said Scheme of Classification of Services is based on the explanatory notes to the UNCPC.

The explanatory notes indicate the scope and coverage of the heading, groups and service codes of the Scheme of Classification of Services. These may be used by the assessee and the tax administration as a guiding tool for classification of services. However, it may be noted that where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

What is CPC (Central Product Classification)?

In the Preface to the document issued by Department of Economic and Social Affairs (Statistical Division) of United Nations in 2015 titled "Central Product Classification-Version 2.1", it has been stated thus :

"The Central Product Classification (CPC) constitutes a complete product classification covering all goods and services. It serves as an international standard for assembling and tabulating all kinds of data requiring product detail, including statistics on industrial production, domestic and foreign commodity trade, international trade in services, balance of payments, consumption and price statistics and other data used within the national accounts.

It provides a framework for international comparison and promotes harmonization of various types of statistics related to goods and services".

Further in the Overview to the said document it has thus been stated about CPC:

The Central Product Classification (CPC) consists of a coherent and consistent classification structure for products based on a set of internationally agreed concepts, definitions, principles and classification rules. The classification structure represents a standard format to organize detailed information on products - be it on production, transformation, trade or consumption - according to economic principles and perceptions.

It is pertinent to note that with regard to services, before the development of the CPC, no international classification covering the whole spectrum of outputs of the various service industries and serving the different analytical needs of statistical and other users was available

Structure of CPC

The overall set of products is subdivided into a hierarchical, five -level structure of mutually exclusive categories.

- The categories at the highest level are called sections, which are numerically coded categories. The sections sub-divide the entire spectrum of products into broad groupings, such as "Agriculture,

forestry and fishery products" (section 0), "Constructions and construction services" (section 5) or "Community, social and personal services" (section 9).

- The classification is then organized into successively more detailed categories, which are numerically coded: two-digit divisions; three-digit groups; four-digit classes; and, at the greatest level of detail, five-digit sub-classes.

Principles, Definitions and classification rules for reading CPC

Various principles enumerated for reading and understanding CPC are given as its integral part of document. The relevant points in relation to classification for services under CPC are briefed below:

1. The CPC, covering all services, is a system of categories that are both exhaustive and mutually exclusive. This means that if a service does not fit into one CPC category, it must automatically fit into another. Consistent with the other principles used, homogeneity within categories is maximized.
2. The CPC classifies services based on the properties and its intrinsic nature as well as on the principle of industrial origin.
3. The importance of the industrial origin of services was underscored by the attempt to group into one CPC subclass mainly the services that are the output of a single industry. Through their linkage to the criterion of industrial origin, the input structure, technology and organization of characteristics of services are also reflected in the structure of the CPC.
4. In addition, efforts have been made to define each sub-class in sections 0 to 4 of the CPC as the equivalent of one heading or sub-heading or the aggregation of several headings or subheadings of the Harmonized Commodity Description and Coding System (HS), owing to the fact that the HS is a detailed classification of transportable goods that is widely accepted for use in international trade statistics by virtually all countries.

Application of CPC

I. Rules of Interpretation

According to the rules of interpretation of CPC in the context of services, it should be classified on following principles:

A) When services are, *prima facie*, classifiable under two or more categories, classification shall be effected as 228 The Institute of Cost Accountants of India follows, on the understanding that only categories at the same level (sections, divisions, groups, classes or subclasses) are comparable:

- a) The category that provides the most specific description shall be preferred to categories providing a more general description;
- b) Composite services consisting of a combination of different services which cannot be classified by reference to (a) shall be classified as if they consisted of the service which gives them their essential character, in so far as this criterion is applicable;
- c) When services cannot be classified by reference to (a) or (b), they shall be classified under the category that occurs last in numerical order among those that equally merit consideration.

B) Services that cannot be classified in accordance with the above rules shall be classified under the category appropriate to the services to which they are most akin.

II. Explanatory Notes

The explanatory notes provide descriptions of services that are included in each subclass, as well as examples of similar services that are excluded, for reference purposes. In some cases explanatory notes are also available for categories of higher aggregated levels of the CPC structure.

Whenever an exclusion statement is provided, it is accompanied by an exact cross - reference to indicate the code of the subclass where the product in question is actually classified. The exclusions are sorted by cross-referenced CPC code in numerical order; they do not indicate a ranking by importance. Although the title description should define the boundary of the sub-class, the explanatory notes clarify further the border and content of the sub -class.

The explanatory notes are not intended to present an exhaustive list of all the products under each heading; they should be regarded only as lists of examples to illustrate the subclass content.

It has been further been provided in the CPC document issued by United Nations that

"It should be noted that if CPC categories are utilized for purposes other than statistical ones - for example as a source for the preparation of legal documents or for such purposes as procurement - those who prepare the legal document in which reference is made to CPC categories, not the developers of the classification, are responsible for explaining the use of those categories in the legal document".

Example on CPC Structure and Understanding

The CPC and its related rules can also be best understood with some illustrations which are given below - The facility of mining is provided by government to various business entities. These are services provided by government and are liable for payment of GST under RCM by mine holder. The rate for government services are generally 18%. However under entry no.17 in heading 9973 for leasing, read with annexure there is a specific entry which reads as under -

250	Group 99733	Licensing services for the right to use intellectual property and similar products
251	997331	Licensing services for the right to use computer software and databases
252	997332	Licensing services for the right to broadcast and show original films, sound recordings, radio and television programme and the like
253	997333	Licensing services for the right to reproduce original art works
254	997334	Licensing services for the right to reprint and copy manuscripts, books, journals, and periodicals
255	997335	Licensing services for the right to use research and development products
256	997336	Licensing services for the right to use trademarks and franchises
257	997337	Licensing services for the right to use minerals including its exploration and evaluation
258	997338	Licensing services for the right to use other natural resources including telecommunication spectrum
259	997339	Licensing services for the right to use other intellectual property products and other resources nowhere else classified.

Further the Explanatory Notes under UNCPC to the Classification 9973 reads as under:

99733 Licensing services for the right to use intellectual property and similar products

This group includes permitting, granting or otherwise authorizing the use of intellectual property products and similar products.

Note: This covers rights to exploit these products, such as licensing to third parties; reproducing and publishing software, books, etc.; using patented designs in production processes to produce new goods and so on. Limited end user licences, which are sold as part of a product (e.g., packaged software, books) are not included here.

This group does not include:

- Licence fees as integral part of customer goods (e.g., end-user licenses for books, records, software)
- Preparation, drafting and certification services concerning patents, trademarks, copyrights and other intellectual property rights, cf. 998213
- Management services for copyrights and their revenues (except from motion pictures), cf. 998599
- Management services for rights to industrial property (e.g., patents, licences, trademarks, franchises etc.), cf. 998599
- Management services for motion picture rights, cf. 999614
- Management services for artistic rights, cf. 999629

The said sub-classification is further classified as under (reproduced)

997337 Licensing services for the right to use minerals including its exploration and evaluation

This service code includes licensing services for the right to use, mineral exploration and evaluation information, such as mineral exploration for petroleum, natural gas and non-petroleum deposits.

997338 Licensing services for the right to use other natural resources including telecommunication spectrum

Now, on a perusal of the said classification on which Notification No. 11/2017-CT (Rate) dated 28.06.2017 is based, it is evident that the classification of service in question can be made under tariff item 997337 or 997338 as the case maybe. Since the entry is unambiguous and defines the nature of the service clearly, the classification as given by UNCPC should be followed.

The rate of GST in case of tariff item 997337 is the rate applicable on the goods which are extracted from the mine. Generally the rate for such goods under GST is 5%. Hence when a specific entry has been given, the rate of GST for such royalty payment should be 5% instead of 18% as general rate.

Broad Structure of CPC

The broad structure of CPC in relation to services on the basis of which the CGST Rate Notification No 11/2017 dated 28.06.2017 is also based ,is summarized as under:

Section	Division		Groups	Classes	Sub classes
5		Constructions and construction services			
	53	Constructions	2	10	24
	54	Construction services	7	37	61
6		Distributive trade services; accommodation, food and beverage serving services; transport services; and electricity, gas and water distribution services			
	61	Wholesale trade services	2	18	120
	62	Retail trade services	5	45	269
	63	Accommodation, food and beverage services	4	10	16
	64	Passenger transport services	2	8	28
	65	Freight transport services	3	7	28
	66	Rental services of transport vehicles with operators	1	3	8
	67	Supporting transport services	7	22	25
	68	Postal courier services	1	3	7
	69	Electricity, gas and water distribution (on own account)	2	5	6
7		Financial and related services; real estate services; and rental and leasing services			
	71	Financial and related services	7	24	57
	72	Real estate services	2	7	14
	73	Leasing or rental services without operator	3	16	28
8		Business and production services			
	81	Research and development services	4	8	40
	82	Legal and accounting services	4	9	12
	83	Professional, technical and business services (except research, development, legal and accounting services)	9	33	80
	84	Telecommunications, broadcasting and information supply services	6	21	38
	85	Support services	6	27	47
	86	Support and operation services to agriculture, hunting, forestry, fishing, mining and utilities	3	12	25
	87	Maintenance, repair and installation (except construction) services	3	17	29
	88	Manufacturing services on physical inputs owned by others	9	31	125
	89	Other manufacturing services, publishing and printing and reproduction services, materials recovery services	4	8	10
9		Community, social and personal services			
	91	Public administration and other services provided to the community as a whole; compulsory social security services	3	17	32
	92	Education services	6	12	14
	93	Human health and social care services	5	12	32

94	Sewage and waste collection, treatment and disposal and other environmental protection services	6	15	28
95	Services of membership organizations	3	6	14
96	Recreational, cultural and sporting services	7	23	38
97	Other services	4	13	13
98	Domestic services	1	1	1
99	Services provided by extraterritorial organizations and bodies	1	1	1

Legal Backing to UNCPC

However, these rules of classification have not been prescribed under the GST Laws and hence cannot be enforced upon the tax payer or the tax authorities. The given CPC schedule is the clear base on which Notification No. 11/2017-CT (Rate) dated 28.06.2017 is based, but since reference to the same has been given only through a Press Release the same shall stand on weak ground in case the same is referred completely, by any of the stakeholders at the time of classification disputes. The judicial precedents from courts shall have a binding effect over the CPC Schedule.

TIME OF SUPPLY

Time of Supply

Meaning of Time of Supply	It means the date on which the charging event has occurred. As a result the rate of CGST/SGST or IGST or UTGST will be decided in accordance with the time of supply. Based on time of supply we will also determine the due date of payment of GST.
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Time of Supply of Goods Sec. 12(2) of CGST Act, 2017

If Supply involves Movement	Time of supply = Invoice issued before or at the time of removal of goods for supply to the recipient.
If Supply does not involve Movement	Time of supply = Invoice issued before or at the time of <ul style="list-style-type: none"> • Delivery of goods or • While making goods available to the recipient.

Time of supply for Composition Levy of Goods (Section 10 of the CGST Act, 2017)

Manufacturer	Time of supply = Date of Invoice .
Restaurant	
Dealer/Trader	

Time of supply for Continuous Supply of Goods

Continuous Supply	Time of supply = <ul style="list-style-type: none"> • Time when each statement is issued. OR <ul style="list-style-type: none"> • Time when each payment is received. Whichever is earlier . <p>Note: The Invoice shall be issued before or at the time of such statement is issued or, as the case may be each such payment is received.</p>
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Time of Supply of Services [Sec. 13(2) of CGST Act]

If Invoice issued within 30 Days from completion of Service	Time of supply = Date of issue of Invoice OR Date on which supplier receives the payment Whichever is earlier.
If Invoice NOT issued within 30 Days from completion of Service	Time of supply = Date of Completion of Service OR Date on which supplier receives the payment Whichever is earlier.
If Service Provider is Bank/NBFC/ Insurer	30 Days will be replaced by 45 Days.

Time of Supply for Goods sent on Approval

Goods sent on Approval basis	Time of supply = • Time when it becomes known that supply is taken place. OR • Six month from the date of removal. Whichever is earlier.
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Time of Supply of Vouchers for Goods & Services [Section 12(4) & 13(4) of CGST Act, 2017]

If the supplies is identifiable at that point:	Time of supply = Date of issue of voucher.
If the supplies is not identifiable at that point:	Time of supply = The date of redemption of voucher.

Time of supply of goods or services (Residual provisions)
[Section 12(5) and Section 13(5) of the CGST Act, 2017]:

In case it is not possible to determine the time of supply under aforesaid provisions, the time of supply is:

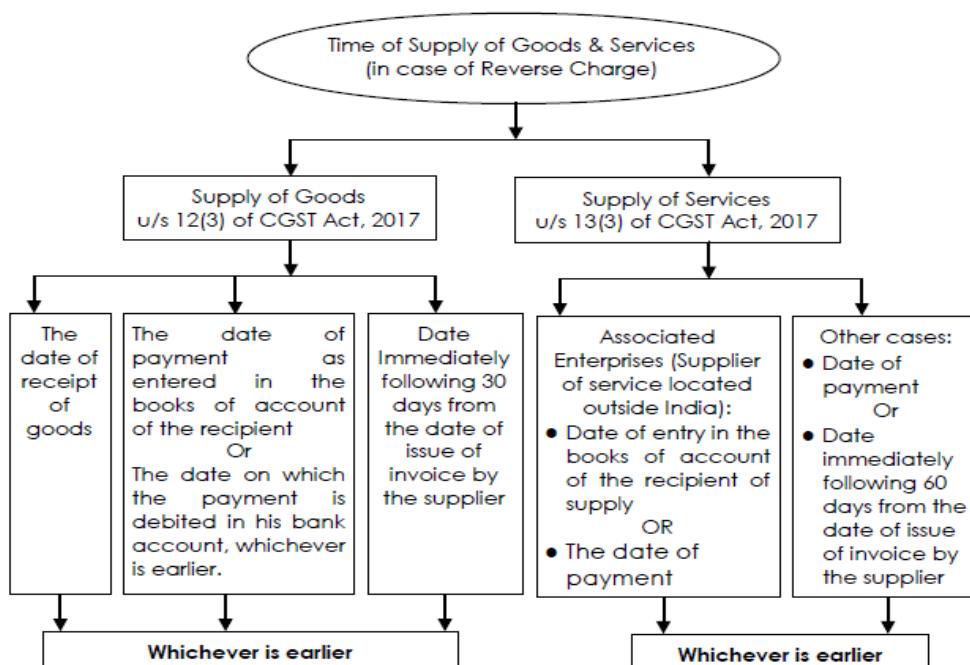
- Due date of filing of return, in case where periodical return has to be filed.
- Date of payment of tax in all other cases

Time of supply of goods or services related to an addition in the value of supply by way of interest, late fees or penalty
[Section 12(6) and Section 13(6) of the CGST Act, 2017]:

**Interest,
Late Fee,
Penalty**

The time of supply =
the date on which it is received by the supplier

Time of Supply of Goods & Services (in case of Reverse Charge)



If time of supply cannot be determined with the help of above provisions in RCM, then the time of supply shall be the date on which entry in the books of the recipient of goods & services is made.

QUESTIONS AND ANSWERS

Q. 1

P of Chennai supplies goods to B of Bengaluru. P has to send the goods for delivery from Chennai to Bengaluru. P sends the goods to B on 30th Oct 2017. Turnover of P in the previous year was Rs. 2 crore. Find the time of supply in the following different scenarios:

Removal of Goods	Date of Issue of Invoice	Last Date for Issue of Tax Invoice	Date on which payment is entered in the books of account	Date on which payment is credited in the Bank Account	Time of Supply	Criteria for determining Time of Supply
30th Oct	30th Oct	30th Oct	31st Oct	1st Nov	30th Oct	Date of issue of Invoice
30th Oct	2nd Nov	30th Oct	31st Oct	1st Nov	30th Oct	Last Date for issue of Invoice
30th Oct	28th Oct	30th Oct	27th Oct	26th Oct	26th Oct	Date on which payment is credited in the Bank Account

Q. 2

Mr. Ram sold goods to Mr. Shyam worth Rs. 5,00,000. The invoice was issued on 15th November. The payment was received on 30th November. The goods were supplied on 20th November.

Find the time of supply of goods.

Previous year turnover of Mr. Ram was Rs. 172 lakhs.

Answer:

Particulars	Whichever is earlier
Date of issue of invoice	15th November
Last date on which invoice should have been issued	20th November
Date of receipt of payment	30th November

Q. 3

Mr. Ram sold goods to Mr. Ravi worth Rs. 5,00,000. The invoice was issued on 15th November. The payment was received on 31st October. The goods were supplied on 20th November.

Find the time of supply of goods.

Previous year turnover of Mr. Ram was Rs. 72 lakhs.

Answer:

Particulars		
Date of issue of invoice	15th November	Date of invoice is the criteria
Last date on which invoice should have been issued	20th November	
Date of receipt of payment	31st October	Advance is not a time of supply

Q. 4

C of Chennai supplies goods to M of Madurai. C has to send the goods for delivery from Chennai to Madurai. C sends the goods to M on 30th May 2018. Turnover of C in the P.Y. was Rs. 2.50 crore. Find the time of supply in the following different scenarios:

Removal of Goods	Date of Issue of Invoice	Last Date for Issue of Tax Invoice	Date on which payment is entered in the books of account	Date on which payment is credited in the Bank Account	Time of Supply	Criteria for determining Time of Supply
30th May	30th May	30th May	31st March	1st April	30th May	Date of Issue of Invoice

30th May	2nd June	30th May	31st May	1st April	30th May	Last Date for Issue of Tax Invoice
30th May	28th May	30th May	27th April	26th March	28th May	Date of Issue of Invoice

Q. 5

X & Co., being a trader receives an advance of Rs. 2,500/- on 29.11.19 for goods worth Rs. 10,000/- to be supplied in the month of January 2020.

Find the following:

- (a) Time of supply
- (b) Due date of tax liability.
- (c) CGST and SGST liability.

Note: P.Y. turnover W.80 crore. X & Co., opted to pay GST under Composition scheme.

Answer:

- (a) Time of supply the date of invoice (i.e. Turnover basis) = January 2020
- (b) Due date of tax liability 18th April 2020 (i.e. quarterly)
- (c) CGST = Rs. 50/- i.e. Rs. 10,000 x 0.5% and SGST = Rs. 50/- i.e. Rs. 10,000 x 0.5%

Q. 6

If a supplier of goods has received an amount of Rs. 1,500/- against an invoice of Rs. 1,100/- on 25.07.19 and the date of invoice of next supply to the said recipient is 14.08.19.

Find the following in respect of excess amount over and above invoice value:

- (a) Time of Supply of goods
- (b) Due date of payment of tax.

Answer:

- (a) Since, excess amount received over and above invoice value not exceeds ? 1,000, supplier has an option to treat the time of supply w.r.t Rs. 400/- either as 25.07.19 or 14.08.19.
- (b) Due date of payment of tax
 - If Time of Supply = 25.07.2019, then due date is 20.8.2019
 - If Time of Supply = 14.08.2019, then due date is 20.9.2019

Q. 7

M/s X Ltd., being a manufacturer, sold goods to M/s Y Ltd., wholesaler, and issued invoice for the sale on 01-08-20XX.

Find the time of supply of goods in each of the following independent cases:

- (i) M/s X Ltd., removes the goods for delivery to M/s Y Ltd., on 16th August 20XX.
- (ii) M/s. Y Ltd., collects the goods from premises of M/s X Ltd., on 10th August 20XX.
- (iii) M/s Y Ltd., made full payment on 26th July 20XX.
- (iv) M/s Y Ltd., credited the payment in bank account of M/s X Ltd., on 28th July 20XX for 3/4th of goods, M/s X Ltd., recorded the same as receipts in his books on 3rd August 20XX. The goods were dispatched on 1st August 20XX from the warehouse.

Answer:

- (i) 1st August 20XX is the time of supply of goods. i.e. Earlier of the following:
 - Date of Invoice - 1st August 20XX
 - or
 - Date on which invoice is required to be issued - 16th August 20XX.
- (ii) 1st August 20XX is the time of supply of goods. i.e. Earlier of the following:
 - Date of Invoice - 1st August 20XX
 - or
 - Date on which goods is delivered - 10th August 20XX.
- (iii) 1st August 20XX is the time of supply of goods i.e. Earlier of the following: -
 - Date of Invoice - 1st August 20XX
- (iv) The time of supply is 5th August 20XX.

Q. 8

M/s AB Oil Corporation entered into a contract with Mr. B to supply of oil throughout the year. M/s AB Oil Corporation issues monthly statement for the oil supplied to Mr. B.

Determine the time of supply of goods in following independent cases:

- (i) Mr. B made payment for the month of July on 31st July 2019 and M/s AB Oil Corporation issued statement for the month of July on 8th August 2019.
- (ii) M/s AB Oil Corporation issued statement for the month of August on 5th September 2019, the payment of which not received till 30th September 2019.

Answer:

(i) 31st July 2019 will be the time of supply.

Earliest of the following:

- Date of Invoice: 8th August 2019
- Last date on which invoice has to be issued: Date of payment (31.07.2019) or statement (08.08.2019), whichever is earlier i.e. 31st July 2019.

(ii) 5th September 2019 will be the time of supply. Earliest of the following:

- Date of Invoice: 5th September 2019.
- Last date on which invoice has to be issued: Date of payment (not known) or statement (05.09.2019), whichever is earlier i.e. 5th September 2019.

Q. 9

ABC & Co., a Cost Accountants firm issued invoice for services rendered to Mr. Ram on 5th August 2019. Determine the time of supply in following independent cases:

- (i) The provisions of services were completed on 1st July 2019.
- (ii) The provisions of services were completed on 15th July 2019.
- (iii) Mr. Ram made the payment on 3rd July 2019, where provisions of services were remaining to be completed.
- (iv) Mr. Ram made the payment on 15th August 2019, where provisions of services were remaining to be completed.

Answer:

- (i) 1st July 2019 will be the time of supply of services as invoice is not issued within the time frame of 30 days.
- (ii) 5th August 2019 will be the time of supply of services as invoice is issued within the time frame.
- (iii) 3rd July 2019 will be the time of supply of services as payment received before invoice date.
- (iv) 5th August 2019 will be the time of supply of services as invoice is issued before the completion of provisions of services.

Q. 10

Mr. A, a registered person received goods (i.e. Bedi leaves) from Mr. B, an unregistered dealer. Mr. B issues invoice on 1st July 2019.

Find the time of supply of goods in following independent cases:

- (i) Mr. A received goods on 15th July 2019, payment of which is not made yet.
- (ii) Mr. A received goods on 3rd August 2019 & made payment for the same on 4th August 2019.
- (iii) Mr. A made payment on 8th July and received goods on the same date.
- (iv) Mr. A received goods on 10th July 2019 & made payment for the same on 9th July 2019.

Answer:

- | | |
|---|--------------|
| (i) Time of supply of goods | = 15-07-2019 |
| Earliest of the following: | |
| Receipt of Goods | = 15-07-2019 |
| Date of Payment | = not paid |
| Date immediately following 30 days from the date of invoice | = 31-07-2019 |
| (ii) Time of supply of goods | = 31-07-2019 |

Earliest of the following:	
Receipt of Goods	= 03-08-2019
Date of Payment	= 04-08-2019
Date immediately following 30 days from the date of invoice	= 31-07-2019
(iii) Time of supply of goods	= 08-07-2019
Earliest of the following:	
Receipt of Goods	= 08-07-2019
Date of Payment	= 08-07-2019
Date immediately following 30 days from the date of invoice	= 31-07-2019
(iv) Time of supply of goods	= 09-07-2019
Earliest of the following:	
Receipt of Goods	= 10-07-2019
Date of Payment	= 09-07-2019
Date immediately following 30 days from the date of invoice	= 31-07-2019

Q. 11

C Ltd., a registered firm received services from a Raman & Co., an Advocate firm., an unregistered person. The firm issued invoice to C Ltd. on 1st July 2019. Determine the time of supply of services in the following independent cases:

- (i) C Ltd. made the payments to the firm on 15th August 2019.
- (ii) C Ltd. made the payments to the firm on 11th September 2019.

Note: C Ltd turnover in the preceding financial year was Rs. 2 crore

Answer:

- (i) Time of supply of service = 15-08-2019

Note: as payment made earlier than the date immediately following 60 days from date of issue of invoice.

- (ii) Time of supply of service = 30-08-2019

Note: as payment made after the date immediately following 60 days from date of issue of invoice.

Q. 12

X Ltd. & Y Ltd. (London) is associated enterprises. X Ltd., a registered firm received the services of Y Ltd., a unregistered firm. Determine the time of supply in following cases:

- (i) X Ltd. recorded the liability in the books on 15th July 2019 and payment will be made in the next month.
- (ii) X Ltd. made advance payment to Y Ltd. on 10th July and recorded liability in the books on 15th Aug 2019.

Answer:

- (i) Time of supply = 15-07-2019

Note: as the date of entry in the books is prior to the date of payment.

- (ii) Time of supply = 10-07-2019

Note: as the payment is made earlier to the date of entry in the books.

Q. 13

Reliable Industries a readymade garment manufacturer issued the voucher on 10-07-2019 to their prospective customer for enabling them to buy readymade garments manufactured by them from their shop. Customer purchased readymade garments on 20th Aug 2019.

Find the time of supply of goods?

Answer:

- Time of supply of goods = 10-07-2019

Note: time of supply will be the issuance of the voucher. Since, the voucher is identifiable with the goods.

Q. 14

Shopper's Stop store a large retailer who sells various types of products like readymade garment, jewellery, cosmetics, fabrics, shoes etc., issued the voucher on 10-07-2019 to their prospective customer for enabling them to buy any product from their shop. Customer purchased readymade garments on 20th Aug 2019.

Find the time of supply of goods?

Answer:

Time of supply of goods = 20-08-2019

Note: time of supply will be the date of encashment of voucher (i.e. Redemption of voucher). Since, the voucher is not identifiable with any specific product.

Q. 15

Mr. X being a supplier receives consideration in the month of September 2019, instead of due date of July 2019, and for such delay he is eligible to receive an interest amount of Rs. 1,000/- and the said amount is received on 15.12.2019.

Find the time of supply for the interest portion and due date of payment.

Answer:

The time of supply = 15.12.19

i.e. the date on which it is received by the supplier and Due date of tax liability = 20.01.20.

Q. 16

Mr. X is supplied goods to Mr. Y on 28th July 2019. The GST rate on goods is changed from 12% to 5% w.e.f. 1st August 2019. Mr. X issued invoice on 28th August 2019 and payment is credited in his bank account on 30th December 2019.

Q. 17

- (i) What is the time of supply in this case?
- (ii) Effective rate of GST?

Answer:

- (i) Time of supply = 28th August 2019
- (ii) Effective rate of GST = 5%

Q. 18

X Pvt. Ltd. engaged in providing taxable services by way of training and coaching activities in relation of information Accounting and Auditing since, 1st July 2017 has the following details in respect of that activity for the month of September, 2017:

Date of issuance of invoice	Date on which payment received	Amount in Rs.
16.09.2019	03.10.2019	2,50,000
20.10.2019	06.10.2019	25,000
02.10.2019	30.09.2019	1,25,000

The date of change in effective rate of tax in this case is 01-10-2019 from 12% to 18%. These services are rendered in August 2019. Find the Time of Supply of service, effective rate of tax and due date of payment of tax.

Answer

Services rendered	Date of issuance of invoice	Date on which payment received	Amount in Rs.	Time of supply of service	Effective Rate of tax	Due date of payment
Aug 2019	16.09.2019	03.10.2019	2,50,000	16.09.2019	12%	20.10.2019
Aug 2019	20.10.2019	06.10.2019	25,000	06.10.2019	18%	20.01.2018
Aug 2019	02.10.2019	30.09.2019	1,25,000	30.09.2019	12%	20.10.2019

Q. 19

A registered dealer purchased goods on which RCM is applicable .details are as under :-

- Goods purchased as on 6.7.18
- Delivery received as on 6.7.18
- Date of invoice 6.7.18
- Invoice received as on 10.7.18
- Payment made as on 3.12.18.

Find Time of Supply.

Answer:

Time of supply shall be the earliest of the following dates, namely-

- (a) The date of the receipt of goods, i.e. 6.7.18 or
- (b) The date of payment as entered in the books of accounts of the recipient [or the date on which payment is debited in his bank account, whichever is earlier],i.e. 3.12.18.
- (c) The date immediately following 30 days from the date of invoice or any other document, $6.7.18 + 30 \text{ days} = 5.8.18$.

Hence time of supply shall be 6.7.18 .

Q. 20

M/s M Ltd., being a manufacturer, sold goods to M/s Y Ltd., wholesaler, and issued invoice for the sale on 01 -08-2018.

Find the time of supply of goods in each of the following independent cases:

- (i) M/s X Ltd. , removes the goods for delivery to M/s Y Ltd., on 16th August 2018.
- (ii) M/s.Y Ltd. , collects the goods from premises of M/s X Ltd., on 10th August 2018.
- (iii) M/s Y Ltd., made full payment on 26th July 2018.
- (iv) M/s Y Ltd., credited the payment in bank account of M/s X Ltd., on 28th July 2018 for 3/4th of goods, M/s X Ltd., recorded the same as receipts in his books on 3rd August 2018. The goods were dispatched on 5thAugust 2018 from the warehouse .

Answer:

- (i) 1st August 2018 is the time of supply of goods. i.e. Earlier of the following:

- Date of Invoice - 1st August 2018 or
- Date on which invoice is required to be issued - 16th August 2018.

- (ii) 1st August 2018 is the time of supply of goods i.e. Earlier of the following:

- Date of Invoice - 1st August 2018

or

- Date on which goods is delivered - 10th August 2018.

- (iii) 26th July 2018 is the time of supply of goods i.e. Earlier of the following: -

- Date of Invoice - 1st August 2018

or

- Date of Payment - 26th July 2018.

Note: Assume previous year turnover exceeds Rs. 1.50 crore.

- (iv) The time of supply of goods for 3/4th of the goods will be 28th July 2018 as the payment has been made prior to the date of invoice and the time of supply of goods will be 1st August 2018 for remaining 1/4th goods. Note: Assume previous year turnover exceeds Rs. 1.50 crore.

Q. 21

What is the time of supply with respect to escalation in price after the issuance of invoice (E.g.: Invoice is issued for Rs.5,000 on June 22, 2020 by the supplier. Subsequently, due to variation in price the recipient pays-Scenario 1: Rs.5,500 Scenario 2: Rs.8,000)

Date of entry of payment in books of account - 30th July, 2020

Date of credit of payment in bank - 28th July, 2020

Answer:

In terms of the proviso to section 12(2)(b) of the CGST Act, 2017, the time of supply with respect to the amount received in excess upto Rs.1,000 of the amount indicated in tax invoice, the time of supply

shall be the date of issue of invoice. Where the amount is received exceeds Rs.1,000, the time of supply of goods shall be the earliest of the following:

- (a) Date on which payment is entered in books of accounts of the supplier; or
- (b) Date on which payment is credited to the bank account.

Accordingly, the time of supply in each of the scenarios given in the example would be as follows:

Scenario 1: The time of supply of goods with respect to the amount of Rs.500 received in excess shall be the date of invoice.

Scenario 2: The time of supply would be as follows:

Date on which payment is entered in books of accounts	30 th July, 2020	Time of supply shall be 28 th July, 2020
Date on which payment is credited to the bank account	28 th July, 2020	

Q. 22

Mr. A, a registered person received goods from Mr. B, an unregistered dealer. Mr. B issues invoice on 1st July 2018.

Find the time of supply of goods in following independent cases:

1. Mr. A received goods on 17th July 2018, payment of which is not made yet.
2. Mr. A received goods on 13th August 2018 & made payment for the same on 14th August 2018.
3. Mr. A made payment on 10th July and received goods on the same date.
4. Mr. A received goods on 15th July 2018 & made payment for the same on 14th July 2018.

Answer:

- (1) Time of supply of goods = 17-07-2018 Earliest of the following:

Receipt of Goods = 17-07-2018

Date of Payment = not paid

Date immediately following 30 days from the date of invoice = 31-07-2018

- (2) Time of supply of goods = 31-07-2018

Earliest of the following:

Receipt of Goods = 13-08-2018

Date of Payment = 14-08-2018

Date immediately following 30 days from the date of invoice = 31-07-2018

- (3) Time of supply of goods = 10-07-2018

Earliest of the following:

Receipt of Goods = 10-07-2018

Date of Payment = 10-07-2018

Date immediately following 30 days from the date of invoice = 31-07-2018

- (4) Time of supply of goods = 14-07-2018

Earliest of the following:

Receipt of Goods = 15-07-2018

Date of Payment = 14-07-2018

Date immediately following 30 days from the date of invoice = 31-07-2018

Q. 23

Determine the Time of supply in each of following independent cases where supply does not involve movement of goods.

Sl. No.	Date of invoice	Date when goods made available to recipient	Date of receipt of payment
1.	02-10-2017	05-10-2017	14-11-2017
2.	07-10-2017	03-10-2017	25-11-2017
3.	04-11-2017	06-11-2017	01-10-2017

Answer:

Time of supply of goods in each of the cases has been given in following table —

Sl. No.	Date of invoice	Date when goods made available to recipient	Date of receipt of payment	Time of supply	Reason
1.	02-10-2017	05-10-2017	14-11-2017	02-10-2017	Time of supply is date of issuance of invoice since invoice is issued prior to date when goods are made available to recipient and payment is received after the date of invoice.
2.	07-10-2017	03-10-2017	25-11-2017	03-10-2017	Time of supply is date when goods are made available to the recipient and date of issuance of invoice is after that date and payment is also received after that date.
3.	04-11-2017	06-11-2017	01-10-2017	01-10-2017	Time of supply is date of receipt of payment since invoice is issued after date of receipt of payment.

Q. 24

Determine the time of supply in the following cases assuming that GST on goods is payable under reverse charge:

S. no.	Date of receipt of goods	Date of payment by receipt of goods	Date of invoice by supplier of goods
1	July 2	August 10	June 29
2	July 2	June 25	June 29
3	July 2	Part payment made on June 30 & balance amount paid on July 20	June 29
4	July 6	Payment is entered in books of account on June 28 and debited in recipient's bank account on June 26	June 1
5	July 2	Payment is entered in books of account on June 30 and debited in recipient's bank account on June 26	June 29
6	August 2	August 10	June 29

Answer:

S. No.	Date of receipt of goods (DOR) Column (1)	Date of payment (DOP) Column (2)	Date of invoice by suppliers of goods (DOI) column(3)	Date next to DOI+30 days column(4)	Time of supply(TOS) =Earliest of (1),(2)&(4).
1	July 2	August 10	June 29	July 30	July 2
2	July 2	June 25	June 29	July 30	June 25
3	July 2	June 30(part 1)	June 29	July 30	June30 (part1)
	July 2	July 20(part 2)	June 29	July 30	July 2 (part 2)
4	July 6	June 26(earlier of date of entry in the books or date of debit in bank)	June 1	July 2	June 26
5	July 2	June 26 (earlier of date of entry in book or date of debit in bank)	June 29	July 30	June26
6	Aug 2	August 10	June 29	July 30	July 30

Q. 25

ABC & Associates, a Cost Accountant firm issued invoice for services rendered to Mr. Ram on 5th August 2019. Determine the time of supply in following independent cases:

- (i) The provision of services was completed on 1st July 2019.
- (ii) The provision of services was completed on 1^{5th} July 2019.
- (iii) Mr. Ram made the payment on 3rd July 2019, where provisions of services were remaining to be completed.
- (iv) Mr. Ram made the payment on 15th August 2019, where provisions of services were remaining to be completed.

Answer:

- (i) 1st July 2019 will be the time of supply of services as invoice is not issued within the time frame of 30 days.
- (ii) 5th August 2019 will be the time of supply of services as invoice is issued within the time frame.
- (iii) 3rd July 2019 will be the time of supply of services as payment received before the invoice date.
- (iv) 5th August 2019 will be the time of supply of services as invoice is issued before the completion of provisions of services.

Q. 26

X Pvt. Ltd. engaged in providing taxable services by way of training and coaching activities in relation of information Accounting and Auditing. Since 1st July 2017, it has the following details in respect of that activity for the month of September, 2017:

Date of issuance invoice	Date on which payment received	Amount in Rs.
16.09.2017	03.10.2017	2,50,000
20.10.2017	06.10.2017	25,000
02.10.2017	30.09.2017	1,25,000

The date of change in effective rate of tax in this case is 01-10-2017 from 12% to 18%. These services are rendered in August 2017. Find the Time of Supply of service, effective rate of tax and due date of payment of tax.

Answer:

Services rendered	Date of issuance of invoice	Date on which payment received	Amount in X	Time of supply of service	Effective Rate of tax	Due date of payment
Aug 2017	16.09.2017	03.10.2017	2,50,000	16.09.2017	12%	20.10.2017
Aug 2017	20.10.2017	06.10.2017	25,000	6.10.2017	18%	20.11.2017
Aug 2017	02.10.2017	30.09.2017	1,25,000	30.09.2017	12%	20.10.2017

Q. 27

ABC & Co., a Cost Accountants firm issued invoice for services rendered to Mr. Ram on 5th August 2017. Determine the time of supply in following independent cases:

- (i) The provisions of services were completed on 1st July 2017.
- (ii) The provisions of services were completed on 15th July 2017.
- (iii) Mr. Ram made the payment on 3rd July 2017, where provisions of services were remaining to be completed.
- (iv) Mr. Ram made the payment on 15th August 2017, where provisions of services were remaining to be completed.

Answer:

- (i) 1st July 2017 will be the time of supply of services as invoice is not issued within the time frame of 30 days.
- (ii) 5th August 2017 will be the time of supply of services as invoice is issued within the time frame.

- (iii) 3rd July 2017 will be the time of supply of services as payment received before invoice date.
- (iv) 5th August 2017 will be the time of supply of services as invoice is issued before the completion of provisions of services.

Q. 28

MS. ANTIRA, a registered person, supplied certain goods to Mr. G also a registered person. The tax in respect of the said goods is liable to be paid on Reverse Charges basis. Other details of the transaction are as under:

(a)	Date of receipt of goods by Mr. G	26.11.2017
(b)	Date on which the payment is made and entered in the books of accounts by Mr. G	22.12.2017
(c)	Date when the payment is debited in bank account of Mr. G	24.12.2017
(d)	Date of issue of invoice by Ms. Antira, the supplier	20.11.2017
(e)	Date immediately following 30 days from the date of issue of invoice by the supplier	21.12.2017

You are required to determine the time of supply of goods under reverse charge basis.

Answer:

Time of supply of Goods in the given case, shall be earlier of the following dates

(a)	Date of the recipient of goods by Mr. G	26.11.2017
(b)	Date on which the payment is made and entered in the books of Account by Mr. G.	22.12.2017
(c)	Date when the payment is debited in the bank account of Mr. G	24.12.2017
(d)	Date immediately following 30 days from the date of issue of invoice by the Supplier (MS Antira)	21.12.2017

Thus, the time of supply of goods shall be 26.11.2017 being the earliest of four stipulated dates specified above.

Q. 29

R, a manufacturer of machines (having a turnover of more than Rs. 1.5 crore) received an advance of Rs. 1,20,000 along with the purchase order on 15.10.2017 for supply of machine X for Rs. 20,00,000 to be manufactured according to the specifications. Advance payment was entered in the books of account on 16.10.2017 and credited in his bank account 18.10.2017.

The machine is manufactured and after approval has been delivered to the buyer on 25.10.2017 and the invoice was raised at the time of removal. The balance payment of Rs.18,80,000 was received on 15.11.2017 which was recorded in the books of accounts of R on the same date and was credited in his bank on 17.11.2017. Determine the time of Supply.

Answer:

The time of supply of machine to the extent of Rs. 1,20,000 is 16.10.2017 as this payment was received before the date of invoice and entered in the books of account on 16.10.2017.

The time of supply of machine to the extent of the balance amount of Rs. 18,80,000 is 25.10.2017 when the invoice was raised which is earlier than the payment received.

Q. 30

R issues an invoice of Rs. 64,100 for supply of goods 10.10.2017 and received Rs. 65,000 in his bank through RTGS on the same date which was credited in his books of account on 11.10.2017 on receipt of intimation from the bank. Determine the time of supply of goods and the time of supply of excess payment.

Answer:

1) Time of supply of goods	
It will be determined as under:	
(i) Date of issue of actual invoice	10.10.2017
(ii) Amount credited in his bank account	10.10.2017
(iii) Payment entered in the books of account	11.10.2017
Whichever is earlier	
Thus time of supply of goods shall be 10.10.2017	
2) Time of supply of excess payment of Rs. 900	

R has received Rs. 900 in excess which cannot be taken as payment for invoice issued on 10.10.2017.	
Hence, in this case R will adjust the excess amount against the next supply.	
Consequently, the time of supply for Rs. 900 can be taken as the date of issue of next invoice if the supplier so chooses, though he has received the payment earlier.	

Q. 31

Ms. Poorvisha got registered under the GST law on 12-02-2019. Since she is new to the GST regime, she seeks your advice on the following:

- (i) Whether IGST payments can be made online only or can be made offline also;
- (ii) Whether manual challans are permitted under GST;
- (iii) Validity period of e-challans, and
- (iv) Whether cross utilization among Major and Minor heads of the electronic cash ledger is permitted.

Answer:

Advice to supplier who has newly taken registration:

(i) Section 49(1) of CGST Act, 2017 read with rule 87 of CGST Rules, 2017 provides that the deposit in electronic cash ledger can be made through any of the following modes, namely:

- Internet Banking through authorised banks;
- Credit card or Debit card through the authorised bank;
- National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- Over the Counter payment through authorised banks. Thus, offline mode is also permitted under GST.

As per Rule 87 of CGST Rules, Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

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

- (1) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
- (2) 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;
- (3) 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.

(ii) Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.

(iii) E-challan is valid for a period of 15 days.

(iv) Amount entered under any Minor head (Tax, Interest, Penalty, etc.) and Major Head (CGST, IGST, SGST/UTGST) of the Electronic Cash Ledger can be utilized only for that liability.

Cross-utilization among Major and Minor heads is not possible.

VALUE OF SUPPLY

Meaning of Value of Supply	Value of Supply in common terms is nothing but the amount paid by the recipient of supply to the supplier as consideration for supply (also known as transaction value). It means Value of supply is the figure upon which tax is levied and collected.
Source Law of Value of Supply	Section 15 of the CGST Act supplemented with the rules of Value of Supply of CGST Rules prescribes the provisions for determining the value of supply of goods and services made in different circumstances and to different persons.
Contents of Section 15	<ol style="list-style-type: none"> 1. Transaction Value Section 15(1) 2. Inclusion in Transaction Value Section 15(2) 3. Exclusion in Transaction Value Section 15(3) 4. Value where Transaction Value is not available. Section 15(4) 5. Specified Valuation in Specified Cases Section 15(5)
Total Types of Value of Supply	<p>There are total 3 types of Value of Supply:</p> <ol style="list-style-type: none"> 1. Transaction Value Section 15(1), 15(2), 15(3) 2. Value other than Transaction Value Section 15(4) 3. Specified Value Section 15(5)

CATEGORY 1 TRANSACTION VALUE SECTION 15(1), 15(2), 15(3)

Transaction Value Section 15(1)	When a transaction of supply of goods / services is made <ul style="list-style-type: none"> ➤ between two persons who are not related to each other, and ➤ price is the sole consideration for the supply, The value of the supply is the “ transaction value ”.
Inclusions in Transaction Value Section 15(2)	<p>The value of supply includes certain elements which are as follows:</p> <ol style="list-style-type: none"> 1. Taxes, duties, cesses, fees and charges other than CGST, SGST, UTGST, GST Compensation Cess, if charged separately 2. Any amount that the supplier is liable to pay in relation to supply but which has been incurred by the recipient of the supply and not already included in the price. 3. Incidental expenses, such as, commission and packing, charged by the supplier to the recipient of a supply 4. Any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of goods /supply of services 5. Interest or late fee or penalty for delayed payment of consideration 6. Subsidies, directly linked to the price, other than subsidies given by

	the State or Central Governments
Exclusions in Transaction Value Section 15(3)	<p>Discounts that are allowed as deduction from the value are as follows:</p> <ol style="list-style-type: none"> 1. Discounts given before or at the time of supply and shown in the invoice 2. Post supply discounts- 3. Staggered discounts ('Buy more, Save more' offers): 4. Periodic / year ending discounts/volume discounts
Treatment of taxes, duties, cesses, fees and charges Other than GST Section 15(2)	<p>Any taxes, duties, cesses, fees and charges levied under any law other than GST, if charged separately by the supplier, are includable in the value of supply.</p> <p>TCS under Income-Tax Act, 1961 not includable in the taxable value for the purpose of GST</p>
Treatment of payments made by recipient on behalf of supplier Section 15(2)	<p>The transaction value will include the amount which the supplier is liable to pay but it has been paid by the recipient of supply.</p> <p>A supplier may need to incur various expenses in order to make a particular supply of goods / services. In the normal course, he would pay these amounts and they would form part of the price that he charges from the customer (recipient of supply). However, even if the customer makes direct payment of some of such liabilities (of the supplier) to the third parties, and the supplier does not include this amount in his bill, it would still form part of the value of the supply.</p>
Treatment of incidental expenses like commission and packing charges etc. Section 15(2)	<p>The transaction value will include commission and packing charges charged by the supplier and transaction value to include any amount charged by the supplier for anything done in respect of supply either at the time or before delivery of goods or services.</p>
Treatment of interest, late fee or penalty for delayed payment Section 15(2)	<p>The value for a supply will include not only the base price but also the charges for delay in payment.</p>
Treatment of Subsidy Section 15(2)	<p>Case 1: PAYMENT OF SUBSIDY WAS MADE TO SUPPLIER GST will apply on the reduced value</p> <p>Case 2: PAYMENT OF SUBSIDY WAS MADE TO RECEIVER GST will apply on the total value</p>
Treatment of Discount	Case 1: IF THE DISCOUNT IS GIVEN BEFORE OR AT THE TIME OF SUPPLY, AND IS RECORDED IN THE INVOICE

Section 15(3)	<p>GST will apply on the discounted value</p> <p>Case 2: IF THE DISCOUNT IS GIVEN AFTER SUPPLY, BUT AGREED UPON BEFORE OR AT THE TIME OF SUPPLY, AND CAN BE SPECIFICALLY LINKED TO RELEVANT INVOICES.</p> <p>GST will apply on the total value but later on shall be claimed as deduction.</p> <p>Case 3: IF THE DISCOUNT IS GIVEN AFTER SUPPLY, AND NOT KNOWN AT THE TIME OF SUPPLY.</p> <p>No treatment of discount.</p>
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CATEGORY 2 VALUE OTHER THAN TRANSACTION VALUE SECTION 15(4)

Value other than Transaction Value Section 15(4)	<p>Section 15(4) lays down that where sub-section (1) is not applicable, i.e. if the transaction is with a related party, and/or price is not the sole consideration for the supply of goods / services, then the value will be determined in the manner as prescribed, which means as stipulated in the rules for valuation.</p> <p>Rules 27 to 31 of the CGST Rules provide the mechanism to determine value in all such scenarios.</p> <p>These valuation rules determine value of goods or services or both on which tax under GST has to be charged. Valuation rules have been prescribed under CGST Rules, 2017 for the purpose of determination of fair market value of goods or services or both supplied by the registered person. It means valuation rules are helpful to determine the value of supply where value not determined under Sec. 15(1).</p>
Rule 27 Value of supply of goods or services where the consideration is not wholly in money	<p>If the consideration for a supply of goods and /or services is wholly or partly in non-monetary terms, the supply is valued in accordance with provisions of rule 27.</p> <p>Rule 27 lays down the following methods to value a supply when the consideration thereof is not solely in terms of money:</p> <p>(a) The open market value of such supply;</p> <p>(b) If open market value of the supply is not known, the consideration in money plus the money equivalent of the non-money consideration, if such amount is known at the time of supply;</p> <p>(c) If the value cannot be determined under the previous two clauses, the value of supply of goods and/or services of like kind and quality;</p> <p>(d) Finally, if the value is not ascertainable by using the above methods, the consideration in money plus the money equivalent of the non-money consideration, as worked out in Rule 30 or 31 will apply.</p>

Rule 28 Value of supply of goods or services or both between distinct or related persons, other than through an agent	<p>Rule 28 deals with transactions between related persons and between 'distinct persons'. This rule, however, does not provide the value of the supply made through an agent.</p> <p>Rule 28 provides the value of such kind of supplies when the same are made for a consideration as well as when the same are made without consideration.</p> <p>The methods of valuation of transactions between related persons and between distinct persons, in the sequence in which they are to be applied, are as follows:</p> <ul style="list-style-type: none"> (a) The open market value of such supply; (b) If open market value is not available, the value of supply of goods or services of like kind and quality; (c) If value cannot be determined under the above methods, it must be worked out based Rule 30 or Rule 31. <hr/> <p>If the goods are intended to be supplied AS SUCH by the recipient Value = 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer</p> <hr/> <p>However, it is not mandatory for the supplier to adopt this method of valuation. He can opt to value his goods in accordance with the valuation methods prescribed in clause (a), (b) or (c) above.</p>
Rule 29 Value of supply of goods or received through an agent	<p>Supply of goods between principal and agent is valued by the following methods, applied in sequence:</p> <ul style="list-style-type: none"> (a) Open market value of goods being supplied OR 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer. (b) In case value cannot be determined under (a) then Rule 30 or 31 will apply.
Rule 30 Value of supply of goods or services or both based on cost	<p>If the value of a supply of goods and/or services cannot be worked out by the foregoing methods, its value will be 110% of the cost of production/ manufacture/acquisition of such goods or cost of provision of such services.</p>
Rule 31 Residual	<p>The supplier of goods needs to sequentially follow rules 27 to 30 before valuing goods as per this residual rule 31.</p>

method/ Best Judgement Method	<p>Service providers, however, have the option of valuing services as per rule 30 or rule 31 after sequentially following rules 27 to 29.</p> <p>The residual method consists of determination of value by using reasonable means consistent with the principles and general provisions of section 15 and these Rules.</p>
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CATEGORY 3 SPECIFIED VALUATION 15(5)

SPECIFIED VALUATION Section 15(5)	<p>Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.</p> <p>Section 15(5) lays down that in respect of certain notified supplies also, the value will be determined in the manner as stipulated in the rules for valuation. Thus, the methodology of transaction value will not apply for such notified categories of transactions; instead the rules will prescribe a different method of determining value for these notified transactions.</p>				
Rule 32(2) The service of purchase or sale of foreign currency including money changing	<p>RULE 32 (2)(a) :</p> <p>IF RBI REFERENCE RATE IS AVAILABLE, PURCHASE of foreign currency by service supplier VOS= (RBI reference rate - Buying rate) X Total units of currency.</p> <p>SALE of foreign currency by service supplier VOS= (SELLING RATE - RBI reference rate) X Total units of currency.</p> <p>IF RBI REFERENCE RATE IS NOT AVAILABLE VOS=1% OF INDIAN RUPEES PROVIDED OR RECEIVED</p> <p>IN CASE WHERE NEITHER OF THE CURRENCIES EXCHANGED IS INDIAN RUPEE</p> <p>VOS= 1% OF THE LESSER OF THE TWO AMOUNTS The person changing the money would have received by converting ANY OF THE TWO CURRENCIES into INDIAN RUPEE</p> <p>RULE 32 (2)(b):</p> <table border="1" data-bbox="450 1814 1406 2037"> <thead> <tr> <th data-bbox="450 1814 917 1850">AMOUNT OF TRANSACTION</th> <th data-bbox="917 1814 1406 1850">VALUE OF SUPPLY</th> </tr> </thead> <tbody> <tr> <td data-bbox="450 1850 917 2037">Upto`1,00,000</td> <td data-bbox="917 1850 1406 2037">1% OF THE GROSS AMOUNT OF CURRENCY EXCHANGED; OR `250, WHICHEVER IS HIGHER.</td> </tr> </tbody> </table>	AMOUNT OF TRANSACTION	VALUE OF SUPPLY	Upto`1,00,000	1% OF THE GROSS AMOUNT OF CURRENCY EXCHANGED; OR `250, WHICHEVER IS HIGHER.
AMOUNT OF TRANSACTION	VALUE OF SUPPLY				
Upto`1,00,000	1% OF THE GROSS AMOUNT OF CURRENCY EXCHANGED; OR `250, WHICHEVER IS HIGHER.				

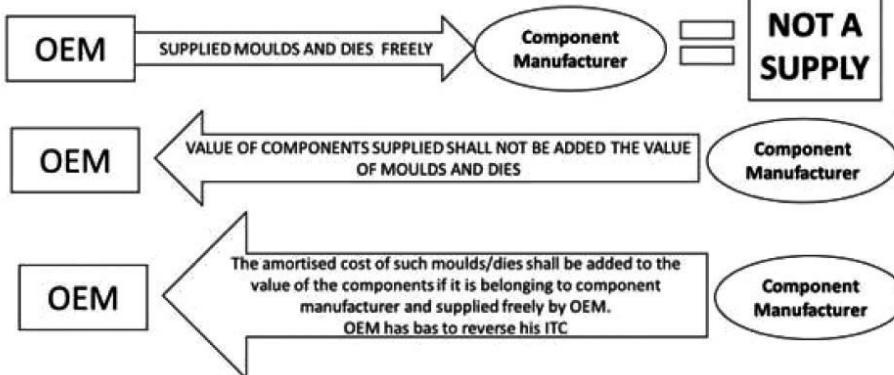
	<p>Exceeding `1,00,000 and upto 10,00,000</p> <p>Exceeding 10,00,000</p>	<p>`1,000 + 0.5 % OF THE GROSS AMOUNT OF CURRENCY EXCHANGED.</p> <p>5,500 + 0.1 % OF THE GROSS AMOUNT OF CURRENCY EXCHANGED</p> <p>OR</p> <p>60,000,</p> <p>WHICHEVER IS LOWER.</p>
		<p>NOTE:</p> <p>Taxable person will have to follow any of the above rules, and the rule adopted need to be followed throughout the financial year.</p>
Rule 32(3) The service of purchase or sale of foreign currency including money changing	<p>OPTION 1 ACTUAL EARNING BASIS</p> <p>OPTION 2 COMPUTED FIXED EARNING BASIS: AIR TRAVEL AGENTS MAY PAY GST AT 18% ON THE BELOW MENTIONED VALUE OF TAXABLE SUPPLIES AND NOT ON ACTUAL COMMISSION EARNED.</p> <p>Value of service of booking of tickets for air travel by an air travel agent is 5 % of basic fare in case of domestic travel and 10 % of basic fare in case of international travel.</p> <p>METHOD CAN BE CHANGED AT ANY TIME DURING THE YEAR.</p>	
Rule 32(4) Special provision relating to determination of value of service in relation to life insurance business	<p>Policy with dual benefits of risk coverage and investment Taxable value = Gross premium charged less amount allocated for investments/savings if such allocation is intimated to the policy holder at the time of collection of premium</p> <p>Single premium annuity policy Taxable value = 10 % of the single premium charged from the policy holder where allocation for investments/savings is not intimated to the policy holder</p> <p>Other cases Taxable value = 25 % of premium charged from the policy holder in the 1st year and 12.5 % of premium charged for subsequent years</p>	

	<p>Policy with ONLY risk cover Taxable value = Entire premium charged from the policy holder.</p>
Rule 32(5) Special provision relating to determination of value of second hand goods by a dealer of second hand goods – Margin Scheme	<p>Normally GST is charged on the transaction value of the goods. However, in respect of second hand goods, a person dealing in such goods may be allowed to pay tax on the margin, i.e. the difference between the value at which the goods are supplied and the price at which the goods are purchased, if ITC is not availed.</p> <p>If there is no margin, no GST is charged for such supply.</p> <p>The taxable value of supply of second hand goods, i.e. used goods as such or after such minor processing which does not change the nature of goods is the difference between the purchase price and the selling price, provided no ITC has been availed on purchase of such goods. However, if the selling price is less than purchase price, that negative value is ignored.</p> <p>If ITC is availed, There shall be normal valuation based on Transaction Value.</p> <p>Purchase value of supply of goods repossessed from a defaulting borrower</p> <p>Many a times, goods taken on loan are repossessed by the lender in the event of default in payment of the loan. The purchase value of such repossessed asset is-</p> <p>If the defaulting borrower is un-registered: Purchase value = Purchase price in the hands of such borrower reduced by 5% for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession</p> <p>If the defaulting borrower is registered The reposessing lender agency will discharge GST at the supply value without any reduction from actual/notional purchase value</p>
Rule 32(6) Special provisions relating to determination of value of redeemable vouchers/stamps /coupons/tokens	<p>The value of a token, voucher or coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods and/or services is equal to the money value of the goods and/or services redeemable against such token, voucher, coupon or stamp.</p>
Rule 31A Value of supply in case of lottery, betting, gambling and horse racing	<p>VOS of Lottery =</p> <p>Higher of the two amounts to be deemed as the value</p> <p>100/128 of the face value of ticket</p> <p>OR</p> <p>100/128 of the price as notified in the Official Gazette by the organizing State.</p> <p>Supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club.</p> <p>VOS=</p> <p>100% of the face value of the bet or the amount paid into the totalisator.</p>

Rule 33 Value of supply of services in case of pure agent	<p>Supply as a pure agent is an independent concept relevant for valuation.</p> <p>A pure agent is one who while making a supply to the recipient, also receives and incurs expenditure on some other supply on behalf of the recipient and claims reimbursement (as actual, without adding it to the value of his own supply) for such supplies from the recipient of the main supply.</p> <p>It may happen sometimes that a supplier making a supply also incurs some expense for the recipient which is not a part of the supply made by him.</p> <p>If such expense is incurred by the supplier as a pure agent of the recipient, it is not includable in the value of supply; if not incurred as pure agent, the same is includable in the value of supply.</p> <p>While the relationship between them (provider of service and recipient of service) in respect of the main service is on a principal to principal basis, the relationship between them in respect of other ancillary services is on pure agent basis</p>
Rule 34 Rate of exchange of currency, other than Indian rupees, for determination of value	<p>Goods: The relevant rate of exchange for determining the value of taxable goods is the rate notified by CBEC under section 14 of the Customs Act, 1962, prevalent on the date of time of supply of said goods.</p> <p>Services: The relevant rate of exchange for determining the value of taxable service is the rate determined as per GAAP, prevalent on the date of time of supply of said service.</p>
Rule 35 Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax	<p>Where the value of supply is inclusive of GST, the tax amount is determined in the following manner:</p> <p>Tax amount = (Value inclusive of taxes x GST rate in %) [IGST or CGST, SGST/UTGST] / (100 + sum of GST rates in %)</p>

ORIGINAL EQUIPMENT MANUFACTURERS (OEM)

Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of	<p>Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved.</p> <p>Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on</p>
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cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this Case?	<p>such moulds and dies by the OEM.</p> <p>It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017.</p> <p>However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components.</p> <p>In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.</p>  <pre> graph TD subgraph Top [] direction LR OEM1[OEM] -- "SUPPLIED MOULDS AND DIES FREELY" --> CM1((Component Manufacturer)) CM1 == NOTASUPPLY[NOT A SUPPLY] end subgraph Middle [] direction LR OEM2[OEM] -- "VALUE OF COMPONENTS SUPPLIED SHALL NOT BE ADDED THE VALUE OF MOULDS AND DIES" --> CM2((Component Manufacturer)) end subgraph Bottom [] direction LR OEM3[OEM] -- "The amortised cost of such moulds/dies shall be added to the value of the components if it is belonging to component manufacturer and supplied freely by OEM. OEM has to reverse his ITC." --> CM3((Component Manufacturer)) end </pre>
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Del Credere Agent Commission (DCA)

Definition of Del Credere Agent:	<p>Del-Credere agent is no where defined under GST law. So, the del credere agent should be understood its meaning under common parlances as a selling agent who assist the principal supplier by contacting the potential buyers on behalf of the principal.</p> <p>The distinguishing factor among Del credere agent and other agent is that it guarantees payment to the supplier. In case where the buyer fails to pay the supplier by due date. Del Credere Agent makes good the payment on behalf of the recipient. Therefore, the commission received by the del credere agent is higher than the commission paid to the other agents the amount paid by the del credere agent for the sum paid by him on behalf of the recipient shall be considered as financing service rather than</p>
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	<p>brokerage.</p> <p>The circular no. 57/31/2018-GST dated 4th September 2018 clarifies it clearly that Del credere agent falls under the ambit of agent. Also, the definition of agent under section 2(5) of CGST Act, 2017 clearly states agent includes del credere agent.</p>
Whether a Del Credere Agent falls under the ambit of agent under CGST Act?	<p>In case of supply of goods, if the invoice is issued by supplier to customer either himself or through del credere agent then it does not fall under the ambit of agent. However, in case where the invoice is issued by the del credere agent than it would fall under the ambit of agent.</p>
Whether the temporary loan extended by Del Credere Agent to the recipient, for which interest is charged, is to be included in the value of goods being supplied by the supplier where he/ she is not an agent under CGST Act?	<p>No, since the loan extended by the del credere is on principal to principal basis and is independent supply.</p> <p>Also, the services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) has been exempted.</p>
Whether the temporary loan extended by Del Credere Agent to the recipient, for which interest is charged, is to be included in the value of goods being supplied by the supplier where he/ she is an agent under CGST Act?	<p>Yes, Since the supply of service of del credere is no more independent of supply of goods made by supplier .Therefore the supply of service by way of extension of credit would not be considered as independent supply and the interest charged for such credit would form part of value of supply as required under section 15(2) of CGST Act,2017</p>

Donation or gifts from individual donors

Levy of GST on service display of name plates or donor in premises of charitable organisation	<p>Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable institutions, schools, hospitals, orphanages, old age homes etc. the recipient institutions place a name plate or similar such acknowledgement in their premises to express gratitude.</p> <p>When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.</p>
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Issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association From its members

<p>Are the MAINTENANCE CHARGES paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST?</p>	<p>EXEMPT UP TO AN AMOUNT OF RS. 7,500</p> <p>PER MONTH PER MEMBER</p>															
<p>Is it required to take registration and pay GST on MAINTENANCE CHARGES if the amount of such charges is MORE THAN ` 7,500/- per month per member BUT their ANNUAL TURNOVER IS LESS than the prescribed threshold?</p>	<p>NO.</p> <p>HAVE A LOOK AT THE SUMMARY CHART.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 5px;">Annual turnover of RWA</th> <th style="text-align: center; padding: 5px;">Monthly maintenance charge</th> <th style="text-align: center; padding: 5px;">Whether exempt?</th> </tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 5px;">More than ` 20 lakhs</td> <td style="text-align: center; padding: 5px;">More than ` 7,500/-</td> <td style="text-align: center; padding: 5px;">NO</td> </tr> <tr> <td style="text-align: center; padding: 5px;"></td> <td style="text-align: center; padding: 5px;">` 7,500/- or less</td> <td style="text-align: center; padding: 5px;">YES</td> </tr> <tr> <td style="text-align: center; padding: 5px;">` 20 lakhs or less</td> <td style="text-align: center; padding: 5px;">More than ` 7,500/-</td> <td style="text-align: center; padding: 5px;">YES</td> </tr> <tr> <td style="text-align: center; padding: 5px;"></td> <td style="text-align: center; padding: 5px;">` 7,500/- or less</td> <td style="text-align: center; padding: 5px;">YES</td> </tr> </tbody> </table>	Annual turnover of RWA	Monthly maintenance charge	Whether exempt?	More than ` 20 lakhs	More than ` 7,500/-	NO		` 7,500/- or less	YES	` 20 lakhs or less	More than ` 7,500/-	YES		` 7,500/- or less	YES
Annual turnover of RWA	Monthly maintenance charge	Whether exempt?														
More than ` 20 lakhs	More than ` 7,500/-	NO														
	` 7,500/- or less	YES														
` 20 lakhs or less	More than ` 7,500/-	YES														
	` 7,500/- or less	YES														
<p>IS THE RWA ENTITLED</p>	<p>YES</p>															

TO TAKE INPUT TAX CREDIT?	
<p>Where A PERSON OWNS TWO OR MORE FLATS in the housing society or residential complex, whether the ceiling of ` 7,500/- per month per member on the maintenance for the exemption to be available shall be applied PER RESIDENTIAL APARTMENT OR PER PERSON?</p>	<p>The ceiling of ` 7,500/- per month per member SHALL BE APPLIED SEPARATELY FOR EACH RESIDENTIAL APARTMENT owned by him.</p>
<p>How should the RWA calculate GST payable where the maintenance charges exceed ` 7,500/- per month per member?</p> <p>Is the GST payable only on the amount exceeding ` 7,500/- or on the entire amount of maintenance charges?</p>	<p>The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed ` 7,500/- per month per member.</p> <p>In case the charges exceed ` 7,500/- per month per member, the entire amount is taxable.</p> <p>For example, if the maintenance charges are ` 9,000/- per month per member, GST @ 18% shall be payable on the entire amount of ` 9,000/- and not on $[` 9,000 - ` 7,500] = ` 1,500/-$</p>

Airport levies under GST

<p>Passenger Service Fee (PSF) or User Development Fee (UDF)</p>	<p>Passenger Service Fee (PSF) or User Development Fee (UDF) levied by airport operator for services provided to passengers, are collected by the air lines as an agent and is not a consideration for any service provided by the airlines. Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST Rules, 2017.</p> <p>The airport operators (like Mumbai International Airport Ltd., or Airport Authority of India or Delhi International Airport Ltd. etc) shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.</p> <p>Collection charges paid by the airport operator to airlines are a consideration for the services provided by the airlines to the airport operator and airlines shall be liable to pay GST on the same under</p>
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	forward charge. ITC of the same will be available with the airport operator.
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Real Estate Sector

OLD GST Rates of Real Estate Transactions	Particulars	Applicability	Rate of Tax	Input Tax Credit
	On ready-to-move (RTM) properties for which completion certificates are issued	Not applicable – Because Sale of building is treated as activity or transaction which shall be treated neither as a supply of good nor a supply of service as per SCHEDULE III of CGST Act,2017	NA	Not available
	On Under Construction Properties (For Homes Purchased Under Credit-Linked Subsidy Scheme)	Applicable as supply of services as per Schedule I of CGST Act, 2017	8%	Available
	On Under Construction Properties (Other than above)	Applicable as supply of services as per Schedule I of CGST Act, 2017	12%	Available
	On resale properties	Not applicable	NA	Not available
	On Land purchase and sale	Not applicable. As per Schedule III, sale of land is neither supply of goods nor services.	NA	Not available
	Works contract	Applicable	18%	Available
	Composite supply of works contract	Applicable	18%	Available
	Composite supply of works Contract to Government Authorities	Applicable	12%	Available
	Composite supply of works contract – for use by general public	Applicable	12%	Available
	Composite supply of works contract –	Applicable	12%	Available

Affordable Housing										
Reduced NEW rates	<p>Below are the new tax rates without ITC for housing projects applicable w.e.f 1.4.2019</p> <table border="1"> <thead> <tr> <th>Rate</th><th>Description</th></tr> </thead> <tbody> <tr> <td rowspan="2">1%</td><td>New affordable housing projects</td></tr> <tr><td>Ongoing affordable housing projects opting for new rates</td></tr> <tr> <td rowspan="3">5%</td><td>Ongoing other than affordable housing projects</td></tr> <tr><td>New other than affordable housing projects</td></tr> <tr><td>Projects with commercial space <15% of total carpet area</td></tr> </tbody> </table>	Rate	Description	1%	New affordable housing projects	Ongoing affordable housing projects opting for new rates	5%	Ongoing other than affordable housing projects	New other than affordable housing projects	Projects with commercial space <15% of total carpet area
Rate	Description									
1%	New affordable housing projects									
	Ongoing affordable housing projects opting for new rates									
5%	Ongoing other than affordable housing projects									
	New other than affordable housing projects									
	Projects with commercial space <15% of total carpet area									
Conditions to be satisfied for availing the above rates	<p>(i) ITC: ITC cannot be claimed.</p> <p>(ii) Purchase of inputs from registered persons: At Least 80% of the total value of inputs and input services should be purchased from registered suppliers. However, the value of the following services used in the construction of residential apartments are excluded for this calculation:</p> <ul style="list-style-type: none"> ➢ Grant of developmental rights ➢ Long term lease of land ➢ Floor space index ➢ Value of electricity ➢ Value of high-speed diesel ➢ Motor spirit and natural gas <p>The promoter should pay GST @18% on reverse charge basis on all such inward supplies to the extent short of 80% of inward supplies from registered supplier except cement on which tax has to be paid at 28% (if purchased from unregistered persons).</p>									
What is a residential real estate project?	A Real Estate Project in which the carpet area of the commercial space is not more than 15% of the total carpet area of all apartments in the project.									
What is an affordable residential apartment?	An affordable residential apartment is one in which: <ol style="list-style-type: none"> 1. Carpet area is up to 60 square meter for metropolitan cities; 2. Carpet area is up to 90 square meter for cities and towns other than metropolitan cities and; 3. The gross amount charged by the builder is not more than Rs.45 Lacs. 									
What is an ongoing project?	<p>A project is considered as an ongoing project if the following conditions are satisfied:</p> <ol style="list-style-type: none"> 1. Where Commencement Certificate is required and has been issued by the competent authority on or before 31st March 2019 and the same is certified by a registered architect, chartered engineer or a licensed surveyor that the construction of the project started on or before 31st March 2019. 									

	<p>E.g In case of a single tower comprising of 50 floors and registered as a single project, separate commencement certificates may be issued by the competent authority. If one or two certificates are received on or before 31st March 2019 and some later, the same is still considered as an ongoing project.</p> <ol style="list-style-type: none"> 2. A Commencement Certificate where not required to be issued by the competent authority, then the same shall be issued by a registered architect, chartered engineer or a licensed surveyor that the construction of the project started on or before 31st March 2019. 3. Completion Certificate is not issued on or before 31st March 2019. For instance, if a project has three blocks and completion certificate is received for one block prior to 1st April 2019 and the rest are received after this date. In such a case, the project is considered as an ongoing project because as per Notification issued by Government, a project is considered complete only if the Completion Certificate is issued for the entire project and not a part thereof. 4. The first occupation of the project has not taken place before 31st March 2019. For instance, if occupation certificate is received only for a part of the premises (up to 31st March 2019) in a huge project and not the entire project, the same is considered as an ongoing project. 5. Apartments are partly or wholly booked on or before 31st March 2019. This condition is not applicable for redevelopment of slum rehabilitation projects as the beneficiaries, in this case, are not required to pay any monetary consideration for flats allotted to them. A project where bookings have not started but the construction has started before 31st March 2019, the same will not be considered as 'ongoing project'. It will be treated as a new project and the new tax rates will apply.
Does a promoter or a builder have the option to pay tax at old rates of 8% & 12% with ITC?	<p>Yes, in case of an ongoing project, a promoter or builder can exercise a one time option to pay tax at old rates. This should be communicated to the Jurisdictional Commissioner by 20th May 2019 in the prescribed form. If not communicated, it is deemed that they have opted for making tax payments at new rates. Also, modification of option is not allowed once submitted.</p> <p>Note:</p> <ol style="list-style-type: none"> 1. This option needs to be exercised for each ongoing project separately. Thus, promoters may exercise different options for different ongoing projects undertaken by him. 2. This option is also available for specific schemes like PMAY, Housing For All, RAY or any other housing schemes of Central or State Government.

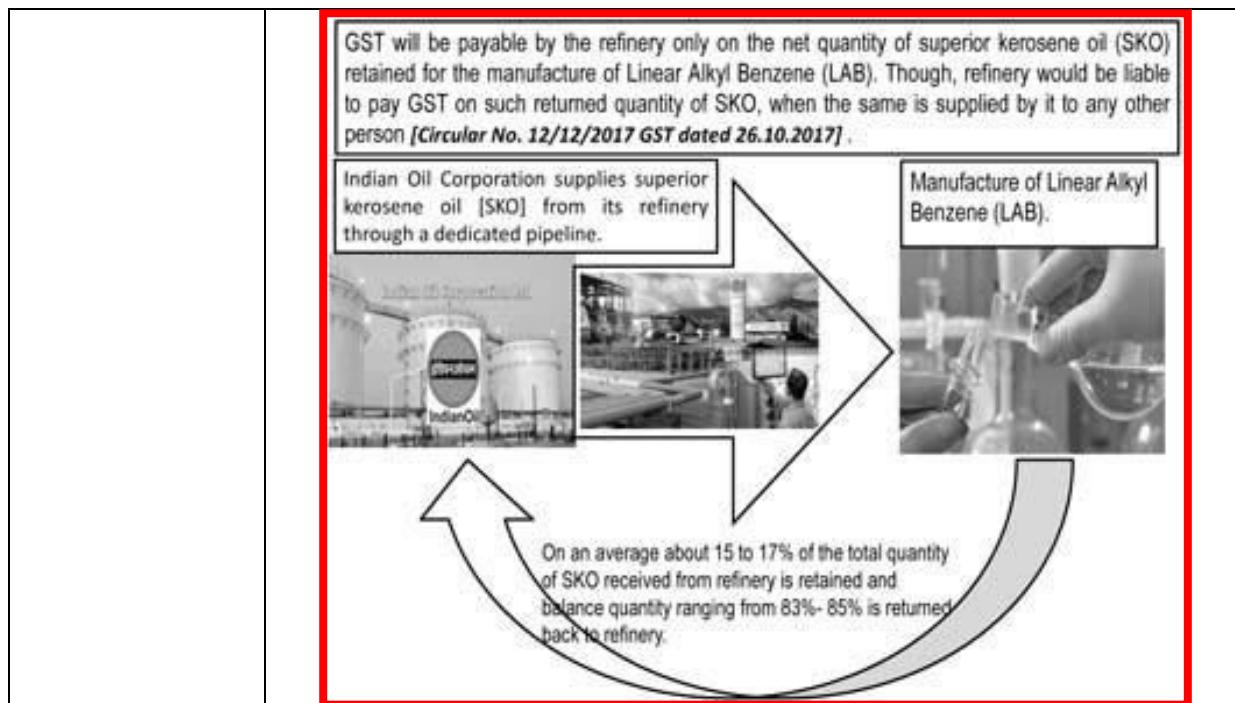
	<p>3. This option can be exercised by a promoter or a builder and not the buyer.</p>
What is the rate of GST applicable w.e.f 1st April 2019 on the construction of commercial apartments [shops, godowns, offices, etc.] in a real estate project?	<p>Commercial Apartments in Residential Real estate Project (RREP) where the construction has commenced on or after 1st April 2019 or; An ongoing project where the promoter has opted for new rates. ↓ 5% without ITC on the total consideration</p> <p>Commercial Apartments in Real estate Project (REP) other than RREP or; An ongoing project where the promoter has opted for old rates ↓ 12% with ITC on the total consideration</p>
What are the GST rates on TDR, FSI and long term lease of land?	<p>Transfer of development rights or FSI by way of an agreement on or before 31st March 2019 is exempted from tax even if the consideration for the same is paid (cash or kind) in part or full on or after 1st April 2019.</p> <p>Below are the tax rates:</p> <p>a. If the supply of TDR, FSI or long term lease of land is used for the construction of residential apartments, Tax on TDR is to be computed on the basis of the following formula:</p> <p>GST is applicable on such value which is proportionate to the construction of residential apartments that remain un-booked on the date of issue of Completion Certificate/first occupation.</p> <p>The rate of tax is 18% subject to a tax amount which is limited to 1% or 5% of the value of apartment depending upon whether the TDR/FSI is used for an affordable residential apartment or other than an affordable residential apartment.</p> <p>b. If the supply of TDR, FSI or long term lease of land is used for the construction of commercial space:</p> <p>GST at 18%.</p>
Who is liable to pay GST on TDR and floor space index?	<p>The promoter is liable to pay GST on reverse charge basis on TDR or floor space index supplied on or after 1st April 2019. Even if a landowner is not engaged in a regular business of land-related activities, transfer of development rights by such an individual to the promoter is liable to GST as it is considered as supply of service under section 7 of CGST Act. Also, in case of outward supply of TDR by one developer to another, GST is applicable at 18% on reverse charge.</p>

At what point of time, the promoter should discharge its tax liability on the supply of TDR, FSI and long term lease?	Description Point of taxation <p>TDR</p> <p>The liability to pay tax arises on the date of completion or first occupation of the project whichever is earlier. Thus, GST would be applied on the value which is proportionate to the construction of residential apartment that remains unbooked on the date of issue of Completion Certificate/first occupation.</p> <p>FSI</p> <p>For FSI received after 1st April 2019: If consideration for FSI is in the form of construction of commercial or residential apartments – Liability arises on the date of issuance of Completion Certificate. If consideration for FSI is in monetary form–</p> <ul style="list-style-type: none"> ✓ For Residential Apartment Construction: Liability arises on the date of issuance of Completion Certificate. ✓ For Commercial Apartment Constructions: Liability to pay tax shall arise immediately. <p>Long term lease</p> <p>For long term lease received after 1st April 2019: Liability arises on the date of issuance of the Completion Certificate in case of construction of residential apartments. However, liability to pay tax shall arise immediately if such long term lease is related to commercial space.</p>
Is the option to pay tax at old rates of 12% or 8% (with ITC) is available to the promoter in respect of the New Project (commenced on or after 1st April 2019)?	<p>No, there is no such option. This option is not available even for schemes like PMAY, Housing for All, RAY or any other housing schemes of Central or State Government. For projects which commence on or after 1st April 2019, the promoters need to mandatorily pay tax at new rates.</p>
Can a promoter revise an invoice as per section 34 of CGST Act by way of issuance of debit/credit notes?	<p>In case of invoices issued by a promoter prior to 20th May 2019 are not in accordance with the option of tax rates exercised by him, a debit/credit note can be issued to bring the transaction in conformity with the final option exercised by him.</p>
What is the classification	<p>1. Affordable Housing Project – 12%, provided affordable housing space is more than 50% of the total carpet area.</p>

and rate of tax on works contract service provided by a contractor to a developer or promoter under the new scheme?	<p>2. Residential housing project Other than Affordable housing – 18% 3. Commercial Housing -18%</p>
How to compute tax adjustment of a credit note where a unit was booked prior to 1st April 2019 but cancelled at a later date?	Suppose the buyer paid a gross booking amount of Rs.10 lacs before 1st April 2019. The developer paid GST of Rs.1.2 lakhs (12% of Rs.10 lacs) on the booking amount. In this case, a developer can make a tax adjustment of Rs.1.2 lakhs at the time of cancellation provided the entire amount is refunded to the buyer on or before Sept 2019.

Superior Kerosene Oil [SKO]

Whether GST is applicable on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]?	<p>Linear Alkyl Benzene (LAB) manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n- Paraffin from SKO and return back the remaining of SKO to the refinery.</p> <p>In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures.</p> <p>Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.</p>
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Inter-state movement of various modes of conveyance, carrying goods or passengers

Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance	<p>It is hereby clarified that the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, may not be treated as supply and consequently IGST will not be payable on such supply.</p> <p>However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.</p>
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Inter-State Movement of Goods do not constitute Supply

Inter-State Movement of Goods do not constitute Supply:	<p>To clarify that inter-state movement of goods like rigs, tools, spares and goods on wheel like cranes, not being in the course of furtherance of supply of such goods, does not constitute a supply. This clarification gives major compliance relief to industry as there are frequent inter-state movements of such kind during providing services to customers or for the purposes of getting such goods repaired or refurbished or for any self-use. Service provided using such goods would in any case attract applicable tax.</p>
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ITC Available on Inter-state supply of Aircraft engines, Parts & Accessories

ITC Available on Inter-state supply of Aircraft engines, Parts & Accessories	It is being clarified that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act.
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Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?

Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST?	<ol style="list-style-type: none"> 1. Intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST. 2. Notification No. 36/2017-CT(R) and Notification No. 37/2017-IGST (R) notified that such supply to any registered person would be subject to GST on reverse charge basis. 3. Such supply to an unregistered person is also a taxable supply under GST but is not covered under Notification No. 36/2017-CT (R) and Notification No. 37/2017-Integrated Tax (Rate). 4. It is clarified that the respective Government departments shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act.
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QUESTIONS AND ANSWERS

Q. 1

Mr. A goes to shop of Mr. B and purchases television. He pays amount of Rs. 50,000 as consideration for 52 inches LED TV Purchased plus GST. Where MRP of the product Rs. 65,000. Discount offered to all buyers Rs. 15,000. As per section 15(1) of the CGST Act, 2017 the valuation will be as per transaction value basis. Assume applicable rate of CGST 14% and SGST 14%. Invoice will be prepared as follows:

Invoice

Particulars	Value in Rs.
Transaction value	50,000
Add: CGST 14%	7,000
Add: SGST 14%	7,000
Invoice price	64,000

Note: Invoice price should not increase the Maximum Retail Price (MRP)

If Mr. A not maintained sole consideration for such sale or they are related persons then valuation will based on determination of value of supply rules (i.e. CGST Rules, 2017).

Q. 2

Admission to True Theater is Rs. 90 per ticket for a Tamil Movie as well as for a Hindi Movie plus entertainment tax Rs. 10% on Tamil Movie and 20% on other languages. In the month of November, True Theater sold 2000 tickets of Tamil Movie and 1500 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18% & 28%. Find the GST liability if any?

Answer:

Statement showing value of taxable supply of service and GST liability:

Value of taxable services:

Tamil Movie	Rs. 1,98,000	99 x 2000 tickets)
Hindi Movie	Rs. 1,62,000	108 x 1500 tickets)

Particulars	9% CGST	9% SGST	14% CGST	14% SGST
GST liability (Rs.)	17,820	17,820	22,680	22,680

Working note:

Particulars	Tamil Movie (Rs.)	Hindi Movie (Rs.)
Rate per ticket	90	90
Add: Entertainment tax	9	18
Value of taxable supply	99	108
Applicable GST rate	18%	28%

Supplies made by recipient on behalf of supplier [Sec. 15(2)(b) of CGST Act, 2017]:

The transaction value will include the amount which the supplier is so liable to pay but it has been paid by the recipient of supply.

Q. 3

Mr. Ram sold goods to Mr. Lakshman for Rs. 2,50,000. As per the contract of sale, Mr. Ram is required to deliver the goods in the premises of Mr. Lakshman. Mr. Ram hires transporter for transportation for delivery of goods. However, the freight paid by Mr. Lakshman to transporter. Freight paid Rs. 2,500.

Find the transaction value of supply of goods.

Answer:

Particulars	Value in Rs.
Value of supply of goods	2,50,000
Add: Freight paid by recipient of supply (which the supplier is so liable to pay)	2,500
Taxable value of supply of goods	2,52,500

TCS would not be includable in the value of supply under GST:

The Central Government vide Corrigendum to Circular No. 76/50/2018-GST, dated 31st December, 2018 has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible "income" arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer. Accordingly, for the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includable as it is an interim levy not having the character of tax.

Q. 4

What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?

Answer:

1. Section 15(2) of CGST Act specifies that the value of supply shall include "any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier."
2. For the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includable as it is an interim levy not having the character of tax.

Q. 5

Motor vehicle worth Rs. 20 lakh is sold by M/s Sundar Pvt. Ltd. to a customer in retail market and for which Rs. 5 lakh has been paid in cash and balance amount by way of cheque.

Find the following:

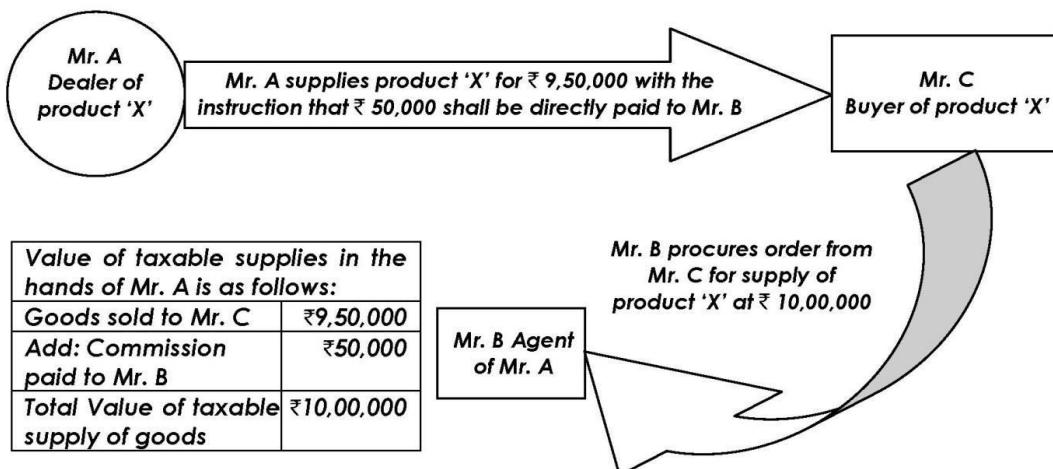
- (a) TCS under section 206C of the Income Tax Act, 1961 is applicable in the given case?
- (b) Who is required to collect TCS?
- (c) Value TCS if any?
- (d) Value of taxable supply under section 15 of CGST Act, 2017Rs.
- (e) Invoice Price of M/s Sunder Pvt. Ltd.?

Note: Assume applicable TCS is @1% and GST 28%.

Answer:

- (a) Yes, TCS is applicable in the given case.
- (b) Under section 206C the seller has to collect Tax at Source (TCS) at the rate of 1% from purchaser while selling the specified items or services beyond specified limits. In the given case M/s Sundar Pvt. Ltd. must collect the TCS.
- (c) $TCS = \text{Rs.}20,000 \text{ (i.e. } @1\% \text{ on Rs.}20 \text{ lakh)}$
- (d) Value of taxable supply under Section 15 of CGST Act, 2017 is Rs.20 lakh only.
- (e) Invoice price

Particulars	Value in (Rs.)
Cost of Motor Vehicle	20,20,000
Add: TCS under Sec 206C of IT Act, 1961	20,000
Sub-total	20,20,000
Add: GST 28% on Rs.20 lakh	5,60,000
Invoice price	25,80,000

Q. 6**Q. 7**

Mr. A is a seller of furniture. He supplied the furniture for Rs. 5,75,000 to Mr. B with the condition that to remove old furniture from the premises of Mr. B by charging Rs. 5,000. Find the value of taxable supply of goods in the hands of Mr. A.

Answer:

The value of taxable supply of goods is Rs. 5,80,000.

Q. 8

Penal interest charged by the banker for delay in payment of dues is subject to GST.

Subsidy directly linked to the price (other than Govt. Subsidies) [Sec. 15(2)(e) of CGST Act, 2017]: Subsidy provided in any form or manner linked to the supply will also be included in the transaction value.

Q. 9

Bharat Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer. Selling price per cylinder is Rs. 800. Customer received subsidy Rs. 200 directly from Government to his bank account. Net outflow of the buyer is Rs. 600. Find the value of supply of goods (per cylinder) in the hands of Bharat Gas.

Answer

Since, the amount of subsidy is directly credited to the account holder and not received by the Bharat Gas making the supply. Therefore, such subsidy will not be considered as part of transaction value as it is not received by the Bharat Gas making the supply.

Hence, transaction value is Rs. 800 per cylinder.

Q. 10

The Government provides subsidy, for the benefit of farmers but it is given to the manufacturer of fertilizers. Such subsidy will form part of value of supply?

Answer

The buyer of goods does not provide subsidy, but the Government as per the scheme provides it. Therefore, this will not form part of value of supply as it is specifically specified that such subsidy provided by the Government will not form part of the value of supply.

Q. 11

M/s Ashok Enterprise sells mineral water bottles, with MRP Rs. 20 per bottle. However, customers availing discount of Rs. 4 per bottle. In the month of Oct 2017, M/s Ashok Enterprise sold 2,000 bottles. Applicable rate of GST 18%. Find the tax liability.

Answer:

Particulars	Rs.
Transaction value	32,000
Add: CGST 9% on Rs. 32,000	2,880
Add: SGST 9% on Rs. 32,000	2,880
Invoice price	37,760

Working note:

RP value	(Rs. 20 x 2000 pcs)	40,000
Less: Discount	(Rs. 4 x 2000 pcs)	(8,000)
Transaction value		32,000

Q. 12

Best Cars Ltd. sells a car worth Rs. 5,00,000 to Sundar Automobiles. Best Cars Ltd. incurred packing charges of Rs. 6,000 on the car. Best Cars Ltd provided a discount of 1% on the car price, as part of Diwali scheme.

Best Cars Ltd agreed to provide a further discount of 0.5% if Sundar Automobiles makes payment by 31st of the month via net banking. Sundar Automobiles makes the payment by 31st of the month using net banking. Find the Net GST liability in the hands of Best Cars Ltd. Applicable rate of GST 18%.

Answer:

Particulars	Value in Rs.
Value of the product	5,00,000
Add: packing charges	6,000
Sub-total	5,06,000
Less: Discount 1% on Rs 5 lakh	(5,000)
Transaction value	5,01,000
Add: CGST 9%	45,090
Add: SGST 9%	45,090
Invoice price	5,91,180

Note: Since, the discount was known at the time of supply, and can be linked to this specific invoice, the discount amount can be reduced from the transaction value.

For this, Best Cars Ltd will issue a credit note to Sundar Automobiles for Rs. 2,500 (0.5% of Rs. 5,00,000 = Rs. 2,500+ GST@ 18% on Rs. 2,500 = Rs. 450), and the same must be linked to the relevant tax invoice.

Discount given after supply but agreed upon before or at the time of supply and can be specifically linked to relevant invoices, can be deducted from the transaction value.

Q. 13

However, due to a severe cash crunch, Best Cars Ltd requests Sundar Automobiles to make the payment within 2 days, promising a discount of 2% on doing so. Sundar Automobiles makes the payment within 2 days.

Answer:

Since, the discount was not known at the time of supply, it couldn't be claimed as a deduction from the transaction value for GST calculation.

Q. 14

M/s Nambiar & Co., an Audit firm based in Cochin undertake an audit assignment of his client based in Chennai. The Contract mentioned about the audit fees of Rs. 5,00,000 and arrangement of taxi by the Client which may be worth Rs. 15,000.

Find the transaction value on which M/s Nambiar and Co., is liable to pay GST.

Answer:

Transaction value in the hands of M/s Nambiar & Co., is Rs. 5,15,000.

Note: Not only audit fees but also the expenditure incurred in connection with the taxi Rs.15,000 constitute the sole consideration.

Q. 15

M/s X Ltd. is engaged in doing job work for M/s Y Ltd. M/s Y Ltd. supplies raw material for Rs. 2,00,000 and packing material for Rs. 22,500 to M/s X Ltd. for completion of job work. M/s X Ltd. has agreed to supply services for the purpose of performing the activities specified by M/s Y Ltd. for Rs. 1,00,000. Job worker profit of Rs. 70,000 and material consumed for Rs. 3,500. Find transaction value (i.e. sole consideration) to levy GST in the hands of M/s X Ltd.

Answer:

Particulars	Value in Rs.
Service charges	1,00,000
Add: Material consumed	3,500
Add: Jobworker profit	70,000
Transaction value (i.e. taxable value of supply of service in the hands of M/s X Ltd.)	1,73,500

Note: "Although, it includes materials worth Rs. 3,500, still the entire supply including value of material would be treated as services.

Q. 16

Asha Ltd. supplies raw material to a job worker Kareena Ltd. After completing the job-work, the finished product of 5,000 packets are returned to Asha Ltd. putting the retail sale price as Rs. 20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. under GST law from the following details:

Particulars	Value in Rs.
Cost of raw material supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. paid certain technology transfer fees to Reena Ltd', so that 'Kareena Ltd' can use the said technology in the given job-work operation and the same amortized in the books of job-worker	22,500

Note: Kareena Ltd offered discount Rs. 2,000, provided full payment is made at the time of raising invoice and the same is mentioned in the invoice. Asha Ltd. made full payment at the time of issue of invoice.

Answer:

Statement showing transaction value of Kareena Ltd.

Particulars	Value in Rs.
Cost of raw material supplied	Exempted supply
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	Exempted supply
Transportation charges for returning the finished packets to Asha Ltd. [Sec. 15(2)(b) of the CGST Act, 2017]	4,500
Technology fee [Sec. 15(2)(b) of the CGST Act, 2017]	22,500
Sub-total	37,000
Less: Discount [Sec. 15(3) of CGST Act, 2017]	(2,000)
Transaction value (i.e. sole consideration)	35,000

Note: It is very clear that principal to jobworker and jobworker to principal can not be treated as supply as per section 143 of the CGST Act, 2017.

Q. 17

Mr. Bhanu makes supply of Rs. 2,00,000 to Mr. Renu. The contract provides that Mr. Renu will pay Rs. 50,000 to Mr. Bhanu and Rs. 1,50,000 to Mr. Venu to settle the debt of Mr. Bhanu. Find the transaction value and GST liability in the hands of Mr. Bhanu. Applicable rate of CGST and SGST 9% each.

Answer:**Statement showing transaction value and GST liability:**

Particulars	Value in Rs.
Payment from Renu to Bhanu	50,000
Payment from Renu to Venue for settling the debt of Bhanu	1,50,000
Transaction value (i.e. Sole consideration)	2,00,000
CGST 9%	18,000
SGST 9%	18,000

Q. 18

Where a new phone is supplied for Rs. 20,000/- along with the exchange of an old phone and if the price of the new phone without exchange is Rs. 24,000/-, the open market value of the new phone is Rs. 24000/-.

Q. 19

Mr. A being a registered person sells TVs to all customers at Rs. 45,000. He supplied new TV for Rs. 42,000 along with the exchange of an old TV. Find the open market value of TV.

Answer:

Open market value is Rs. 45,000.

Q. 20

M/s X Ltd is a manufacturer of car and sells the car in the open market at a price of Rs. 11,00,000. M/s X Ltd provided the car to his company auditor is only for Rs. 9,00,000. In return auditor provide auditing services to M/s X Ltd and charged Rs. 5,000 with the condition that company will be provided the car at the price of Rs. 9,00,000. Find the value as per Rule 27(a), Determination of value of supply.

Answer:

Open market value of the car is Rs. 11,00,000.

Therefore, M/s X Ltd transaction value should be Rs. 11,00,000 on which GST will be levied.

Q. 21

M/s X Ltd. is supplier of security services provided such services to M/s Y Ltd. As per the contract M/s Y Ltd is to pay monthly Rs. 1,00,000. In the month of November M/s Y Ltd. supplied uniforms to all employees of M/s X Ltd. by spending Rs. 20,000. As a result M/s X Ltd. raised the bill for Rs. 80,000 in the month of November. In the given case M/s X Ltd. received consideration for security service is partially in terms of money Rs. 80,000 and partially in kind (i.e uniforms). Find the taxable value of service on which GST will be levied.

Answer:

GST will be levied on the value of Rs. 1,00,000 (Rs. 80,000 + uniforms equal to monetary value of Rs. 20,000) in the hands of M/s X Ltd._

Q. 22

Guidelines Academy normally charge Rs. 10,000 for teaching the commerce students. A merit student approaches the management of Guidelines Academy and narrates his financial position. Guidelines Academy management considered his financial position agrees to charge only Rs. 5,000 from such student. Find the value of taxable supply of service.

Answer:

Since, Guidelines Academy has not received any consideration from the student in any other form, Rs. 5,000 it self is a sole consideration. GST will be levied on Rs. 5,000.

Q. 23

Guidelines Academy teaching or coaching budding CMA's Tuition fee of Guidelines Academy can be compared with another academy of same kind and nature. It means we should not compare with home tuition of a faculty to 4th Standard students.

Q. 24

Feature light chairs price compare with identical or similar nature product. It means feature light product compare with Godrej chair products.

Q. 25

Value of product in Chennai will be on higher than the product in Sikkim or Assam. Therefore, the rule provides that the supply of goods or services shall be in similar circumstances. It means that if the supply of goods or services which value is required to be determined has been made in Chennai, supply of goods or services which is considered as base shall be made in Chennai.

Q. 26

Canon heavy duty machines can not be compared with ordinary laser Jet printer. Like wise interior decorator completed interior decoration of a residential house measuring 1000 sq. ft cannot be considered as similar service for doing interior decoration of 1000 sq. ft. of office area.

Q. 27

Raj & Co. furnish the following expenditure incurred by them to find the transaction value for the purpose of paying GST.

Particulars	Rs.
(i) Direct material cost per unit inclusive of IGST at 18%	944
(ii) Direct wages	250
(iii) Other direct expenses	100
(iv) Indirect materials	75
(v) Factory overheads	200
(vi) Administrative overhead (25% relating to production capacity)	100
(vii) Selling and distribution expense	150
(viii) Quality control	25
(ix) Sale of scrap realised	20
(x) Actual profit margin	15%

Find the value for the purpose of payment of GST as per Rule 30 of the CGST Rules, 2017.

Answer**Statement showing value of supply of goods as per Rule 30 of the CGST Rules, 2017:**

Particulars	Value in Rs.
Direct material cost (944 x 100/118)	800
Direct wages	250
Other direct expenses	100
Indirect materials	75
Factory overheads	200
Administrative overhead (25% of Rs 100)	25
Quality control	25
Sub-total	1475
Less: Sale of scrap	(20)
Cost of production	1,455
Add: 10% profit margin as per Rule 30 of the CGST Rules, 2017	145.50
Value of taxable supply of goods	1,600.50

Q. 28

M/s X Ltd. owned factory in Chennai (Tamil Nadu) and one depot in Cochin (Kerala). Depot in Cochin is required to obtain separate registration as they are considered as distinct person under Section 25(4) of the CGST Act, 2017. The goods manufactured in Chennai factory will be transferred to Cochin Depot where it will be sold as it is.

Particulars	No. of units	Price at Factory Per unit	Price at Depot Per unit	Rate of IGST Advalorem
(i) Goods transferred from factory to depot on 8th February	1,000	Rs. 200	Rs. 220	18%
(ii) Goods actually sold at depot on 18th February	750	Rs. 220	Rs. 250	12%

Find the value of taxable supply of goods and IGST liability in the hands of M/s X Ltd. of Chennai.

Note: Depot in Cochin is not availing input tax credit.

Answer:

Value of taxable supply of goods = Rs. 1,98,000

(Rs. 220 x 1,000 units) x 90%

IGST = Rs. 35,640 (i.e. Rs. 1,98,000 x 18/100)

Note: It means at the time of transfer of goods from Chennai Factory to Cochin Depot, M/s X Ltd. will have to determine the price at which depot will sell the goods to his customers.

As per 1st proviso to Rule 28 of Chapter IV of the CGST Rules, 2017 provides that such price should be the price for sale of goods to unrelated person.

M/s X Ltd. has option to pay GST on 90% of such value (i.e. 90% of the price at which the goods are being sold from Cochin Depot).

Q. 29

M/s Y Ltd owned factory in Hyderabad (Telangana) and one depot in Vijayawada (Andhra Pradesh). Depot in Vijayawada is required to obtain separate registration as they are considered as distinct person under Section 25(4) of the CGST Act, 2017. The goods manufactured in Hyderabad factory will be transferred to Vijayawada Depot where it will be sold as it is. Depot in Vijayawada is availing Input Tax Credit.

Particulars	No. of units	Price at Factory Per unit	Price at Depot Per unit	Rate of IGST Advalorem
(i) Goods transferred from factory to depot on 8th February	1,000	Rs. 200	Rs. 220	18%
(ii) Goods actually sold at depot on 18th February	750	Rs. 220	Rs. 250	12%

Find the value of taxable supply of goods and IGST liability in the hands of M/s X Ltd. of Chennai.

Answer:

Value of taxable supply of services = Rs. 2,20,000/-

(1000 units x Rs. 220)

IGST = Rs. 39,600 (Rs. 2,20,000 x 18/100)

Note:

- As per 2nd proviso to Rule 28 of Chapter IV of the CGST Rules, 2017 provides that where the recipient is eligible for input tax credit, value declared in the invoice shall be deemed to be open market value of goods or services.
- Integrated Tax Department has right to reject the valuation if the value is not full fill the open market value. It should meet the requirement of sole consideration.

Q. 30

A principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs. 5,000 per quintal on the day of the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs. 4,550 per quintal.

Find the value of taxable supply in the hands of principal as per Rule 29(a) of the CGST Rules, 2017.

Answer:

The value of taxable supply made by the principal shall be Rs. 4,550 or where he exercises the option, the value shall be Rs. 4,500 (i.e. 90% of Rs.5,000) per quintal.

Q. 31

M/s P Ltd. being a principal supplies laptops to his agent and the agent is supplying laptops of like kind and quality in subsequent supplies. M/s P Ltd incorporated in Chennai (Tamil Nadu). Agent is located in Nagercoil (Tamil Nadu). Goods supplied on 15th November by the Principal to his Agent.

Particulars	No. of units	Price at which principal supplies to agent	Price at which agent supplies to his customer not being a related person	Rate of GST Advalorem
(i) Selling price on 15th November	1,000	Rs. Nil	Rs. 22,000	18%

(ii) Goods procured by agent from other independent supplier supplying laptops of like kind and quality at

Rs.20,000 per unit on 15th November. Find the value of taxable supply of goods and GST liability in the hands of M/s P Ltd. of Chennai.

Answer:

Value of taxable supply made by principal shall be Rs. 20,000 per laptop or where the principal exercise the option the value shall be Rs. 19,800 per laptop (i.e. 90% of the Rs. 22,000).

It is economical to opt the 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being related person on the day of supply.

Total taxable value of supply = Rs. 198,00,000 (i.e. 19,800 x 1000 units).

GST liability in the hands of M/s P Ltd. of Chennai:

CGST 9% on Rs 198 lakh = Rs. 17,82,000

SGST 9% on Rs 198 lakh = Rs. 17,82,000

Q. 32

Ram & Co., being a car dealer dealing in second hand cars. Ram & Co., purchases used car from Mr. Raja and sell the very same car to Miss. Rani after water wash and painting. The purchase price is Rs. 2,00,000 whereas the sale price is Rs. 2,50,000. Find the GST liability as per rule 32(5) of the CGST Rules, 2017 by following margin scheme in the hands of Ram & Co. Assume applicable rate of GST 28%.

Ram & Co., is not availing input tax credit on purchase of second hand cars.

Whether your answer is different if the sale of second hand car for Rs. 1,80,000.

Note: Ram & Co., and Miss. Rani are located within the State of Tamil Nadu.

Answer:

GST net liability is as follows:

Particulars	Value Rs.	14% CGST Rs.	14% SGST Rs.	Remarks
Output supply	2,50,000			
Less: purchase price	2,00,000			
Difference known as margin	50,000	7,000	7,000	Charge GST on the margin or profit earned on the goods (Rs. 50,000 x 28%)

Yes. Our answer different in case of sale price is Rs. 1,80,000:

Sale price	= Rs. 1,80,000
Less: purchase price	= Rs. (2,00,000)
Margin	= Rs. (20,000)
GST liability	= Rs. Nil

Note: For a dealer who has opted for the margin scheme, there can be a scenario where the second-hand goods are sold at zero margins or for a lesser price than the purchase price. In this case, no GST will be applicable on the supply.

Q. 33

Mr. D being a dealer in goods sells new brand cars at Rs. 11,00,000. He advertises that customers can sell their old car if they buy new car from him. One customer exchanged his old car for Rs. 2,00,000. Mr. D sold new car to that customer for Rs. 9,00,000. The Central Tax Department demanded to pay GST on Rs. 11,00,000 whereas Mr. D argues that he is eligible to pay GST on the difference namely margin of Rs. 9,00,000 as per Rule 32(5) of the CGST Rules, 2017. Discuss and decide the correct approach.

Answer

Rule 32(5) of the CGST Rules, 2017 is applicable only when person is dealing in buying and selling of second hand goods.

In the given case Mr. D is not eligible for margin scheme as referred in rule 32(5). Since, dealer sold new car and therefore, provisions of rule 32(5) will not apply.

Therefore, from the above it is evident that the Central Tax Department view is correct.

Q. 34

M/s X Ltd, a registered person under GST, being a dealer dealing with second-hand goods. M/s X Ltd. supplies a used camera to a consumer in Chennai for selling price of Rs. 15,000. The used camera (i.e. second hand) was purchased for Rs. 10,000 from a registered dealer in Mumbai, on which CGST + SGST of Rs. 1,400 each was charged (i.e. GST rate applicable to cameras is 28%).

M/s X Ltd. charged IGST 28% on inter State supply.

Find the net GST liability in the following independent cases:

(a) If input tax credit availed.

(b) If input tax credit not availed.

Answer:

(i) Net GST liability in case of input tax credit availed:

Particulars	Value Rs.	28% IGST Rs.
Output supply	15,000	4,200
Less: ITC	10,000	
CGST 14%		(1,400)
SGST 14%		(1,400)
Net GST liability		1,400

(ii) Net GST liability in case of input tax credit not availed:

Particulars	Value Rs.	28% IGST Rs.	Remarks
Output supply	15,000		
Less: purchase price	12,800		ITC will form part of cost.
Difference known as margin	2,200	616	Charge GST on the margin or profit earned on the goods (Rs. 2,200 x 28%)

Repossession of goods in case of default by the unregistered borrower:

Q. 35

Mr. C has taken a loan from the bank on 15th July 2017 worth Rs. 2 crore and purchased a machine. Subsequently Mr. C defaulted in paying the loan amount along with interest. At late date bank repossessed the machine from Mr. C on 1st Jan 2018. The banker sells the said goods on 26th April 2018.

Find the value of taxable supply of goods in the hands of banker in the following two independent cases:

Case 1: machine sold for Rs. 1,90,00,000.

Case 2: machine sold for Rs. 1,70,00,000.

Note: Applicable rate of IGST 18%.

Answer:

Determination of purchase value:

Particulars	Value in Rs.	Working note
Purchase value of the banker	2,00,00,000	Purchase value for the lending company will be the purchase price of the defaulter.
Less: 5% per quarter for 2 quarters	(20,00,000)	From 1st Jan 2018 to 26th April 2018 = 2

Purchase value at the time of disposal by the bank	1,80,00,000	quarers
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Value of taxable supply in the hands of banking company:

Particulars	Case 1	Case 2	Remarks
Sale price	1,90,00,000	1,70,00,000	
Less: purchase price	(1,80,00,000)	(1,80,00,000)	In case the sale price is below Rs. 1,80,00,000, banker will not be liable to pay GST as value is nil.
Taxable value or Margin	10,00,000	Nil	
IGST 18%	1,80,000	Nil	Rs. 10 lacs x 18%

Q. 36

A voucher has face value of Rs. 5,000. The holder of voucher can purchase goods or services of equivalent value of Rs. 5,000. When the holder of voucher receives the goods or services against the voucher it is termed as redemption of voucher.

Q. 37

X Ltd. being a cloth merchant sold gift voucher to customer for Rs. 2,000 on 10th November to purchase specific cloth from its showroom. Goods actually purchased by customer on 15th November for Rs. 2,400. Find the time of supply and value of supply with regard to gift voucher in the hands of X Ltd.

Answer:

Time of supply is at the time issue of voucher i.e. 10th November. Value of supply = Rs. 2,000 for gift voucher.

Q. 38

Ram & Co., being dealer in electronics and electrical items, issued gift voucher to its customer for Rs. 2,000 on 15th November. Customer can used gift voucher to purchase anything which is available. Customer purchased goods worth Rs. 1,400 on 20th Nov 2019. Applicable CGST and SGST 9% each. Find the following

- (a) Time of supply
- (b) Value of supply
- (c) GST liability in the hands of Ram & Co.

Answer:

- a) Time of supply is 20th November 2019.
- b) Value of supply is Rs.1,400.
- c) GST liability:
 - CGST is Rs. 126
 - SGST is Rs. 126

Working Note: Rs. 1,400 x 9% = Rs.126

Q. 39

Mr. & Ms. Kapoor purchase 10 gift vouchers for Rs. 500 each from Crossword, and 5 vouchers from a reputed Spa costing Rs. 1,000 each. The vouchers from a reputed Spa had a special offer for couples, where in services for both persons at the price chargeable to one. Find the value of supply in the hands of Crossword and reputed Spa.

Answer:

Statement showing value of taxable supply:

Particulars	Crossword Value in Rs.	Reputed Spa value in Rs.	Remarks
Value of taxable supply	5,000	10,000	10 gits x 500 = Rs. 5,000. (5 vouchers x Rs. 1,000) x 2 = Rs. 10,000

Q. 40

Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies (ROC). The fees charged by the Registrar of Companies for the registration and approvals of the name are compulsorily levied on B. A is merely acting as pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

Q. 41

Mr. Ram is a registered dealer under GST Law. He sold furniture to a customer for Rs. 51,000 with free delivery. In such case Mr. Ram availing the service of the transporter for his own interest and therefore, transport charges is included in selling price of Rs. 51,000 and he would be not considered as pure agent in this case.

Q. 42

Mr. X is a Customs Broker issues an invoice for reimbursement of a few expenses and for consideration towards agency service rendered to an importer. The amounts charged by the Customs Broker are as below:

S. No.	Component charges in invoice	Amount in Rs.
1	Agency income	10,000
2	Travelling expenses	5,500
3	Hotel expenses	9,500
4	Customs duty	55,000
5	Dock dues	2,500

Find the value of taxable supply of service in the hands of Customs Broker.

Answer

Statement showing taxable value of supply of service:

S. No.	Particulars	Amount in Rs.	Remarks
1	Agency income	10,000	Addable into the value
2	Travelling expenses	5,500	-do-
3	Hotel expenses	9,500	-do-
4	Customs duty	Not addable	Pure agent reimbursement
5	Dock dues	Not addable	Pure agent reimbursement
	Total	25,000	

Q. 43

Compute the duty payable under the Customs Act, 1962 for imported equipment based on the following information:

- (i) Assessable value of the imported equipment US \$10,100.
- (ii) Date of Bill of Entry 25.10.20XX exchange rate notified by the Central Board of Excise and Customs US \$ 1 = Rs. 65.
- (iii) Date of Entry inwards 01.11.20XX exchange rate notified by the Central Board of Excise and Customs US \$ 1 = Rs. 60.

Find the taxable value of imported goods.

Answer:

Statement showing taxable value of imported goods:

Particulars	Value in Rs.	Remarks
Assessable value of imported goods	6,56,500	10,100 USD x Rs. 65 Exchange rate as on the date of submission of bill of entry is relevant as per section 14 of the Customs Act, 1961.

Q. 44

An assessee was under impression that his product is exempt from GST and hence sold the goods @ Rs.100 per piece without charging GST. Later, it was found that actually, the product was chargeable with IGST 18%. Department claimed that since goods were removed without GST, transaction value should be Rs.100 and GST is payable accordingly. Assessee contended that price of Rs. 100 should be taken as inclusive of GST and actual GST payable should be calculated by back calculations. Determine the correct GST payable per piece.

Answer:

As per rule 35 of the CGST Rules, 2017 transaction value and GST liability is as follows:
The Transaction value should be taken, as cum-tax-price and tax payable should be calculated by making back calculations. Hence, the transaction value is as follows:

The transaction value = Rs. 100 x 100/118 = Rs. 84.75

IGST = Rs. 100 x 18/118 = Rs. 15.25

Total invoice price = Rs.100.00

[CCE v Maruti Udyog Ltd. (2002) 141 ELT 3 (SC)]

Q. 45

A registered person is supplying manufactured food products to another person for Rs.1,000. Transportation charges of Rs.60, packaging charges Rs.100 are required to be paid by the supplier but are actually paid by the recipient. Whether transportation charges and packaging charges would be added in supply value?

Answer: If the supplier is liable to pay any amount in relation to a supply, such amount would be a part of transaction value, even if the same has been paid by the recipient. In this case, the transportation charges of Rs. 60 , packaging charges Rs. 100 shall be added to the value of supply. Hence, value = Rs. 1000 + 60 + 100 = Rs. 1,160.

Q. 46

Bharat Printing conceptualized and designed the advertising campaign for a new product launched by Marker Pvt. Ltd. for a consideration of Rs.5,00,000. Bharat Printing owed Rs.20,000 to one of its vendors in relation to the advertising service provided by it to Marker Pvt. Ltd. Such liability of Bharat Printing was discharged by Marker Pvt. Ltd. Marker Pvt. Ltd. delayed the payment of consideration and thus paid Rs.15,000 as interest.

Determine the value of taxable supply made by Bharat Printing.

Answer:**Computation of value of taxable supply**

Particulars	Value in Rs.
Service charges	5,00,000
Payment made by Marker Pvt. Ltd. to vendor of Bharat Printing [Liability of the supplier being discharged by the recipient, is includable in the value in terms of section 15(2) (b)]	20,000
Interest for delay in payment of consideration [Includible in the value in terms of section 15(2)(d)]	15,000
Value of taxable supply	5,35,000

Q. 47

Bright Ltd. (A registered taxable person) provides the following information relating to the services for the month of September, 2018:

Gross receipts from —	
Running a boarding school (including receipts for providing residential dwelling services of Rs. 14,00,000)	30,00,000
Conducting private tuitions	15,50,000
Education services for obtaining a qualification recognised by Law of a foreign country	7,00,000
Conducting modular employable skill course, approved by National Council of	10,40,000

vocational training	
Fees from prospective employers for campus interview	7,00,000
Renting of furnished flat for temporary stay to different persons	6,40,000

Compute the value of taxable supply and the amount of GST payable. The above receipts are exclusive of GST. The rate of GST is 18%.

Answer:

Computation of value of taxable supply and GST liability:

		(Amount in Rs.)
Running a boarding school (including residential dwelling services)	Note - 1	Nil
Conducting private tuitions	Note - 2	15,50,000
Education services for obtaining a qualification recognized by Law of a foreign country	Note - 3	7,00,000
Conducting modular employable skill course, approved by National Council of Vocational Training (NCVT)	Note - 4	Nil
Fees from prospective employers for campus interview	Note - 5	7,00,000
Value of renting of furnished flat for temporary stay to different persons	Note - 6	6,40,000
Value of taxable supply		35,90,000
GST payable		6,46,200

Working Notes:

1. Running a boarding school is not taxable since education up to higher secondary school is exempt vide entry no. 66 of notification no. 12/2017-CT (Rate) and renting of residential dwelling is exempt vide entry no. 12 of the same notification.
2. Private tuitions are not exempt as they do not lead to grant of a qualification recognised by law.
3. Education as a part of a curriculum for obtaining a qualification recognised by only an Indian Law and not a foreign law is exempt.
4. Modular employable skill course is an approved vocational education course and is exempt vide entry no. 66 of notification no. 12/2017-CT (Rate).
5. Not covered in exemption.
6. Short stay by different persons in furnished flats is not renting of residential dwelling and thus not exempt.

Q. 48

From the following information, determine the value of taxable supply as per provisions of sec. 15 of the CGST Act:

Value of machine (including GST @ 12%)	16,00,000
Invoice value includes the following:	
(1) Taxes (other than CGST/ SGST/ IGST) charged separately by the supplier	15,000
(2) Weighment and loading charges	25,000
(3) Consultancy charges in relation to pre-installation planning	10,000
(4) Testing charges	2,000
(5) Inspection charges	4,500

Other information:	
(i) Subsidy received from Central Government for setting up factory in backward region	51,000
(ii) Subsidy received from third party for timely supply of machine to recipient	50,000
(iii) Trade discount actually allowed shown separately in invoice	24,000

Specify reasons with suitable assumptions where necessary.

Answer:**Computation of value of taxable supply of goods:**

(Amount in Rs.)	
Value of machine	16,00,000
(1) Taxes other than CGST/ SGST/ IGST charged separately by the supplier [As per section 15(2)(a) of the CGST Act, 2017, any duty, taxes, cesses, fees and other charges, charged separately by supplier are to be included in the value of taxable supply. Since they are already included, no adjustment is required.]	—
(2) Weighment and loading charges [As per section 15(2) (c) of the CGST Act, any amount charged for anything done by supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence, no adjustment is required.]	—
(3) Consultancy charges in relation to pre-installation planning [As per section 15(2)(c) of the CGST Act, any amount charged for anything done by supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence, no adjustment is required.]	—
(4) Testing charges [As per section 15(2)(c) of the CGST Act, any amount charged for anything done by supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence, no adjustment is required.]	—
(5) Inspection charges [As per section 15(2)(c) of the CGST Act, any amount charged for anything done by supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence, no adjustment is required.]	—
(i) Subsidy received from Central Government for setting up factory in backward region [As per section 15(2)(e) of the CGST Act, the value of supply shall include subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments. Hence, not includable.]	—
(ii) Subsidy received from third party for timely supply of machine to recipient [As per section 15(2)(e) of the CGST Act, the value of supply shall include subsidies directly linked to the price, hence includable.]	50,000
(iii) Trade discount actually allowed shown separately in invoice [As per section 15(3)(a), the value of the supply shall not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply. Hence, the same is deductible in computing the value.]	(-)24,000
Cum-tax value	16,26,000
Less: GST @ 12% 16,26,000 x 12-112]	1,74,214
Value of taxable supply	14,51,786

Q. 49

A Ltd. (a registered taxable person) provides the following information relating to their services for the month of November, 2017:

Particulars	
Gross receipts from:	
Running a Boarding School (including receipts for providing residential dwelling services Rs. 12,00,000)	28,00,000
Conducting private tuition's	18,00,000
Education services for obtaining a qualification recognised by law of a foreign country	8,00,000
Conducting modular employable skill course, approved by National Council of vocational training	5,00,000
Fees from prospective employers for campus interview	6,00,000
Renting of furnished flats for temporary stay to different persons	6,80,000

Compute the value of taxable supply and the amount of GST payable. The above receipts are exclusive of GST. GST rate is 18%.

Answer:

Computation of Value of taxable supply and GST liability —

Particulars		
Running a boarding school [including residential dwelling services]	[WN-1]	Nil
Conducting private tuition	[WN-2]	18,00,000
Education services for obtaining a qualification recognized by law of a foreign country	[WN-3]	8,00,000
Conducting Modular Employable Skill Course, approved by National Council of vocational training	[WN-4]	Nil
Fees from prospective employers for campus interview [Not covered in exemption]		6,00,000
Value of renting of furnished flats for temporary stay to different persons	[WN-5]	6,80,000
Value of taxable supply		38,80,000
GST payable @ 18%		6,98,400

Working Notes:

- (1) Running a boarding school is not taxable since education up to higher secondary school is exempt vide Entry 66 of Notification No. 12/2017-CT (Rate) and renting of residential dwelling is exempt vide Entry 12 of Notification No. 12/2017-CT (Rate)].
- (2) Private tuitions are not exempt as they do not lead to grant of a qualification recognised by law.
- (3) Education as a part of a curriculum for obtaining a qualification recognized by only an Indian law and not a foreign law is exempt.
- (4) Modular Employable Skill Course is an approved vocational education course and is exempt vide Entry 66 of Notification No. 12/2017-CT (Rate).
- (5) Short stay by different persons in furnished flats is not renting of residential dwelling and thus, not exempt.

Q. 50

From the following information determine the value of taxable supply. —

Value of machine (including GST @ 12%)	16,00,000
The invoice value includes the following:	
(1) Taxes (other than CGST/SGST/IGST) charged separately by the supplier	17,000
(2) Weighment and loading charges	23,000
(3) Consultancy Charges in relation to pre-installation planning	11,000
(4) Testing Charges	2,500
(5) Inspection Charges	4,300
Other information:	
(i) Subsidy received from Central government for setting up factory in backward region	51,000
(ii) Subsidy received from third party for timely supply of machine to recipient	56,000
(iii) Trade discount actually allowed shown separately in invoice	23,000

Give working notes with suitable assumptions where necessary. [10]

Answer: Computation of Value of taxable supply of goods:

Particulars		
Value of machine		16,00,000
Less:		
(1) Taxes other than CGST/SGST/IGST charged separately by the supplier [WN-1]	—	
(2) Weighment and loading charges [WN-2]	—	
(3) Consultancy Charges in relation to pre-installation planning [WN-2]	—	
(4) Testing Charges [WN-2]	—	
(5) Inspection Charges charged before supply [WN-2]	—	
(6) Trade discount actually allowed shown separately in invoice [WN-3]	23,000	(23,000)

Add: Subsidy received from third party for timely supply of machine to recipient [WN-4]		56,000
Cum tax value		16,33,000
Less: GST @ 12% 16,33,000 x (12 - 112) [WN-5]		1,74,964
Value of taxable supply		14,58,036

Working Notes: In the given question, for the purpose of determining the value of taxable supply of goods-

- (1) Any duty, taxes, cesses, fees and other charges, charged separately by supplier are to be included in value of taxable supply.
- (2) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence, weighment and loading charges, consultancy charges, testing charges and inspection charges shall also be included in the value of taxable supply.
- (3) The value of the supply shall not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply. Hence, the same is deductible to arrive at value of taxable supply.
- (4) The value of supply shall include subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments. Hence, subsidy received from third party for timely supply of machine to recipient will be included in the value of taxable supply whereas subsidy received from Central government for setting up factory in backward region shall not be included in value of taxable supply.
- (5) Value of supply shall not include any taxes or cesses levied under CGST Act, SGST Act, UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.

Q. 51

LIC of India provides you the following information for the month of Oct 2018. You are required to compute GST payable by the company if the company has opted to pay GST as per Rule 32(4) of CGST Rules, 2017:

General policies: Total premiums collected Rs.12,000 lakhs (Out of which 1st year premium is Rs. 5,000 lakhs)

Only Risk Cover Policies: Premiums collected Rs. 500 lakhs.

Variable Insurance Policies: Premiums collected Rs. 8,000 lakhs. (80% of the amount is allocated for investments on behalf of policy holder for which policy holder is given separate break up in premium receipts).

Answer:

Statement showing GST liability of LIC of India for the month of Oct. 2018 under Rule 32(4) of the CGST Rules, 2017:

Particulars	Value Rs. in lakhs	Working note
General policies		
1st Year premium	1,250	5,000 x 25%
2nd Year Premium	875	7,000 x 12.5%
Only Risk cover policies	500	
Variable insurance policies premium	1,600	(8,000 - 6,400)
Total taxable supply of service	4,225	
CGST 9%	380.25	(4,225 x 9%)
SGST 9%	380.25	(4,225 x 9%)

Q. 52

M/s Anjali Ltd, a registered company under GST, being a dealer dealing with second-hand goods. M/s Anjali Ltd. supplies a used camera to a consumer in Chennai for selling price of Rs. 15,000. The used camera (i.e. second hand) was purchased for Rs. 10,000 from a registered dealer in Mumbai; on which CGST + SGST of Rs. 1,400 each were charged (i.e. GST rate applicable to cameras is 28%).

M/s Anjali Ltd. charged IGST 28% on inter State supply.

Find the net GST liability in the following independent cases:

- (i) If input tax credit availed.
- (ii) If input tax credit not availed.

Answer:**(i) Computation of Net GST liability in case of input tax credit availed:**

Particulars	Value in Rs.	28% IGST Rs.
Output supply	15,000	4,200
Less: ITC	10,000	
CGST 14%		(1,400)
SGST 14%		(1,400)
Net GST liability		1,400

(ii) Computation of Net GST liability in case of input tax credit not availed:

Particulars	Value in Rs.	28% IGST (Rs.)	Remarks
Output supply	15,000		
Less: Purchase price	12,800		ITC will form part of cost.
Difference known as margin	2,200	616	Charge GST on the margin or profit earned on the goods (Rs. 2,200 x 28%)

Q. 53

Bharat Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer. Selling price per cylinder is Rs.800. Customer received subsidy Rs. 200 directly from Government to his bank account. Net outflow of the buyer is Rs.600. Find the value of supply of goods (per cylinder) in the hands of Bharat Gas?

Answer:

Since, the amount of subsidy is directly credited to the account holder and not received by the Bharat Gas making the supply. Therefore, such subsidy will not be considered as part of transaction value as it is not received by the Bharat Gas making the supply. Hence, transaction value is Rs.800 per cylinder.

Q. 54

Mr. Ranjan , a money changer has exchanged US\$ 10,000 to Indian rupees® Rs.64 per US\$. Mr. Ranjan wants to value supply in accordance with the rule 32(2)(b) of CGST Rules. Determine value of supply made by Mr. Ranjan.

Answer:

As per rule 32(2)(b) of CGST Rules, the value in relation to the supply of foreign currency, including money changing is deemed to be--(a) 1% of the gross amount of the currency exchanged for an amount upto Rs.1,00,000 subject to the minimum amount of Rs.250; (b) Rs.1000 and 0.5 of the gross amount of the currency exchanged for an amount exceeding Rs.1,00,000 and upto Rs. 10,00,000.

Therefore, the value of supply made by Mr. Ranjan , under rule 32(2)(b) of CGST rule as under

Value of currency exchanged in Indian rupees [Rs.64 x US\$10,000]	6,40,000
Upto Rs.1,00,000 (1% x 1,00,000)	1,000
For Rs.5,40,000 (0.50 % x Rs.5,40,000)	2,700
Value of Supply	3,700

Q. 55

M/s Martin Pvt. Ltd. is a distributor or selling agent of lottery tickets, authorized by the State of Kerala. Who is liable to pay GST and also find GST liability from the following?

Particulars	Maha Lakshmi (Printed) (Lottery run by State Govt.)	Bhagya Lakshmi (Online) (Lottery authorized by State Govt.)
No. of tickets proposed	2,50,000	3,00,000
Face value of ticket	Rs.10 each	Rs.500
Guaranteed prize payout	@ 60 %	@ 90 %
No. of tickets sold	2,00,000	2,35,000

Answer:

- (i) M/s Martin Pvt. Ltd. is liable to pay GST.
(ii) GST liability of M/s Martin Pvt. Ltd. is as follows:

Particulars	Maha Lakshmi (Printed) (Lottery run by State Govt.)		Bhagya Lakshmi (Online) (Lottery authorized by State Govt.)	
	6% CGST	6% SGST	14% CGST	14% SGST
Aggregate face value of lottery ticket sold (2,50,000 x Rs.10) (2,35,000 x Rs.500)	25,00,000		11,75,00,000	
GST liability	1,50,000	1,50,000	1,64,50,000	1,64,50,000

Note: Assuming lottery ticket is exclusive of GST.

Q. 56

Asha Ltd. Supplies raw material to a job worker kareena Ltd. After completing the Job-work, the finished products of 5,000 packets are returned to Asha Ltd. putting the retail sale price as 20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. Under GST law from the following details:

Particulars	Value in Rs.
Cost of raw materials supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. Paid certain technology transfer fees to 'Reena Ltd.', so that 'Kareena Ltd.' Can use the said technology in the given job-work operation.	22,500
Note: Kareena Ltd offered a discount 2000, provided full payment is made at the time of raising invoice and the same is mentioned in the invoice. Asha Ltd. Made full payment at the time of issue of invoice.	

Answer:**Statement showing transaction value of Kareena Ltd.**

Particulars	Value in Rs.
Cost of raw materials supplied	Exempted supply
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to job worker	Exempted supply
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Technology fee	22,500
Sub-total	37,000
Less: Discount	(2,000)
Transaction value(i.e. sole consideration)	35,000

Note: it is very clear that principal to job worker and job worker to principal cannot be treated as supply as per section 143 of the CGST Act, 2017.

Q. 576

On 25th July 2018, Mr. Atul located in Chennai converted USD 100 into INR, actual exchange rate INR 68 per USD through Akbar Travel a money exchanger. RBI's reference rate for buying and selling was Rs. 67/67.50 respectively on such date. Irfan Travel registered under GST and located at Chennai.

- (i) Find the Value of supply as per Rule 32(2)(a) of the CGST Rules, 2017 and GST where address of the recipient is available with Supplier?

(ii) How much GST is liable to pay, in case where the RBI reference rate for a currency is not available?

Note: Applicable rate of GST 18%

Answer:

(i) The value of supply = $(68-67) \times 100 = \text{INR } 100$

Thus the value of taxable supply of Akbar Travel will be INR 100 and GST will be levied on this amount. GST = Rs. 18/9% CGST = Rs. 9

9% SGST = Rs. 9

(ii) The value of supply = Rs. 68 (i.e. 1% of INR 6,800)

GST = Rs. 12.24 9% CGST = Rs. 6.12 9% SGST = Rs. 6.12

Q. 58

M/s Prakash Ltd. being a principal supplies laptops to his agent and the agent is supplying laptops of like kind and quality in subsequent supplies. M/s Prakash Ltd. incorporated in Chennai (Tamil Nadu). Agent is located in Nagercoil (Tamil Nadu).

Goods supplied on 15th November by the Principal to his Agent.

Particulars	No. of units	Price at which principal supplies to agent	Price at which agent supplies to his customer not being a related person	Rate of GST Advalorem
Selling price on 15th November	1,000	Rs. Nil	Rs. 22,000	18%

Goods procured by agent from other independent supplier supplying laptops of like kind and quality at Rs. 20,000 per unit on 15th November.

Find the value of taxable supply of goods and GST liability in the hands of M/s Prakash Ltd. of Chennai.

Answer:

Value of taxable supply made by principal shall be Rs. 20,000 per laptop or where the principal exercise the option the value shall be Rs. 19,800 per laptop (i.e. 90% of the Rs. 22,000).

It is economical to opt the 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being related person on the day of supply.

Total taxable value of supply = Rs. 1,98,00,000 (i.e. 19,800 x 1000 units).

GST liability in the hands of M/s P Ltd. of Chennai:

CGST 9% on Rs. 198 lakh = Rs. 17,82,000

SGST 9% on Rs. 198 lakh = Rs. 17,82,000

Q. 59

What is meant by Pure Agent in GST?

Answer:

Pure Agent means a person who:

- (a) Enters into a contractual agreement with the recipient of supply to act on their behalf and incur expenditure or costs in the course of supply of goods or services or both;
- (b) Neither intends to hold nor holds any title to the goods or services (or both) procured on behalf of or provided to the recipient of supply;
- (c) Does not use the goods or services so procured for his own interest; and
- (d) Receives only the actual amount incurred to procure such goods or services.

Q. 60

An assessee was under impression that his product is exempt from GST and hence sold the goods @ Rs. 100 per piece without charging GST. Later, it was found that actually, the product was chargeable with IGST 18%. Department claimed that since goods were removed without GST, transaction value should be Rs. 100 and GST is payable accordingly. Assessee contended that price of Rs. 100 should be taken as inclusive of GST and actual GST payable should be calculated by back calculations. Determine the correct GST payable per piece.

Answer:

As per rule 35 of the CGST Rules, 2017 transaction value and GST liability is as follows:

The Transaction value should be taken, as cum-tax-price and tax payable should be calculated by making back calculations.

Hence, the transaction value is as follows:

The transaction value = Rs. 100 x 100/118 = Rs. 84.75

IGST = Rs. 100 x 18/118 = Rs. 15.25

Total invoice price = Rs. 100.00

Q. 61

Best Cars Ltd. sells a car worth Rs. 5,00,000 to Sundar Automobiles. Best Cars Ltd. incurred packing charges of Rs. 6,000 on the car. Best Cars Ltd. provided a discount of 1% on the car price, as part of Diwali scheme.

Best Cars Ltd agreed to provide a further discount of 0.5% if Sundar Automobiles makes payment by 31st of the month via net banking. Sundar Automobiles makes the payment by 31st of the month using net banking. Find the net GST liability in the hands of Best Cars Ltd. Applicable rate of GST is 18%.

Answer:

Particulars	Value in Rs.
Value of the product	5,00,000
Add: packing charges	6,000
Sub-total	5,06,000
Less: Discount 1% on Rs. 5 lakhs	(5,000)
Transaction value	5,01,000
Add: CGST 9%	45,090
Add: SGST 9%	45,090
Invoice price	5,91,180

Note: Since, the discount was known at the time of supply, and can be linked to this specific invoice, the discount amount can be reduced from the transaction value. For this, Best Cars Ltd will issue a credit note to Sundar Automobiles for Rs. 2,950 (0.5% of Rs. 5,00,000 = Rs. 2,500 + GST@ 18% on Rs. 2,500 = Rs. 450), and the same must be linked to the relevant tax invoice. Discount given after supply but agreed upon before or at the time of supply and can be specifically linked to relevant invoices, can be deducted from the transaction value.

Q. 62

M/s X Ltd. is engaged in doing job work for M/s Y Ltd. M/s Y Ltd. supplies raw material for Rs. 2,00,000 and packing material for Rs. 22,500 to M/s X Ltd. for completion of job work. M/s X Ltd. has agreed to supply job-work services for the purpose of performing the activities as specified by M/s Y Ltd. Job worker labour charges Rs. 1,00,000, profit of Rs. 70,000 and material consumed for Rs. 3,500. Find transaction value (i.e. sole consideration) to levy GST in the hands of M/s X Ltd.

Answer:

Particulars	Value in Rs.
Service charges	1,00,000
Add: Material consumed	3,500
Add: Job worker profit	70,000
Transaction value (i.e. taxable value of supply of service in the hands of M/s X Ltd.)	1,73,500
Note: Although, it includes materials worth Rs. 3,500, still the entire supply including value of material would be treated as services.	

Q. 63

Arihant Life Insurance Company Ltd. (ALICL) has started its operations in the year 2017-18 (w.e.f. 1-7-2017). During the year 2017-18, Arihant Life Insurance Company Ltd. (ALICL) has charged gross premium of Rs. 180 lakhs from policy holders with respect to life insurance policies; out of which Rs. 100 lakhs have been allocated for investment on behalf of the policy holders.

Compute the GST liability of ALICL for the year 2017-18 under rule 32(4) of the CGST Rules, 2017

- (i) If the amount allocated for investment has been intimated by ALICL to policy holders at the time of providing service.
- (ii) If the amount allocated for investment has not been intimated by ALICL to policy holders at the time of providing of service.
- (iii) If the gross premium charged by ALICL from policy holders is only towards risk cover.

Applicable rate of GST is 18%.

Answer:

- (i) GST liability of ALICL for the year 2017-18 will be computed as under: = Rs. 14.40 lakhs (Rs. (180-100) lakhs x 18%)
- (ii) 25% of the 1st year premium is value of taxable supply. Thus, GST liability of ALICL for the year 2017-18, being first year of its operations, will be computed as under:
Value of taxable supply = Rs. 180 lakhs x 25% = Rs. 45 lakhs
GST liability = Rs. 8.10 lakhs (i.e. Rs. 45 lakhs x 18%)
- (iii) GST liability of ALICL for the year 2017-18 will be computed as under: = Rs. 32.40 lakhs (Rs. 180 lakhs x 18%)

Q. 64

Determine the value of supply in the following cases:

M/s. Prithvi Starch Products, Mumbai supplied 100 tonnes of Maize Starch to its agent M/s. Ramco Agency, Ahmedabad on 10th October, 2019. In the delivery challan, the taxable value of the product was mentioned as Rs. 2,300 per tonne. On the same day M/s. Ramco Agency supplied 60 kgs of Maize Starch of same kind and quality of M/s. Prithvi Starch Products at a price of Rs. 2,900 per tonne. Further, on the same day M/s Ramco Agency has purchased on his own account 125 tonnes of Maize Starch from another independent supplier which is of the same kind and quality of M/s. Prithvi Starch Products and the value was shown as Rs. 2,700 in the Tax Invoice issued by the said independent supplier. What is the value of taxable supply in the hands of M/s. Prithvi Starch products as per Rule 29(a) of CGST Rules, 2017?

Answer:

The value of taxable supply made by M/s. Prithvi Starch Products shall be Rs. 2,70,000 (Rs. 2,700 per tonne x 100 tonnes) or where they exercise the option as given in rule 29(a), the value shall be Rs. 2,61,000 (Rs. 2,610 i.e., 90% of Rs. 2,900 per tonne x 100 tonnes).

Q. 65

R, a trader dealing in Solar Cooker charged Rs. 40,000 for supply of cooker to G. He has received following subsidies:

A. Subsidy directly linked to the supply and received from a Charitable Trust engaged in promotion of solar cookers.	Rs. 16,000
B. Subsidy from the Central Government as it also wants to promote solar products in the country.	Rs. 24,000

Determine the value of supply of solar cooker.

Answer:

Value of supply shall be determined as under:

Particulars	Amount (Rs.)
Amount charged by the trader for supplying the solar cooker	40,000
Add: (a) Subsidy received from Charitable Trust	16,000
(b) Subsidy received from Government of India (Not to be included in terms of section 15(2)(e))	---
Value of supply/Transaction Value subject to GST	56,000

Q. 66

Kirti Coolers, a wholesaler of refrigerators items, registered in Pune, Maharashtra, received order for supply of refrigerators worth Rs. 3,00,000 on 12th December, 2018 from a registered dealer in Surat, Gujarat. The tax invoice was issued on 14/12/2018.

Kirti Coolers charged the following additional expenses from the buyer:-

	Particulars	Amount (Rs.)
(i)	Packing charges	15,000
(ii)	Freight & Cartage	12,000
(iii)	Transit insurance for transportation	11,500
(iv)	Extra designing charges	16,000
(v)	Taxes by Municipal Authority	1,500

The goods were delivered to the buyer on 15th December, 2018. The buyer paid the amount on 21/12/2018 and simultaneously placed another order with Kirti Coolers of refrigerator items amounting to Rs. 8,00,000 to be delivered in the next month.

On receipt of second order, Kirti Coolers allowed a discount of Rs. 30,000 on the first order placed by the buyer.

Compute the GST liability of Kirti Coolers for the month of December, 2018 assuming the rates of GST on the goods supplied to be as under:

CGST 9% SGST 9% IGST 18%

Brief note on treatment of each item is required.

Answer:

Computation of value of taxable supply and tax liability

Sl. No.	Particulars	Amount (Rs.)
	Price of the goods [Note - 1]	3,00,000
(i)	Packing charges [Note - 2]	15,000
(ii)	Freight & Cartage [Note - 3]	12,000
(iii)	Transit Insurance [Note - 3]	11,500
(iv)	Extra Designing charges [Note - 4]	16,000
(v)	Taxes by Municipal Authority [Note -]	1,500
	Value of taxable supply	3,56,000
	IGST @ 18%	64,080

Notes:

1. As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply.

2. All incidental expenses including packing charged by the supplier to the recipient are includable in the value of supply in terms of section 15(2) of the CGST Act, 2017.

3. The given supply is a composite supply involving supply of goods (given items) and services (transit insurance and freight) where the principal supply is the supply of goods.

As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.

4. Any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services; is includable in the value of supply vide section 15(2) of the CGST Act, 2017. Thus, extra designing charges are to be included in the value of supply.

5. The taxes by Municipal Authorities are includable in the value of supply in terms of section 15(2) of the CGST Act, 2017.

6. In the give case, the buyer is allowed a discount of Rs. 30,000 on the goods supplied to him in the month of December 2018. Since the said goods have already been delivered by Kirti Coolers this discount will be a post-supply discount.

7. Further, value of supply shall not include any discount which is given after the supply has been effected, if:

- (i) Such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) Input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply [Section 15(3) of the CGST Act, 2017].

Q. 67

RG Pvt. Ltd. provides the following particulars relating to goods sold by it to GK Pvt. Ltd.:

Particulars	Amount in (Rs.)
List price of the goods (exclusive of taxes and discounts)	10,00,000
Tax levied by Municipal Authority in the sale of such goods	1,00,000
CGST and SGST chargeable on the goods	2,00,880
Packing charges (not included in price above)	20,000

RG Pvt. Ltd. received Rs. 40,000 as a subsidy from a NGO on sale of such goods. The price of Rs. 10,00,000 of the goods is after considering such subsidy. RG Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of the taxable supply made by RG Pvt. Ltd.

Answer:

Particulars	Amount in Rs.
List price of the goods (exclusive of taxes and discounts)	10,00,000
Add:	
(i) Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	1,00,000
(ii) CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)]	-
(iii) Packing charges [Includible in the value as per section 15(2)(c)]	20,000
(iv) Subsidy received from a non - Government body [Since subsidy is received from a non - Government body, the same is included in the value in terms of section 15(2) (e)]	40,000
Total	11,60,000
Less: Discount @ 2% on Rs. 10,00,000	20,000
Value of taxable supply	11,40,000

PLACE OF SUPPLY

TAXABLE EVENT

INTRODUCTION

Place of supply of goods under GST defines whether the transaction will be counted as intra-state or inter-state, and accordingly levy of SGST, CGST & IGST will be determined.

While determining the levy of taxes based on Place of Supply, two things are considered namely:

- 1. Location of Supplier:** It is the registered place of business of the supplier.
- 2. Place of Supply:** It is the registered place of business of the recipient

PLACE OF SUPPLY IN CASE OF GOODS

NATURE OF SUPPLY	PLACE OF SUPPLY
Supply involves MOVEMENT OF GOODS	Location of the goods UPON TERMINATION OF DELIVERY
Goods are delivered by the supplier to a recipient or any other person ON THE DIRECTION OF A THIRD PERSON , whether acting as an agent or otherwise, before or during movement of goods by way of transfer of documents of title to the goods or otherwise.	Location of such third person.
Where the supply DOES NOT INVOLVE MOVEMENT of goods, whether by the supplier or the recipient.	Location of goods at the time of the delivery
Where the goods are assembled or installed at site.	Place of such installation or assembly
Where the goods are supplied on board a conveyance including a vessel, an aircraft, a train or a motor vehicle.	Location at which such goods are taken on board.
Import into India	Location of the importer
Export from India	Location of outside India

PLACE OF SUPPLY IN CASE OF SERVICES

NATURE OF SUPPLY	PLACE OF SUPPLY
SEVICE RELATED TO IMMOVABLE PROPERTY (Architects, Interior Decorator, Surveyor, Engineer, Real Estate Agent, Real Estate Expert, Any service provided by way of grant of rights to use immovable property, Construction Co-ordination, Allied Services)	If Immovable Property is situated in India Location of immovable property. If Immovable Property is situated outside India: Location of receiver. If the immovable property or boat or vessel is located in more than one State or Union Territory, the supply of service shall be treated proportionately.
SERVICES BY WAY OF LODGING ACCOMMODATION (Hotel, Inn, Guest House, Home Stay, Club, Campsite, Houseboat etc. including Allied Services)	If Place of Accommodation is situated in India Location of Accommodation. If Place of Accommodation is situated outside India: Location of receiver. If the immovable property or boat or vessel is located in more than one State or Union Territory, the supply of service shall be treated proportionately.
SERVICES BY WAY OF ACCOMMODATION IN ANY IMMOVABLE PROPERTY FOR ORGANIZING EVENT (Marriage, Reception, Official, Social, Cultural, Religious, Business Function including allied services)	If Immovable Property is situated in India Location of immovable property. If Immovable Property is situated outside India: Location of receiver. If the immovable property or boat or vessel is located in more than one State or Union Territory, the supply of service shall be treated proportionately.
RESTAURANT CATERING SERVICES PERSONAL GROOMING FITNESS SERVICES BEAUTY TREATMENT SERVICES HEALTH SERVICES INCLUDING COSMETIC AND PLASTIC SURGERY	LOCATION WHERE THE SERVICES ARE ACTUALLY PERFORMED

SERVICES IN RELATION TO TRAINING AND PERFORMANCE APPRAISAL	<p>PROVIDED TO A REGISTERED PERSON:</p> <ul style="list-style-type: none"> LOCATION OF RECIPIENT OF SERVICE <p>PROVIDED TO A UN-REGISTERED PERSON:</p> <ul style="list-style-type: none"> LOCATION WHERE THE SERVICES ARE ACTUALLY PERFORMED.
SERVICES PROVIDED BY WAY OF ADMISSION TO A CULTURAL ARTISTIC SPORTING SCIENTIFIC, EDUCATIONAL, ENTERTAINMENT EVENT, AMUSEMENT PARK OR ANY SUCH PLACE INCLUDING ALLIED SERVICES.	WHERE THE EVENT IS ACTUALLY HELD OR WHERE THE PARK OR SUCH OTHER PLACE IS LOCATED.
SERVICES PROVIDED BY WAY OF ORGANIZATION OF A CULTURAL ARTISTIC SPORTING SCIENTIFIC, EDUCATIONAL, ENTERTAINMENT EVENT INCLUDING SUPPLY OF SERVICES IN RELATION TO A CONFERENCE, FAIR, EXHIBITION, CELEBRATION OR SIMILAR EVENTS INCLUDING ALLIED SERVICES	<p>PROVIDED TO A REGISTERED PERSON:</p> <ul style="list-style-type: none"> Location of recipient of Service <p>PROVIDED TO AN UN-REGISTERED PERSON:</p> <ul style="list-style-type: none"> Location where the event is actually held and If the event is held outside India, the place of supply shall be the location of the recipient. <p>Where the event is held in more than one State or Union Territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of services shall be taken proportionately.</p>
SERVICES BY WAY OF TRANSPORTATION OF GOODS INCLUDING BY MAIL OR COURIER	<p>PROVIDED TO A REGISTERED PERSON:</p> <ul style="list-style-type: none"> Location of recipient of Service. <p>PROVIDED TO A UN-REGISTERED PERSON:</p> <ul style="list-style-type: none"> Location at which such goods are handed over for their transportation.
PASSENGER TRANSPORTATION SERVICE. Including: Rail, Mono Rail, Metro Rail, Road, Air, Vessel, boat, Cycle rickshaw, Bullock cart, Camel etc	<p>PROVIDED TO A REGISTERED PERSON:</p> <ul style="list-style-type: none"> Location of recipient of Service. <p>PROVIDED TO A UN-REGISTERED PERSON:</p> <ul style="list-style-type: none"> Place where the passenger embarks on the continuous journey.

RIGHT TO PASSAGE IS GIVEN FOR FUTURE USE AND POINT OF EMBARKATION IS NOT KNOWN AT THE TIME OF ISSUE OF SUCH RIGHT	PROVIDED TO A REGISTERED PERSON: • Location of recipient of Service. PROVIDED TO A UN-REGISTERED PERSON: • Location of recipient when address on record is available. • Location of supplier in other cases
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Service on board a conveyance SUCH AS VESSEL, AIRCRAFT, TRAIN, MOTOR VEHICLE.	LOCATION OF THE FIRST SCHEDULED POINT OF DEPARTURE OF THAT CONVEYANCE FOR THE JOURNEY.
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TELECOMMUNICATION SERVICES INCLUDING DATA TRANSFER, BROADCASTING, CABLE AND DIRECT TO HOME TELEVISION SERVICES	FIXED LINE Location where the line is installed POST PAID Billing Address PRE PAID Location where the prepaid voucher is sold PREPAID SOLD THROUGH INTERNET Billing Address Where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of service.
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Banking and NBFC service including stock broking services	<ul style="list-style-type: none"> Location of recipient of service on the records of the supplier of service. <p>Otherwise:</p> <ul style="list-style-type: none"> Location of supplier of service.
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Insurance services	<p>To a registered person</p> <ul style="list-style-type: none"> Location of recipient of Service. <p>To a person other than registered person</p> <ul style="list-style-type: none"> Location of the recipient of services on the records of the supplier of service.
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Advertisement services to • Central Government • State Government • Statutory Body • Local Authority	Location in each of such states PROPORTIONATELY
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<p>When a service does not fall in any of these category.</p>	<p>If service supplied to a registered person: Location of Receiver</p> <p>If service supplied to unregistered person but his address is available. Location of Receiver</p> <p>If service supplied to unregistered person and his address is not available. Location of Service Provider</p>
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PLACE OF SUPPLY IN CASE OF SERVICES

*Where location of Supplier of Service or Location of Recipient of Service is
OUTSIDE INDIA*

NATURE OF SUPPLY	PLACE OF SUPPLY
<p>IN RESPECT OF GOODS THAT ARE MADE PHYSICALLY AVAILABLE, BY THE RECEIVER TO THE SERVICE PROVIDER IN ORDER TO PROVIDE THE SERVICE</p>	<p>LOCATION WHERE THE SERVICES ARE ACTUALLY PERFORMED.</p>

SERVICES PROVIDED BY WAY OF ELECTRONIC MEANS IN RELATION TO TANGIBLE GOODS	THE ACTUAL LOCATION OF GOODS
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<p>Services supplied to an Individual, represented either as the service receiver or a person acting on behalf of the receiver, which require physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.</p>	<p>Location where the services are actually performed.</p>
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<p>SERVICES SUPPLIED DIRECTLY IN RELATION TO AN IMMOVABLE PROPERTY</p> <ul style="list-style-type: none"> ● Lease or a right to use, occupation enjoyment or provision of hotel accommodation by a hotel, guest house, club ● Construction service ● Architects ● Interior decorators ● Renting of immovable property ● Real estate agents, ● Auctioneers, engineers and similar experts or professional people, relating to land, buildings or civil engineering works etc. 	<p>Where immovable property is located or intended to be located.</p>
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<p>Services supplied by way of admission to or organization of</p> <ul style="list-style-type: none"> ● Cultural ● Artistic ● Sporting ● Scientific ● Educational ● Entertainment event ● Celebration ● Conference ● Fair ● Exhibition ● Similar events and ● Services ancillary to such admission or organisation 	<p>WHERE THE EVENT IS ACTUALLY HELD.</p>
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<p>Specified Services</p> <p>Specified services includes:</p> <ul style="list-style-type: none"> (a) Services provided by a banking company, or financial company, or a NBFC to account holders (b) Intermediary services (c) Services consisting of hiring of means of transport, other than, <ul style="list-style-type: none"> (i) aircrafts, and (ii) vessels except yachts upto a period of one month <p>Intermediary services Includes the following:</p> <ul style="list-style-type: none"> • Travel agent (any mode of travel) • Tour operator • Commission agent for a service (including an agent for buying or selling of goods) • Recovery agent etc., 	<p>Location of the service provider</p>
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<p>SERVICE OF TRANSPORTATION OF GOODS OTHER THAN BY WAY OF MAIL OR COURIER</p>	<p>DESTINATION OF SUCH GOODS</p>
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<p>PASSENGER TRANSPORTATION SERVICES</p>	<p>WHERE THE PASSENGER EMBARKS ON THE CONVEYANCE FOR A CONTINUOUS JOURNEY.</p>
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<p>SERVICE ON BOARD A CONVEYANCE</p>	<p>THE FIRST SCHEDULED POINT OF DEPARTURE OF THAT CONVEYANCE FOR THE JOURNEY.</p>
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<p>ONLINE INFORMATION AND DATABASE ACCESS OR RETRIEVAL SERVICES</p>	<p>LOCATION OF THE RECIPIENT OF SERVICE</p>
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QUESTIONS AND ANSWERS

Q. 1

X Ltd., is a supplier of craft products, having the registered office in Chennai, Tamil Nadu. It supplies goods to schools in Madurai, Tamil Nadu. Here since the supplier as well as the recipient is located in the same State i.e Tamil Nadu, it will be counted as 'Intra-State Supply of Goods' and hence SGST & CGST will be levied.

Q. 2

X Ltd., located in Mumbai, Maharashtra receives order from M/s Y Ltd. located in Ahmedabad, Gujarat for supply of one machine.

Find the place of supply and applicable GST?

Answer:

1. Location of Supplier. Mumbai (Maharashtra).
2. Place of Supply: Ahmedabad (Gujarat)

Since, the movement of goods terminate at Ahmedabad.

Applicable GST = IGST

Q. 3

Mr. C of Chennai received purchase order from Mr. H of Hyderabad for want of commercial goods. Now supply involves movement of goods by supplier from Chennai to Hyderabad in a truck by road.

Answer:

Place of supply of goods = Hyderabad. IGST will be levied.

Declared outward supply of goods in Table 5 of GSTR - 1, supplier should indicate place of supply where location of supplier and recipient are different.

The supplier delivers goods to a recipient or any other person on the direction of a third person by way of transfer of documents of title to the goods or otherwise [Section 10(1)(b) of the IGST Act 2017]:

Q. 4

Mr. C of Chennai received purchase order from Mr. H of Hyderabad for want of commercial goods. Now supply involves movement of goods by supplier from Chennai to Hyderabad by road in a truck. Upon the direction of Mr. H of Hyderabad these goods are redirect to Branch office of Mr. H located in Vijayawada by way of transfer of documents of title to the goods (i.e. Lorry Receipt or LR copy).

Answer:

Place of supply goods = Hyderabad. IGST will be levied.

It shall be deemed that the said third person has received the goods and the Place of Supply of such goods shall be the principal place of business of such person.

Q. 5

Supplier delivers goods to a Principal on the direction of an Agent.

Answer:

Place of supply goods = Hyderabad. IGST will be levied.

It shall be deemed that the said third person has received the goods and the Place of Supply of such goods shall be the principal place of business of such person.

Q. 6

Supplier delivers goods to a Principal on the direction of an Agent.

Place of supply goods = Madurai. CGST & SGST will be levied

Q. 7

A and B both located in Kerala. B comes to shop of A. A delivered goods to B. What is the place of supply of goods. Which levy will attract?

Answer.

Place of supply goods = Kerala. CGST & SGST will be levied
 Location of such goods at the time of the delivery to the recipient.
 This is irrespective of the location of the buyer and seller.

Q. 8

M/s Karina Ltd. incorporated in Mumbai and own a godown in Chennai. Mr. M of Mumbai approached M/s Karina Ltd. of Mumbai for purchase of goods lying in godown at Chennai. Mr M further informs that he does not want delivery of goods in Mumbai. M/s Karina Ltd. issues invoice for sale of goods in Mumbai.

Find the place of supply of goods and levy of tax?

Answer.

Place of supply goods = Chennai IGST will be levied
 Location of such goods at the time of the delivery to the recipient where Supply does not involve movement of goods.
 This place of supply is irrespective of the location of the buyer and seller.

Q. 9

M/s X Ltd has place of business in Chennai, being an NBFC given an asset under financial lease to M/s ABC Ltd. of Chennai. The said asset so far used by M/s ABC Ltd in their factory located at Hyderabad. At the end of lease period the said asset acquired by M/s ABC Ltd. at a nominal amount. Find the place of supply of goods and levy of GST.

Answer.

Place of supply of goods = Hyderabad. IGST will be levied.
 Since, there is no movement of goods from one place to another, provisions of Sec. 10(1)(c) of IGST applicable.

Q. 10

Mr. D located in New Delhi, place order on Mr. Delhi of New Delhi for installation of Air-condition machine in his factory located in Chennai. Mr. D procures the Indoor and out-door units, set of plugs, electrical cables, distribution boards and other items from different States in India and arranges for delivery in Chennai. The said machine assembled by Mr. Dehli in Chennai. Find the Place of supply of goods and levy tax?

Answer.

Place of supply of goods = Chennai Mr. Delhi is liable to pay IGST.

Q. 11

Chennai express train going form Chennai to Cochin, M/s X Ltd. located in Cochin has supplied the food which are given to passengers during night time. The food packets are loaded at Chennai Central Station, Chennai.

Find the place of supply of goods and levy of GST?

Answer.

Place of supply of goods = Chennai
 M/s X Ltd. is liable to pay IGST._

Q. 12

Mr. C of Chennai supplied goods to M/s Spice Jet Airlines of Chennai flying between Delhi-Mumbai. The goods are loaded in the aircraft in Delhi. Find the place of supply of goods and levy of tax?

Answer.

Place of supply of goods = Delhi
 Mr. C of Chennai is liable to pay IGST.

Q. 13

M/s X Ltd. has entered into agreement with M/s Y Ltd to maintain air conditioners. M/s. X Ltd has air conditioners located in Telangana, Andhra Pradesh and Tamil Nadu. M/s Y Ltd. has appointed sub-

contractors for the purpose of providing the services of maintenance of air conditioners installed in Telangana, Andhra Pradesh and Tamil Nadu. The maintenance and repair work undertaken by the sub-contractor, who is a supplier of service in the given case.

Answer.

Supplier of service is M/s Y Ltd., even though the services are actually provided by the sub-contractors on behalf of M/s Y Ltd.

Q. 14

Mr. X located in Chennai engaged the services of Mr. Y an Architect in Chennai. Mr. X requests him to make design of residential complex to be constructed in Cochin, Kerala. Mr. Y provided drawing and design services in relation to immovable property located at Cochin.

Find the place of supply of service and levy of tax?

Answer.

Place of supply of service = location or intended to be locate the property (i.e. Cochin) IGST is liable to pay by Mr. Y

Q. 15

Mr. Rohit registered person in Jaipur. He went to Kolkata and stays in a Taj hotel at Kolkata. He also availed Beauty treatment services at hotel.

Find the place of supply of service and tax liability in the hands of Taj hotel.

Answer.

Place of supply of service = Kolkata place of supply of service is same for accommodation service by hotel as well as Beauty treatment as it is an ancillary service to the accommodation.

Q. 16

Mr. Navab a person staying at Dubai, trained for the purpose of grooming of horse in Chennai. Find the place of supply of service?

Answer.

Place of supply of service = Chennai As the horses are groomed in Chennai.

Q. 17

M/s Cut Ltd., provider of hair cutting saloon services, located in Mumbai. Mr. M.S. Dhoni came from Jharkhand to Mumbai after appointment for haircut. The services are provided in Mumbai. Find the place of supply of service and tax liability in the hands of M/s Cut Ltd.

Answer.

Place of supply of service = Mumbai

M/s Cut Ltd is liable to pay CGST and SGST.

Q. 18

Mr. A located at Kolkata provides training at Kolkata to employees of M/s Infosys Ltd, which is registered at Mumbai.

Find the place of supply of service and GST liability in the following two cases?

Case 1: Infosys is registered person under GST

Case 2: Infosys is not registered person under GST

Answer.

Case 1: If Infosys Ltd is a registered person

POS will be Mumbai.

Mr. A. is liable to pay IGST.

Case 2: If Infosys Ltd is not a registered than POS will be Kolkata. Mr. A. liable to pay CGST and SGST.

Q. 19

Guidelines Academy registered person provides commercial training and coaching services to budding CMA's at Chennai. Many students (who are unregistered persons) from Telangana, Andhra Pradesh, Tamil Nadu, Karnataka and Kerala came and stay in Chennai for the purpose of undergoing training in the Guidelines Academy. Find the Place of supply of service?

Answer

Place of supply of service = Chennai

As the training is performed in Chennai.

Guidelines Academy is liable to pay CGST and SGST.

Q. 20

X Ltd. being a registered person located in Hyderabad hires Mr. Y who is located in Chennai for appraisal performance of senior employees of their company. Mr. Y visits Hyderabad to evaluate the performance of the senior employees.

(a) Find the Place of supply of service?

(b) What would be the place of supply of service if some of the selected employees and relevant papers are sent to Chennai for evaluation where X Ltd. is un-registered person.

Answer

(a) POS = Hyderabad (i.e. Location of recipient of Service, since, provided to a registered person) Mr. Y is liable to pay IGST.

(b) POS = Chennai (i.e. Location where the services are actually performed, since, provided to un-registered person)

Mr. Y is liable to pay CGST and SGST.

Q. 21

Mr. Remo (located in Mumbai) a best Choreographer, being a judge appraise the performance of the participants in Dance + additions. He gone to Bengaluru for appraise the performance of dance show competition of various participants.

Find the place of supply of service.

Answer:

POS = Bengaluru

(i.e. where the appraisal of performance has been made, since, recipients are un-registered persons)

Q. 22

Board of Control for Cricket in India located at Mumbai, sold tickets on-line for IPL match, is going to conduct at Chepauk Stadium, Chennai. However, finally match conduct at Mumbai. Find the place of supply of service of admission to sporting event?

Answer:

POS = Mumbai

BCCI is liable to pay CGST and SGST.

Q. 23

Mr. X an event organiser, located in Chennai received an order from M/s Taxman publications, Mumbai to conduct a book fair at Chennai. Find the Place of supply of service and GST in the following two cases:

Case 1: Taxman publications is a registered person.

Case 2: Taxman publications is a un-registered person.

Answer:

Case 1: Mumbai (i.e. location of recipient of service) Mr. X of Chennai is liable to pay IGST.

Case 2: Chennai (i.e. location where the event is actually held) Mr. X of Chennai is liable to pay CGST & SGST.

Q. 24

Mr. Kapil Sharma a Jalandhar based comedian hosted a comedy show at Singapore on birth day occasion of Mumbai based actor Mr. Shah Rukh Khan's son AbRam.

Answer:

POS = Mumbai (i.e. location of service recipient). GST = IGST is liable to pay by Mr. Kapil Sharma

Q. 25

Mr. D of Delhi being an event organizer hosted an exhibition at Mumbai to exhibit the products of exhibitor namely, Chennai Silks, Chennai, is a registered person.

Answer:

POS = Chennai (i.e. location of service recipient) IGST is liable to pay by Mr. D of Dehli

Q. 26

Mr. C of Chennai being an event organizer hosted an exhibition at Dhaka to exhibit the products of exhibitor (namely Chennai Silks) located Chennai.

Answer:

POS = Chennai (i.e. location of service recipient) GST = CGST and SGST is not liable to pay by Mr. C

Note: Services by an organiser to any person in respect of a business exhibition held outside India is exempted from GST (Entry No. 52)._

Q. 27

M/s Kalyan Pvt. Ltd. is an event management company is located in Chennai. Mr. Raj located in Jaipur hires the services of M/s Kalyan Pvt. Ltd., for organizing marriage function of his son in Taj Coromandel, Chennai. Mr. Raj is not a registered person. Find the place of supply of service and GST liability?

Answer

POS = Chennai

(i.e. where the event is actually held).

M/s Kalyan Pvt. Ltd. of Chennai is liable to pay CSGT & SGST.

Q. 28

The Times Group being an event organizer located at New Delhi organized Miss India 2017 beauty pageant in India in the following Cities for M/s Femina Miss India a registered person located in Mumbai:

City	No. of Days	Fee in Rs.
New Delhi	12	12 crores
Chennai	18	18 crores
Mumbai	20	20 crores
Total	50	50 crores

Find the place of supply of service if contract specifies clear details.

Find the place of supply of service if contract specifies lump sum amount of Rs. 48 crores.

Answer:

The place of supply of service if contract specifies clear details:

City	No. of Days	Rs. in crore	Location of supplier of service	Place of supply of service = where the respective event is held.	GST
New Delhi	12	12	New Delhi	New Delhi	CGST & SGST
Chennai	18	18	New Delhi	Chennai	IGST
Mumbai	20	20	New Delhi	Mumbai	IGST
Total	50	50			

The place of supply of service if contract specifies lump sum amount:

City	No. of Days	Rs. in crore	Location of supplier of service	Place of supply of service = where the respective event is held.	GST
New Delhi	12	11.52	New Delhi	New Delhi	CGST & SGST
Chennai	18	17.28	New Delhi	Chennai	IGST
Mumbai	20	19.20	New Delhi	Mumbai	IGST
Total	50	48.00			

Q. 29

M/s Navatha a transporter registered under GST, located in Vijayawada. M/s C Ltd. of Chennai registered under GST, received services from M/s Navatha for transport of goods from its warehouse in Vijayawada to Guntur. M/s Navatha delivered goods at Guntur.

Find the place of supply of service and GST?

Whether your answer is different, if M/s C Ltd. of Chennai is not a registered person under GST?

Answer

If the recipient is registered person:

POS = Chennai (i.e. location of recipient).

M/s Navatha of Vijayawada is liable to pay IGST.

If the recipient is not a registered person:

POS = Vijayawada (i.e. Location at which such goods are handed over for their transportation). M/s Navatha of Vijayawada is liable to pay CGST & SGST.

Q. 30

M/s DHL courier registered under GST and located in Mumbai, provided transportation of documents like Cheques, promissory notes, pay orders (which cannot be considered as goods) belonging to Mr. C of Chennai, from Mumbai to Chennai.

Find the place of supply of services in the following independent cases:

- (a) Mr. C of Chennai is a registered person under GST.
- (b) Mr. C of Chennai is a un-registered person under GST, however his address is available in the books of M/s Navatha.
- (c) Mr. C of Chennai is a un-registered person under GST, however his address is not available in the books of M/s Navatha.

Answer:

Place of supply of services is as per Sec 12(2) but not under Sec 12(8) of IGST.

- (a) POS = Chennai (i.e. location of recipient of service)
- (b) POS = Chennai (i.e. location of recipient of service)
- (c) POS = Mumbai (i.e. location of supplier of service)

Note: Cheques, promissory notes, pay orders cannot be considered as goods.

Q. 31

Mr. Ram working in Infosys Company having office in Bengaluru is registered under GST. Mr. Ram purchased the ticket from Hyderabad for transportation passenger by Air from Hyderabad to Chennai. Mr. Ram discloses the name of the organization and its registration number and the place where the organization is registered. Supplier of service is located at Hyderabad.

Find the following

- (a) Place of supply of service and GST liability?
- (b) Whether your answer is different if Mr. Ram is not disclosed the name of the organization and its registration number?

Answer:

- (a) POS = Bengaluru (i.e. location of recipient of service) GST = IGST is liable to pay by Air Travel Operator
- (b) POS = Hyderabad (i.e. Place where the passenger embarks on the continuous journey) GST = CGST & SGST is liable to pay by Air Travel Operator

Q. 32

Jet Air registered under GST and located in Mumbai operates flight from Delhi-Dubai-London-Dubai-Delhi. Mr. TYN who is unregistered person, purchase air ticket for Delhi-London. Two tickets are issued to him showing Delhi-Dubai with a halt at Dubai for 5 hours and Dubai-London.

Find the Place of supply of service and GST liability?

Answer:

POS = Delhi (i.e. place of embark)

GST = Jet Air is liable to pay IGST for the entire value of air fair.

Note: since, it is continuous journey, place of embarking of passenger who is unregistered person is relevant.

Q. 33

Jet Airways registered under GST and located in Mumbai operates flight from Mumbai-Delhi-Mumbai. Mr. TYN who is unregistered person, purchase air ticket for Mumbai-Delhi-Mumbai. Only one ticket is issued to him showing both the route.

Find the Place of supply of service and GST liability?

Answer:

POS = Mumbai (i.e. Mumbai-Delhi, place of embark is relevant) GST = Jet Airways is liable to pay CGST & SGST. POS = Delhi (i.e. Delhi-Mumbai, place of embark is relevant) GST = Jet Airways is liable to pay IGST.

Note:

- (i) As per explanation, Mumbai-Delhi and Delhi-Mumbai journey will be considered two separate journeys.
- (ii) If there is stopover during the journey, the journey will not be considered as continuous journey.

Q. 34

A movie on demand is provided as onboard entertainment during the Delhi-Chennai leg of a Dubai-Delhi-Chennai flight.

Find the place of supply of service? Answer:

POS = Dubai (outside the taxable territory, hence not liable to GST).

Q. 35

M/s Air Call registered under GST and located in Chennai. M/s Air Call have appointed Mr. C as a selling agent for supplying pre-payment voucher to the subscriber. Find the Place of supply of service and GST liability?

Answer:

POS = Chennai (i.e. Address of the selling agent on the record of M/s Air Call).

GST = CGST & SGST is liable to pay by M/s Air Call._

Q. 36

Mr. Harsha being a registered stock broker at BSE, located in Mumbai. He has clients in Chennai, Kolkata, Bengaluru. He purchase and sells shares of clients located in Chennai, Kolkata, Bengaluru. Find the place of supply of service and GST liability?

Answer:

POS = Chennai, Kolkata & Bengaluru. GST = IGST is liable to pay by Mr. Harsha.

Q. 37

M/s X Ltd. has factory in Cochin, Chennai, Vijayawada and Hyderabad and office in Bengaluru. M/s X Ltd obtains insurance for the assets located in Cochin, Chennai, Vijayawada, Hyderabad and Bengaluru from insurance company located at Delhi. Premium receipt issued by the insurance company to the Bengaluru office.

Find the place of supply of service and GST liability?

Answer:

POS = Bengaluru

GST = IGST is liable to pay by the insurance company.

Q. 38

The Government has hired 200 hoardings in Lakshadweep and 175 hoardings in Chennai for providing advertisement of Gas subsidy and contract contains the consideration for these hoardings separately. Hoarding services supplied by M/s X Ltd. located in Hyderabad. Find the place of supply of service and GST

Answer:

POS = Lakshadweep & Chennai

GST = IGST is liable to pay by M/s X Ltd._

Q. 39

ABC Fabricators has its factory located in Gujarat. It has temporarily imported certain goods from its customer located in China and re-exported them to China after carrying out the necessary repairs without putting them to any use in Gujarat.

Examine what would be the place of provision of service in the given case with reference to the Place of Provision of Service Rules, 2012.

Will your answer be different if the repaired goods are re-exported after being put to use in Gujarat for some time?

Answer:

In the given case, since goods have been temporarily imported by ABC Fabricators and have been re-exported after the repairs without being put to any use in Gujarat (taxable territory), place of provision of repair services carried out by ABC Fabricators will be determined by Sec 13(2) of IGST Act, 2017. Consequently, the place of supply of service will be the location of service receiver, viz. China (non-taxable territory).

However, if repaired goods are re-exported after being put to use, the place of provision of service will be determined according to Sec 13(3)(a) of IGST Act, 2017, if the use to which such goods are put to is not required for such repair.

Therefore in such a case, the place of supply of service will be the location where the service is actually performed, which in the given case is Gujarat.

However, if the use is of such nature, which is necessary for carrying out the repairs, the place of supply of service will again be determined as per Sec 13(2) of IGST Act, 2017.

Q. 40

Famous actress Aishwarya Rai went to London, and avail cosmetic or plastic surgery services for her nose. Find the place of supply or service. GST is liable to pay?

Answer.

POS = London (Non-taxable territory) GST is not liable to pay.

Q. 41

Mrs. Neelam Goel, an Interior Designer based in Delhi provides her service to an Indian Hotel Chain (which has business establishment in Mumbai) for its newly acquired property in London. Find the place of supply of service and the person liable to pay GST if any?

Answer.

As per section 12(3)(a) of IGST Act, 2017, Location of service recipient is the place of supply of service. PoS = Mumbai. Taxable territory. Hence, attract IGST in the hands of Mrs. Neelam Goel.

Q. 42

Mr. Kapil Sharma a Jalandhar based comedian hosted a comedy show at Singapore with help of event organizer located in Dubai.

POS = Singapore.

Q. 43

Mr. Kapil Sharma a Jalandhar based comedian hosted a comedy show at Singapore on birth day occasion of Mumbai based actor Mr. Shah Rukh Khan's son AbRam an un-registered person. Find the GST liability if any?

POS = Mumbai (i.e., location of the recipient Sec. 12(7) of IGST Act, 2017)

GST = IGST is liable to pay by Mr. Kapil Sharma.

Q. 44

Mr. D of Delhi being an event organizer hosted an exhibition at Mumbai to exhibit the products of exhibitor (namely M/s S Silks Ltd. of Singapore).

PPS = Mumbai

GST = IGST is liable to pay by Mr. D of Delhi.

Q. 45

Mr. D of Dhaka being an event organizer hosted an exhibition in Mumbai to exhibit the products of exhibitor (namely M/s S Silks Ltd. of Shimla).

Answer.

PPS = Mumbai

GST = IGST is liable to pay by M/s S Silks Ltd. of Shimla (RCM)_

Q. 46

Mr. Harsha a event organiser located in Malaysia under taken to organize comedy shows of Mr. Bhrami of Hyderabad and Mr. Vadivelu of Chennai in India. The comedy shows are hosted in Telangana, Andhra Pradesh, Tamil Nadu and Pondicherry.

Gross value of contract is Rs. 60 crores.

State	No. of Days	Recipient of Service
Telangana	20	Mr Bhrami
Andhra Pradesh	15	Mr. Bhram
Tamil Nadu	14	Mr. Vadivelu
Pondicherry	01	Mr. Vadivelu
Total	50	

Find the place of supply of services and value of service.

Answer.

Place of Supply of service	Value Rs. in crores	Who is liable to pay GST	GST
Telangana	24	Recipient of Service	IGST
Andhra Pradesh	18	Recipient of service	IGST
Tamil Nadu	16.80	Recipient of service	IGST
Pondicherry	1.20	Recipient of service	IGST
Total	60		

Q. 47

Mr. S has a permanent residence at Chennai. He has a savings bank account with Chennai Mound Road Branch of State Bank of India. On Aug 1, 2015, Mr. S opened a safe deposit locker with the Chennai Mound Road Branch of State Bank of India. Mr. S went to Singapore for official work in Sep, 2015 and has been residing there since then. Mr. S contends that since he is a non-resident during the year 2017-18 in terms of the Income-tax Act, GST cannot be levied on the locker fee charged by State Bank of India for the year 2017-18.

Examine the correctness of the contention of Mr. S.

Answer.

POS = Chennai

GST = CGST and SGST is liable to pay by State Bank of India Chennai Mount Road Branch.

Q. 48

Freight Forward Services.

Freight Forwarder

Also known as forwarding agent or Non-Vessel Operation common Carrier or NVOCC.

A person or company that organizes shipments for individuals, organizations or businesses to get goods from the manufacturer or producer to a final point of distribution.

Q. 49

Write a brief note on the applicability of GST in the following cases.

- (i) Whether the representation service provided by State Bank of India Chennai to a foreign MTSO (Money Transfer Service Operator) in relation to money transfer to a beneficiary in India falls in the category of intermediary service.
- (ii) Whether GST is leviable on the services provided as mentioned in (i) above by an intermediary / agent located in India (in taxable territory) to MTSO's located outside in India.

Answer.

- (i) Yes, the given service falls under intermediary service under section 13(8)(b) of the IGST Act, 2017.
- (ii) Place of supply of service is location of the supplier of service (i.e. taxable territory namely Chennai) and hence, GST is liable to pay by intermediary/agent.

Q. 50

A vessel Bhishma, sailing from U.S.A to Australia via,, India carries various types of capital goods namely 'A, B, C & D'. 'A & B' are destined to Mumbai Port. On account of submission of bill of transhipment product 'A' transshipped to Chennai port as ultimate destination in India and product 'B' transshipped to Srilanka.

Find the place of supply of service and person liable to pay GST.

Answer.

Place of supply of services is destination of goods and person liable to pay GST is the importer. In the given case

Place of supply = Chennai (i.e. product 'A' ultimate destination in India) Person liable to pay GST is importer on the ocean freight.

Q. 51

Determine the place of supply of service as well as their taxability in each of the following cases with brief reasons:

- (a) XY Ltd. of Delhi, agrees to provide 'technical inspection and certification service' in respect of a newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different states or countries). The overseas firm has provided its newly developed product to XY Ltd. for the purpose of testing. The testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%).
- (b) A movie on demand is provided as on board entertainment during the Kolkata-Delhi leg of a Bangkok-Kolkata-Delhi Flight.

Answer.

- (a) As per Section 13(6) of IGST Act, 2017, Place of supply of service will be the place in the taxable territory (i.e. Delhi and Assam).

X Ltd is liable to pay CGST and SGST for the part of Delhi X Ltd is liable to pay IGST for the part of Assam.

X Ltd is also liable to pay CGST and SGST as well as IGST for the services rendered in Sweden in ratio 3:7. It means tax will be payable on the entire value.

- (b) As per section 13(11) of the IGST Act, 2017, PoS is Bangkok which is non taxable territory, not subject to GST.

Q. 52

Swamy Ltd. of Chennai acquires the business of SA Ltd. at Johansberg, South Africa. Swamy Ltd. entered into a contract with M/s Krish & Krish Architects, Chennai to do the interiors of the building of new business at South Africa. The Central Tax department issued a notice demanding GST based on the Place of supply of service provisions. Discuss briefly the applicability of the Place of supply of service to M/s Krish & Krish as the work to be done is outside the taxable territory.

Answer.

Place of supply of services supplied directly in relation to an Immovable Property as per Sec 13(4) of IGST is where immovable property is located or intended to be located.

However, location of supplier and location of recipient is in India we should refer section 12(3)(a) of IGST Act, 2017, accordingly place of supply of service is where immovable property located or intended to be located in India. If location of Immovable property is outside India then place of supply is location of the recipient. In the given case place of supply of service is Chennai. Location of supplier of service is in Chennai. CGST and SGST will be levied.

Q. 52

With reference to the GST provisions briefly explain:

- (i) Time of supply under reverse charge with respect to payment date.
- (ii) Place of supply of service of hiring of all means of transport (except vessel and air craft) upto a period of one month, where location of supplier or location of recipient is from outside India.

Answer

- (i) The phrase "the date on which payment received by the recipient" or "the date of payment" means
 - a. the date on which payment is entered in his books of accounts
or
 - b. The date on which the payment is debited to his bank account, whichever is earlier.
- (ii) Specified Services Sec. 13(8) (c) of the IGST Act, 2017:
Place of Supply of Services = Location of the Service Provider

Q. 53

With reference to the position of Goods and Service Tax law as applicable on or after 01.07.2017, what would be the place of supply of service in the following independent cases?

- (i) MN Trade Links of New Delhi are appointed as commission agent by a foreign company for sale of its goods to Indian customers. In lieu of their services, MN Trade Links receive a fixed percentage of commission from the concerned foreign company.
- (ii) OP Fabricators of Mumbai has temporarily imported certain goods from its customer located in Hongkong for repairs. The said goods have been re-exported to Hongkong after carrying out the necessary repairs without being put to any use in Mumbai.
- (iii) UV Airlines, an airlines located in New Delhi, has hired aircrafts from a foreign Airlines for a period of 15 days.

Answer:

- (i) Place of supply of service = New Delhi (i.e. location of supplier of service section 13(8)(b) of the IGST Act, 2017). GST will be levied.
- (ii) Place of supply of service = Hongkong (i.e. location of recipient of service as per Section 13(2) of the IGST Act, 2017). No GST will be levied.
- (iii) Place of supply of service = New Delhi (i.e. location of recipient of service as per Section 13(2) of the IGST Act, 2017). IGST will be levied._

Q. 54

Determine the place of supply of service in each of the following independent cases and state whether GST is payable in each of these cases:

- (a) Mr. A travelled on a Bagdogra-Dibrugarh-Singapore-Dibrugarh-Bagdogra flight where a single ticket with no stopover has been issued by Parkinson Airlines located in Dubai.

(b) Mr. B, a well-known comedian from Delhi, organises a stage-show in Japan. For organising the stage-show, he takes the services from a Mumbai based event organiser.

Answer:

- Place of supply of services = Bagdogra of West Bengal (As per Section 13(10) of the IGST). However, it is specifically exempted from GST under Entry No. 15 of the Notification No. 12/2017 of the Central Tax (Rate) dt. 28.06.2017).
- Place of supply of service = Delhi (i.e. location of recipient of service). GST is payable by supplier of service (Section 13(2) of the IGST).

Q. 55

M/s. X Ltd. of Chennai, engaged in various businesses has provided the following services, whose values are listed below. Compute its GST liability:

- Service of interior decoration in respect of immovable property located in Jammu: Rs. 5 lakh;
- Service of renting of commercial buildings in Delhi: Rs. 15 lakh;
- Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: Rs. 25 lakhs;
- Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller Rs. 51 lakhs;
- Services provided as travel agent undertaking marketing in India of services of a foreign seller Rs. 1 lakhs. Applicable rate of GST 18%.

Answer

Particulars		Value Rs. (in lakhs)	Working note
Interior decoration services		5	PoS = J & K (Sec 12(3)(a) of IGST) taxable territory. IGST will be levied
Renting of commercial buildings		15	PoS = Delhi (Sec 12(3)(b) of IGST) Taxable territory IGST will be levied
Architectural services		25	PoS = Mumbai (Sec 12(3)(a) of IGST). Taxable territory IGST will be levied
Marketing of Goods		51	PoS = Chennai (sec 13(8) of IGST) Taxable territory CGST & SGST will be levied.
Travel agent		1	PoS = Chennai (sec 13(8) of IGST) Taxable territory CGST & SGST will be levied.
Taxable supply of services		97	
Particulars	CGST	SGST	IGST
GST liability	4.68	4.68	8.10

Q. 56

The Royce Group being an event organizer located at New Delhi organized Miss India 2018 beauty pageant in the following cities for M/s AKS Miss India, who registered person located in Mumbai:

City	No. of days	Fees in Rs.
New Delhi	12	12 crores
Chennai	18	18 crores
Mumbai	20	20 crores
Total	50	50 crores

Find the place of supply of service if contract specifies clear details.

Find the place of supply of service if contract specifies lump sum amount of Rs. 48 crores.

Answer:

The place of supply of service if contract specifies clear details:

City	No. of days	Rs. in crore	Location of supplier of service	Place of supply of service = where the respective event is held.	GST
New Delhi	12	12	New Delhi	New Delhi	CGST & SGST
Chennai	18	18	New Delhi	Chennai	IGST
Mumbai	20	20	New Delhi	Mumbai	IGST
Total	50	50			

The place of supply of service if contract specifies lump sum amount:

City	No. of days	Rs. in crore	Location of supplier of service	Place of supply of service = where the respective event is held.	GST
New Delhi	12	11.52	New Delhi	New Delhi	CGST & SGST
Chennai	18	17.28	New Delhi	Chennai	IGST
Mumbai	20	19.20	New Delhi	Mumbai	IGST
Total	50	48			

Q. 57

Mr. Alok, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST Law, examine whether the supply of goods by Mr. Alok to customer in US is an inter-state supply.

Answer:

The transaction undertaken by Mr. Alok is neither import nor export of goods in terms of Customs Act, 1962. However, it is an inter-state supply in terms of provision of section 7(5)(a) of the IGST Act, 2017 which provides that when the supplier is located in India and the place of supply is outside India, supply of goods or services or both, shall be treated to be a supply of goods or services or both in the course of inter-state trade or commerce.

Q. 58

Mr. Harsha, a event organizer located in Malaysia, undertake to organize a comedy show of Mr. Bhrami of Hyderabad and Mr. Vadivelu of Chennai in India. The comedy shows are hosted in Telangana, Andhra Pradesh, Tamil Nadu and Pondicherry. Gross value of contract is Rs. 60 crores.

State	No. of Days	Recipient of Service
Telangana	20	Mr. Bhrami
Andhra Pradesh	15	Mr. Bhrami
Tamil Nadu	14	Mr. Vadivelu
Pondicherry	01	Mr. Vadivelu
Total	50	

Find the place of supply of services, value of service and person liable to pay tax.

Answer:

Place of supply of service	Value Rs. in crores	Who is liable to pay GST	Nature of GST
Telangana	24	Mr. Harsha being a non-resident	IGST
Andhra Pradesh	18	Mr. Harsha being a non-resident	IGST
Tamil Nadu	16.80	Mr. Harsha being a non-resident	IGST
Pondicherry	1.20	Mr. Harsha being a non-resident	IGST
Total	60		

Q. 59

What do you mean by location of recipient of service?

Answer:

As per sec 2(14) of IGST Act, the definition of location of recipient of service is divided into 4 sub clauses:

Recipient of service	Location of the recipient of service
(a) Services received at place of business where registration is obtained.	Location of such place of business
(b) Services received at fixed establishment	Location of such fixed establishment
(c) Services received at more than one establishment	The location of establishment most directly concerned with the receipt of the supply
(d) Services received at other than above.	The location of the usual place of residence of the recipient.

Q. 60

Mr. Alok, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST Law, examine whether the supply of goods by Mr. Alok to customer in US is an inter-state supply.

Answer:

The transaction undertaken by Mr. Alok is neither import nor export of goods in terms of Customs Act, 1962. However, it is an inter-state supply in terms of provision of section 7(5) (a) of the IGST Act, 2017 which provides that when the supplier is located in India and the place of supply is outside India, supply of goods or services or both, shall be treated to be a supply of goods or services or both in the course of inter-state trade or commerce.

Q. 61

Find the place of supply in the following cases:

- (i) X Ltd., located in Mumbai, Maharashtra receives order from M/s Y Ltd. located in Ahmedabad, Gujarat for supply of one machine.
- (ii) Mr. Navab a person staying at Dubai, trained for the purpose of grooming of horse in Chennai.
- (iii) Mr. D of Delhi being an event organizer hosted an exhibition at Mumbai to exhibit the products of exhibitor (namely M/s S Silks Ltd. of Singapore).

Answer:

- (i) Location of Supplier: Mumbai (Maharashtra). Place of Supply: Ahmedabad (Gujarat) Since, the movement of goods terminates at Ahmedabad.
- (ii) Place of supply of service = Chennai Since, the horses are groomed in Chennai.
- (iii) Place of supply of service = Mumbai Since, place of supply of service is where event is actually held.

Q. 62

What do you mean by export of service as per IGST Act? [5]

Answer:

Export of service means the supply of any service when

- (i) The supplier of service is located in India;
- (ii) The recipient of service is located outside India;
- (iii) The place of supply of service is outside India;
- (iv) The payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8 of the IGST Act.

Q. 63

ABC Fabricators has its factory located in Gujarat. It has temporarily imported certain goods from its customer located in China and re-exported them to China after carrying out the necessary repairs without putting them to any use in Gujarat.

Examine what would be the place of supply of service in the given case.

Will your answer be different if the repaired goods are re-exported after being put to use in Gujarat for some time?

Answer:

In the given case, since goods have been temporarily imported by ABC Fabricators and have been re-exported after the repairs without being put to any use in Gujarat (taxable territory), place of supply of repair services carried out by ABC Fabricators will be determined by Sec 13(2) of IGST Act, 2017. Consequently, the place of supply of service will be the location of service receiver, viz. China (non-taxable territory).

However, if repaired goods are re-exported after being put to use, the place of supply of service will be determined according to Sec 13(3)(a) of IGST Act, 2017, if the use to which such goods are put to is not required for such repair.

Therefore in such a case, the place of supply of service will be the location where the service is actually performed, which in the given case is Gujarat.

However, if the use is of such nature, which is necessary for carrying out the repairs, the place of supply of service will again be determined as per Sec 13(2) of IGST Act, 2017.

Q. 64

What is meant by OIDAR services? Which types of services are included under OIDAR services?

Answer:

Online Information and Database Access or Retrieval [OIDAR] services means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology.

OIDAR services include the following services:

- (i) Advertising on the internet;
- (ii) Providing cloud services;
- (iii) Provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet;
- (iv) Providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;
- (v) Online supplies of digital content (movies, television shows, music, etc.);
- (vi) Digital data storage; and
- (vii) Online gaming.

Q. 65

Write a short note on “Export of Service”

Answer:

As per Section 2(6) of the IGST Act, 2017, export of service means the supply of any services when:

- (i) The supplier of the service is located in India;
- (ii) The recipient of service is located outside India;
- (iii) The place of supply of service is outside India;
- (iv) The payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) The supplier of service and the recipient of service are not merely establishments-, of distinct persons in accordance with explanation 1 to section 8 of the IGST Act, 2017.

Q. 66

Miss Shalvee, partner of M/s. Finex , a firm registered in Delhi, went to Mumbai for audit purpose. He purchased from Jaipur Airlines (registered in Rajasthan) air ticket from Jaipur to Mumbai disclosing name of organization and its GST Registration number. Determine place of supply of service .What would your answer if Miss Shalvee does not disclose particulars of organization ?

Answer:

As per section 12(9) of IGST Act, 2017, since the organization is registered in Delhi, therefore as per section 12(9)(a), the place of supply shall be the place where the recipient is located i.e. Delhi in this case.

The airlines shall charge IGST at the location of suppliers is in Jaipur.

In case Miss Shalvee does not disclose the particulars of organization, the place of supply of service will be Jaipur i.e. the place where Miss Shalvee embarks the aircraft for her journey. Here, the airlines shall charge CGST /SGST.

Q. 67

From the following information , determine place of supply of goods as per section 10(1)(b) of IGST Act, 2017, where goods are delivered by supplier to a recipient on direction of a third person during course of movement of goods. Also determine nature of supply: whether inter -state supply or intra-state supply? The information is as follow:

Supplier and his location	Location of a buyer (third person)	Recipient and his location	Place of delivery of the goods
Amar Ltd. Jaipur	Z Ltd. Jaipur	X Ltd. Mumbai	Mumbai
Amar Ltd. Jaipur	X Ltd. Mumbai	Z Ltd. Jaipur	Jaipur
Amar Ltd. Jaipur	S Ltd. Surat	X Ltd. Mumbai	Mumbai
Amar Ltd. Jaipur	X Ltd. Mumbai	P Ltd. Mumbai	Mumbai

Answer:

The place of supply of goods shall be determined as under-

As per section 10(1) (b) of IGST, where goods delivered on the direction of third person, place of supply shall be the Principal place of business of the third person.

LEG 1: Supplier Amar Ltd. to Buyer (third person) i.e. for Amar Ltd. [(section 10(1)(b)]

Supplier	Third Person	Place of Supply	Nature of Supply	Third Party
Amar Ltd.	Jaipur (Z Ltd.)	Jaipur	Intra-state CGST/SGST	Jaipur (Z Ltd.)
Amar Ltd.	Mumbai (X Ltd.)	Mumbai	Inter-state IGST	Mumbai (X Ltd.)
Amar Ltd.	Surat (S Ltd.)	Surat	Inter-state IGST	Surat (S Ltd.)
Amar Ltd.	Mumbai (x Ltd.)	Mumbai	Inter-state IGST	Mumbai (X Ltd.)

As per section 10(1)(a) of IGST , where supply involves movement of goods , place of supply shall be the place where movement terminates for delivery to the recipient.

As per section 10(1)(c) of IGST, where supply does not involves movement of goods , place of supply shall be the location at the time of delivery to the recipient.

LEG 2 : BUYER (third person) to RECIPIENT [Section 10(1)(a) or 10(1)(c)]

Actual Recipient	Location of Goods	Place of Supply	Nature of Supply
X Ltd. Mumbai	Mumbai	Mumbai	Inter state IGST
Z Ltd. Jaipur	Jaipur	Jaipur	Inter state IGST
X Ltd. Mumbai	Mumbai	Mumbai	Inter state IGST
P Ltd. Mumbai	Mumbai	Mumbai	Intra state CGST & SGST

Q. 68

ABC Fabricators has its factory located in Gujarat. It has temporarily imported certain goods from its customer located in China and re-exported them to China after carrying out the necessary repairs without putting them to any use in Gujarat. Examine what would be the place of supply of service in the given case. Will your answer be different if the repaired goods are re-exported after being put to use in Gujarat for some time?

Answer:

In the given case, since goods have been temporarily imported by ABC Fabricators and have been re-exported after the repairs without being put to any use in Gujarat (taxable territory), place of supply of repair services carried out by ABC Fabricators will be determined by Sec 13(2) of IGST Act, 2017. Consequently the place of supply of service will be the location of service receiver, viz. China (non-taxable territory).

However, if repaired goods are re-exported after being put to use, the place of supply of service will be determined according to Sec 13(3) (a) of IGST Act, 2017, if the use to which such goods are put to is not required for such repair.

Therefore in such a case, the place of supply of service will be the location where the service is actually performed, which in the given case is Gujarat.

However, if the use is of such nature, which is necessary for carrying out the repairs, the place of supply of service will again be determined as per Sec 13(2) of IGST Act, 2017.

Q. 69

3. (b)(ii) What do you mean by location of the supplier of services in the context of place of supply?

Answer:

Location of the supplier of services:

Sec 2(15) of IGST Act defines location of supplier of service as follows:

- (1) Where a supply is made from a place of business where registration is obtained, the location of such place of business.
- (2) Where Supply is made from a place other than the place of business for which registration has been obtained (i.e. fixed establishment elsewhere), the location of such fixed establishment.
- (3) Where supply is made from more than one establishment, the location of establishment most directly concerned with the provision of the supply.
- (4) In absence of such places, the location of the usual place of residence of the supplier.

Q. 70

Find out the place of supply in the given cases below:

1. A Ltd. has GST registration from Hyderabad. It is in the business of designing and manufacturing high quality fashion garments. It wants to organise a fashion show in Dubai during March, 2018. For this purpose, it engages Z Ltd., an event management company having GST registration from New Delhi. Z Ltd. will provide different designs for the fashion show against a consultancy fees of ₹ 5,00,000 + GST.
2. A Ltd. also engages P Inc., a Dubai based event management company. Fashion show will be organised under the supervision of P Inc. P Inc. will charge fees of US \$ 7,500.
3. Ram Ltd. has GST registration from New Delhi. On December 1, 2017, it purchases Dubai-Delhi air ticket from Bharat Airways for one of its chief executive officers for Rs. 1,10,000 + GST.
4. Further, on 1st January, 2018, Ram Ltd. purchases New York - Mumbai air ticket from Air Globe for US \$ 4,000. Air Globe is not a registered person in GST. [8]

Answer:

1. Event management services provided by Z Ltd. — Location of supplier (Z Ltd.) and the location of recipient (A Ltd.) are in India. In this case, relevant rule is given by section 12(7) of the IGST Act. Place of supply of service will be the location of recipient (i.e. Hyderabad).
2. Event management service provided by P Inc. — Location of supplier (P Inc.) is outside India. In this case, relevant rule is given by section 13(5) of the IGST Act. Place of supply of service will be the place where the event is actually held (i.e. Dubai).
3. In the case of service pertaining to transportation of passengers (if supplier and recipient are located in India), the relevant rule is given by section 12(9) of the IGST Act. In this case, Ram Ltd. and Bharat Airways are located in India. Under section 12(9) of the IGST Act, the location of the recipient is the place of supply, if recipient is a registered person. So, the place of supply will be New Delhi.

4. The above rule of section 12(9) of the IGST Act is not applicable if the location of supplier (i.e. Air Globe) or the location of recipient (Ram Ltd.) is outside India. . In this case, relevant rule is given by section 13(10) of the IGST Act. Under this rule, the place of passenger transportation service is the place where the passenger embarks on the conveyance for a continuous journey. The place of supply of service will be New York (being the place of embarkation).

Q. 71

Write a short note on “Export of services”.

Answer:

Export of services: As per Section 2(6) of the IGST Act, 2017, export of service means the supply of any service when:-

- (i) The supplier of service is located outside India;
- (ii) The recipient of service is located outside India;
- (iii) The place of supply of service is outside India;
- (iv) The payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with explanation 1 in section 8 of the IGST Act, 2017.

Q. 72

What do you mean by Intermediary? How the place of supply of Intermediary services is determined where location of supplier or location of recipient is outside India? Give an example.

Answer:

Intermediary: "Intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates —

- The supply of goods or services or both, or securities, between two or more persons,
- But does not include
- A person who supplies such goods or services or both or securities on his own account.

Place of supply of Intermediary services: The place of supply of the intermediary services shall be the location of the supplier of services, where location of supplier or location of recipient is outside India.

For example: A travel agent registered in New Delhi books a tour of famous Indian cities for a Dubai resident. The place of supply is the location of the supplier of services i.e., New Delhi.

Q. 73

Virat Raina imported on 12-09-2018, certain goods from Colombo, on which he paid ocean freight of Rs.2,34,000. He has received a notice from the Department,

asking him to pay the GST on the ocean freight. It is stated in the notice that he is liable to pay GST on Ocean Freight. Since, place of supply of service is destination of goods as per Sec. 13(9) of IGST Act, 2017

You are required to help the importer in rebutting the Department's view.

Answer:

Facts of the Case:

Import of goods into India is completed when goods are landed on land mass of India (as per the decision in Garden Silk Mills Ltd. of the Hon'ble Supreme Court)

Ocean freight on import of goods into India is subject to customs duty. As per the Department contention Ocean Freight is subject to GST again.

Ground on rebuttal:

In the case of United Shippers Ltd. 2015 (37) STR 1043 (Tri-Mumbai), it has been held that when the value of transportation charges have been added in CIF value on which customs duty is paid. GST again cannot be recovered on the same value. The department's appeal against the order of Tribunal to the Hon'ble Supreme Court of India has been dismissed, as reported in 2015(39) STR J369 (S.C.). It means the judgment of Hon'ble Tribunal-Mumbai has been approved by the Supreme Court.

The ratio of this judgment is equally applicable to Goods and Services Tax Law also. Therefore, question of payment of GST on ocean freight does not arise.

Note: After issue of notification No.10/2017-Integrated Tax Rate dated 28.06.2017 vide entry No.10-IGST is payable on such ocean freight by the importer under RCM. As regards the transaction in question of 12th September, 2018. RCM stands suspended upto 30-09-2019 and hence it will not be payable in any case.

Q. 74

With reference to the position of Goods and Services Tax law as applicable on or after 01.07.2017, what would be the place of supply of service in the following independent cases?

- (I) MN Trade Links of New Delhi are appointed as commission agent by a foreign company for sale of its goods to Indian customers. In lieu of their services, MN Trade Links receive a fixed percentage of commission from the concerned foreign company.
- (II) OP Fabricators of Mumbai has temporarily imported certain goods from its customer located in Hongkong for repairs. The said goods have been re-exported Hongkong after carrying out the necessary repairs without being put to any use in Mumbai.
- (III) UV Airlines, an airlines located in New Delhi, has hired aircrafts from a foreign Airlines for a period of 15 days. 6

Answer:

PARTICULARS	
(a)	Place of supply of service = New Delhi (i.e. location of supplier of service section 13(8)(b) of the IGST Act, 2017). GST will be levied
(b)	Place of supply of service = Hongkong (i.e. location of recipient of service as per Section 13(2) of the IGST Act, 2017). No GST will be levied.
(c)	Place of supply of service = New Delhi (i.e. location of recipient of service as per Section 13(2) of the IGST Act, 2017). IGST will be levied.

Q. 75

The ADINA GROUP being an event organizer located at New Delhi organized MISS INDIA 2017 beauty pageant in India in the following cities for M/s. PC MISS INDIA, who is a registered person located in Kolkata after 1st July, 2017:

City	No. of days	Fee in Rs.
New Delhi	15	15 Crores
Chennai	20	20 Crores
Kolkata	25	25 Crores
Total	60	60 Crores

Required:

- (A) Find the place of supply of service if contract specifies clear details.
- (B) Find the place of supply of service if contract specified lump-sum amount of Rs.50Crores. 3+3=6

Answer:

- (A) The place of supply of service if contract specifies clear details:

City	No. of days	Rs. in crore	Location of supplier of service	Place of supply of service = where the respective event is held	GST
New Delhi	15	15	New Delhi	New Delhi	CGST & SGST/UTGST
Chennai	20	20	New Delhi	Chennai	IGST
Kolkata	25	25	New Delhi	Kolkata	IGST
Total	60	60			

- (B) The place of supply of service if contract specifies lump sum amount of Rs.50 crore.

City	No. of days	Rs. in crore	Location of supplier of service	Place of supply of service=where the respective event is held	GST
New	15	12.50	New Delhi	New Delhi	CGST & SGST/UTGST

Delhi					
Chennai	20	16.67	New Delhi	Chennai	IGST
Kolkata	25	20.83	New Delhi	Kolkata	IGST
Total	60	50.00			

Q. 76

Find out the place of supply and the tax to be levied (i.e., IGST or CGST & SGST) in the following cases:

- (i) Mr. Sathianarayan, an Architect situated at Kochi is engaged by M/s. ABC Builders, Kochi to draw building plan for a proposed building to be situated at Dubai to be owned by the overseas client of M/s. ABC Builders.
- (ii) M/s. Adhithya Spinners Ltd., having its registered office at Bangalore (Karnataka) has engaged M/s. Texmac P. Ltd., Coimbatore (Tamilnadu), a company dealing in textile machineries, to supply blowroom machineries for the former's spinning unit to be set-up at Hosur (Tamilnadu). Machineries are supplied in completely knocked down condition at the Hosur unit and assembled by the technicians of M/s. Texmac P. Ltd. The Hosur unit is not yet registered under GST.
- (iii) M/s. Kirlo India Ltd., Mumbai (Registered under GST) appointed M/s. Cunix Infotech P. Ltd., Delhi for conducting training to its employees in the Marketing Department and to appraise their performance on periodic basis. During the month of March 2019, Cunix conducted a training programme at the campus of Cunix at New Delhi.
- (iv) Mr. Arnab, Calcutta (not registered under GST) booked air ticket in Jet Airways Ltd., Calcutta for travel to Mumbai. He embarks on the flight at New Delhi Airport.

Answer:

Sl. No.	Place of Supply	Tax to be levied	Remarks
(i)	Kochi (Kerala)	CGST + SGST	As per Clause (a) of sub-section 3 of Section 12 of IGST Act, 2017, place of supply of services directly in relation to immovable 'property, including services provided by architects shall be the location at which the immovable property is located or intended to be located. However, proviso to sub-section 3 provides that if the location of the immovable property is located or intended to be located outside India, the place of supply shall be the location of the recipient. In the given case, though the property is located at Dubai (outside India), place of supply shall be at Kochi (Kerala) being the location of the recipient.
(ii)	Hosur (Tamilnadu)	CGST + SGST	As per clause (d) of sub-section 1 of section 10 of IGST Act, 2017, Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. In the given case, since the machineries are supplied in completely knocked down condition at Hosur to be assembled at the site, place of supply is Hosur.
(iii)	Mumbai (Maharashtra)	IGST	As per Section 12(5) of IGST Act, 2017, the place of supply of services in relation of training and performance appraisal to (a) a registered person, shall be the location of such person; (b) a person other than a registered person, shall be the location where the services are actually performed. In the given case, since the service recipient is a registered person situated at Mumbai, the place of

			supply for GST levy is Mumbai even though the actual place of supply is New Delhi.
(iv)	New Delhi	IGST	<p>As per Section 12(9) of IGST Act, 2017, the place of supply of passenger transportation service to</p> <p>(a) a registered person, shall be the location of such person;</p> <p>(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey.</p> <p>In the given case, since the service recipient Mr. Arnab is an un-registered person, the place of supply for GST levy is New Delhi where he embarked on the flight.</p>

Q. 77

The Sterling Group of hotels introduces a holiday package for 5 Days in Pondicherry and Mahabhalipuram (Tamilnadu). The stay includes both staying and complementary breakfast. Where the stay in Pondicherry is for 3 Nights and the stay in Mahabhalipuram for 2 Nights. For the above services The Sterling charges total of Rs. 15,000.

Explain the place of supply in the above scenario.

Answer:

Rule 4:

The supply of Services attributable to different states or union territory U/s. 12(3) of The Integrated Goods and Services Tax Act, 2017.

In case of services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called (except cases where such property is a single property located in two or more contiguous States or union territories or both) and services ancillary to such services, the supply of such services, the supply of services shall be treated as made in each of the respective states or union territories, in proportion to be number of nights stayed in such property.

The Place of supply in this case is both Union territory of Pondicherry and in the state of Tamilnadu. The services shall be deemed to have been provided in the Union territory or Pondicherry and in the state of Tamilnadu in the ratio of 3 : 2 respectively.

The Value of services will thus be apportioned as Rs. 9,000 in the Union territory of Pondicherry and Rs. 6,000 in the State of Tamilnadu.

Q. 78

Write a short note on “Export of Service”.

Answer:

As per Section 2(6) of the IGST Act, 2017, export of service means the supply of any services when:

- The supplier of the service is located in India;
- The recipient of service is located outside India;
- The place of supply of service is outside India;
- The payment for such service has been received by the supplier of service in convertible foreign exchange; and
- The supplier of service and the recipient of service are not merely establishments of distinct persons in accordance with explanation 1 to section 8 of the IGST Act, 2017.

INPUT TAX CREDIT

INTRA STATE SUPPLY

Basic Meaning	When location of supplier and place of supply ↓ Are in same state or union territory, ↓ It is intra state supply.
SECTION 8(1) OF IGST ACT, 2107: INTRA-STATE SUPPLY OF GOODS	<p>What is INTRA STATE SUPPLY</p> <p>Supply of goods where the location of the supplier and the place of supply of goods are in the same state or same union territory shall be treated as intra-state supply.</p> <p>What is not INTRA STATE SUPPLY</p> <ul style="list-style-type: none"> (i) Supply of goods to or by a special economic zone developer or a sez unit; (ii) Goods imported into the territory of india till theycross the customs frontiers of india; or (iii) Supplies made to a tourist leaving india.
SECTION 8(2) OF IGST ACT, 2107: INTRA-STATE SUPPLY OF SERVICES	<p>What is INTRA STATE SUPPLY</p> <p>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:</p> <p>What is not INTRA STATE SUPPLY</p> <p>Supply of services to or by a special economic zone developer or a sez unit.</p>
NATURE OF GST	<ol style="list-style-type: none"> 1. In case of intra state supply, CGST and SGST will apply. 2. SGST will be replaced by UTGST in case of union territories. 3. Union Territories are as follows: Andaman and Nicobar islands, Chandigarh, Dadra and Nagar Haveli and Daman & Diu, Delhi, Jammu & Kashmir, Ladakh, Lakshadweep, Puducherry. 4. However, Delhi and Puducherry will have SGST and not UTGST as

	they have legislative assembly and their own elected government.
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INTER STATE SUPPLY

Basic Meaning	When location of supplier and place of supply are in different state or union territory, it is INTER STATE SUPPLY.
Section 7(1) : GOODS	<p>SUPPLY OF GOODS, WHERE THE LOCATION OF THE SUPPLIER AND THE PLACE OF SUPPLY ARE IN—</p> <p>(A) TWO DIFFERENT STATES; (B) TWO DIFFERENT UNION TERRITORIES; OR (C) A STATE AND A UNION TERRITORY,</p> <p>SHALL BE TREATED AS A SUPPLY OF GOODS IN THE COURSE OF INTER-STATE TRADE OR COMMERCE.</p>
Section 7(2) : IMPORTED GOODS	Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-state trade or commerce.
Section 7(3) : SERVICES	<p>Supply of services, where the location of the supplier and the place of supply are in—</p> <p>(a) two <u>different states</u>; (b) two <u>different union territories</u>; or (c) <u>a state and a union territory</u>,</p> <p>Shall be treated as a supply of services in the course of inter-state trade or commerce.</p>
Section 7(4) : IMPORTED SERVICES	Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-state trade or commerce.
Section 7(5) : EXPORT, SEZ and RESIDUAL	<p>Supply of goods or services or both,—</p> <p>(a) when the supplier is located in India and the place of supply is outside India; (b) to or by a special economic zone developer or a special economic zone unit; Or (c) in the taxable territory,</p> <p>Not being an intra-state supply and not covered elsewhere in this section,</p>

	shall be treated to be a supply of goods or services or both in the course of inter-state trade or commerce.
NATURE OF GST	In case of Inter State supply, IGST will apply.

Settlement of ITC

OUT PUT TAX	When supplier collects GST from his customer (receiver), this tax collected from receiver is called Output Tax. This is the GST payable by this supplier to the government. This is his liability towards government.															
INPUT TAX	This supplier will be either a manufacturer or trader or service provider. No other category is possible in business. He must be purchasing input goods & services for running his business. Whatever he purchases shall either be for further supply to his customers or to use the same in his business. In both the cases, he must have paid GST on his purchases. This GST paid on purchases is called input tax.															
NET TAX LIABILITY & ITC	Output tax collected from customer should be ideally deposited with the government but the government allows adjusting input tax from the output tax payable. This means the output tax payable to government need not to be paid in full. It will be first reduced by the amount of input tax already paid on purchases. This reduces the output tax liability, giving benefit to tax payer. It is because he collected more from the customer but paying less to the government. This advantage of reducing output tax liability from input tax is called input tax credit. The remaining output tax liability is called net tax liability.															
INTRA HEAD & INTER HEAD ADJUSTMENTS	When input tax is deducted from output tax, both the input and output taxes may or may not be of same nature. When output tax and input tax are of same nature, they can be easily adjusted without applying any complex procedure. It means CGST to CGST, SGST to SGST, IGST to IGST and UTGST to UTGST. This will happen when purchase and sale both were intra state supply or both were interstate supply. However, if they are not of same nature, this needs to be adjusted as per settlement rules. This will happen if purchase is intra state supply and sale is interstate supply or vice versa.															
Settlement Rules	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="background-color: #f2e0dd;">CGST</th> <th style="background-color: #f2e0dd;">SGST</th> <th style="background-color: #f2e0dd;">IGST</th> <th style="background-color: #f2e0dd;">REMARKS</th> </tr> </thead> <tbody> <tr> <td>ITC OF CGST</td> <td>ALLOWED</td> <td>NOT ALLOWED</td> <td>ALLOWED</td> <td>1st CGST next IGST in that order</td> </tr> <tr> <td>ITC OF</td> <td>NOT ALLOWED</td> <td>ALLOWED</td> <td>ALLOWED</td> <td>1st SGST next IGST in</td> </tr> </tbody> </table>		CGST	SGST	IGST	REMARKS	ITC OF CGST	ALLOWED	NOT ALLOWED	ALLOWED	1st CGST next IGST in that order	ITC OF	NOT ALLOWED	ALLOWED	ALLOWED	1st SGST next IGST in
	CGST	SGST	IGST	REMARKS												
ITC OF CGST	ALLOWED	NOT ALLOWED	ALLOWED	1st CGST next IGST in that order												
ITC OF	NOT ALLOWED	ALLOWED	ALLOWED	1st SGST next IGST in												

	SGST				that order
CROSS UTILISATION OF ITC	ITC OF IGST	ALLOWED	ALLOWED	ALLOWED	1st IGST next CGST and next SGST in that order
	INPUT TAX IGST	OUTPUT TAX IGST	OUTPUT TAX CGST	OUTPUT TAX SGST/UTGST	
		1	2 IN ANY ORDER AND IN ANY PROPORTION		
		3 INPUT IGST MUST BE EXHAUSTED MADATORILY			
INPUT TAX CGST	5	4	NOT ALLOWED		
INPUT TAX SGST/UTGST	7	NOT ALLOWED	6		

Conditions to avail ITC Section 16

Conditions	<ol style="list-style-type: none"> 1. He should be in possession of a tax invoice or debit note issued by a supplier registered under this act, or such other tax paying documents as may be prescribed. 2. He has received the goods or services or both. Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment. 3. The tax charged in respect of such supply has been actually paid to the government, either in cash or through utilisation of input tax credit admissible in respect of the said supply. 4. He has furnished the return. 5. He has made the payment to supplier within 180 days from the date of invoice. 6. Loss of input is treated as follows: Only Abnormal Transit Loss needs to be adjusted. 7. Taxable person shall not claim depreciation on tax component of the cost of capital goods under the provisions of the income tax act, 1961.
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	If the depreciation under section 32 of the income tax act, 1961 is claimed on the tax component by capitalizing with the cost of capital goods, input tax credit shall not be allowed.
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Time Limit to avail ITC

Time Limit under Section 16	<p>Time limit for availment of credit by registered taxable person is prescribed in the following manner.</p> <p>(a) filing of return under section 39 for the month of September following end of financial year to which such invoice pertains</p> <p>Or</p> <p>(b) filing of annual return</p> <p>Whichever is earlier.</p>
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10% Rule

RULE 36(4) –	<p>Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in their GSTR-1, shall not exceed 10 percent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers.</p> <p>Effectively ITC shall not exceed 10% (5%) of the eligible credit reflected in GSTR-2A.</p>
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BLOCKED ITC SECTION 17

BUSINESS & NON-BUSINESS PURPOSE SECTION 17(1) OF THE CGST ACT, 2017	Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
INPUTS USED IN TAXABLE AND EXEMPT SUPPLY SECTION 17(2) OF THE CGST ACT, 2017	Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

INPUTS USED BANKING COMPANY AND NBFC SECTION 17(4) OF THE CGST ACT, 2017	<p>A banking company and NBFC shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to 50% of the eligible itc in that month and the rest shall lapse.</p> <p>Proviso 1 to section 17(4)</p> <p>Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year.</p> <p>Proviso 2 to section 17(4)</p> <p>Provided further that the restriction of 50% shall not apply to the tax paid on supplies made by one registered person to another registered person having the same permanent account number.</p>
MOTOR VEHICLES SECTION 17(5)(a) OF THE CGST ACT, 2017	<p>Generally, no ITC allowed on motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver)except when they are bought & used for following purposes:</p> <ol style="list-style-type: none"> 1. Motor vehicles or conveyances are used for further supply of such vehicles or conveyances. 2. Motor vehicles or conveyances are used for transportation of passengers. 3. Motor vehicles or conveyances are used for imparting training on driving, flying, navigating such vehicles or conveyances. 4. Transportation of goods
FOOD AND BEVERAGES,OUTDOOR CATERING,BEAUTY TREATMENT,HEALTH SERVICES, COSMETIC AND PLASTIC SURGERY SECTION 17(5)(b)(i) OF THE CGST ACT, 2017	ITC shall not be allowed on these items except when they are used either upon government compulsion or to make outward supply either independently or as composite or mixed supply
MEMBERSHIP OF A CLUB, HEALTH AND FITNESS CENTRE SECTION 17(5)(b)(ii) OF THE CGST ACT, 2017	ITC shall not be allowed on such membership charges.
RENT-A-CAB, LIFE	ITC shall not be allowed on these items except when they are

INSURANCE AND HEALTH INSURANCE SECTION 17(5)(b)(iii) OF THE CGST ACT, 2017	used as per government compulsion or to make outward supply either independently or as composite or mixed supply
TRAVEL BENEFITS EXTENDED TO EMPLOYEES ON VACATION SECTION 17(5)(b)(iv) OF THE CGST ACT, 2017	ITC on tax paid on travel benefits extended to employees on vacation such as leave or home travel concession shall not be available under any circumstances.
WORKS CONTRACT SECTION 17(5)(c) OF THE CGST ACT, 2017	<p>ITC not allowed on works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service</p> <p>Note: ITC allowed on revenue repairs ITC not allowed on repairs which are capitalized</p> <p>Meaning of plant & machinery</p> <p>‘plant and machinery’ means apparatus, equipment and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes:</p> <ul style="list-style-type: none"> A. Land, building or any other civil structures B. Telecommunication towers; and C. Pipelines laid outside the factory premises.
INPUTS USED FOR IMMOVABLE PROPERTY SECTION 17(5)(d) OF THE CGST ACT, 2017	Goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.
INPUTS USED BY COMPOSITION DEALER SECTION 17(5)(e) OF THE CGST ACT, 2017	Goods and/ or services on which tax is paid to the supplier under composition scheme are not eligible for ITC.
INPUTS USED BY NON-RESIDENT TAXABLE PERSON SECTION 17(5)(f) OF THE CGST ACT, 2017	Input tax credit shall not be available in respect of goods or services or both received by a non-resident taxable person except on goods imported by him. It means IGST on import of goods allowed as ITC.

INPUTS USED FOR PERSONAL CONSUMPTION SECTION 17(5)(g) OF THE CGST ACT, 2017	Input tax paid on goods and or services used for personal consumption is not eligible for ITC.
INPUT TAX PAID ON GOODS AND OR SERVICES USED FOR PERSONAL CONSUMPTION IS NOT ELIGIBLE FOR ITC.	ITC not allowed in the following cases: <ul style="list-style-type: none"> • goods lost • goods stolen • goods destroyed • goods written off or • disposed of by way of gift • disposed of by way of free samples
TAX PAID IN ACCORDANCE WITH THE PROVISIONS OF FRAUD, DETENTION, SEIZURE AND CONFISCATION OF GOODS OR CONVEYANCE. SECTION 17(5)(i) OF THE CGST ACT, 2017	GST paid under the below provisions; credit is not available to a taxable person. <p>(A) SECTION 74 OF THE CGST ACT, 2017:SHOW CAUSE NOTICE ISSUED IN CASE OF FRAUD, TO RECOVER THE GST.</p> <p>(B) SECTION 129 OF THE CGST ACT, 2017:TAX IS PAID, WHEN GOODS ARE UNDER DETENTION BY THE OFFICERS FOR FURTHER INVESTIGATION</p> <p>(C) SECTION 130 OF THE CGST ACT, 2017:TAX PAID, WHEN THE GOODS OR CONVEYANCE ARE BEING CONFISCATED.</p>

REVERSAL OF ITC

Events in which Reversal is required	<ol style="list-style-type: none"> 1. Recipient of supply doesn't pay to the supplier within 180 days of issue of the invoice. 2. Recipient of supply uses input goods/services for any purpose other than business or for supplying exempted supplies [like personal use] 3. Recipient of supply uses capital goods for any purpose other than business or for supplying exempted supplies 4. A person transfers his regular GST registration into composite scheme [u/s 18(4)] or cancels GST registration [u/s 29(5)] 5. A person sells capital good or plant and machinery [u/s 18(6)].
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ITC IN SPECIAL CIRCUMSTANCES SECTION 18

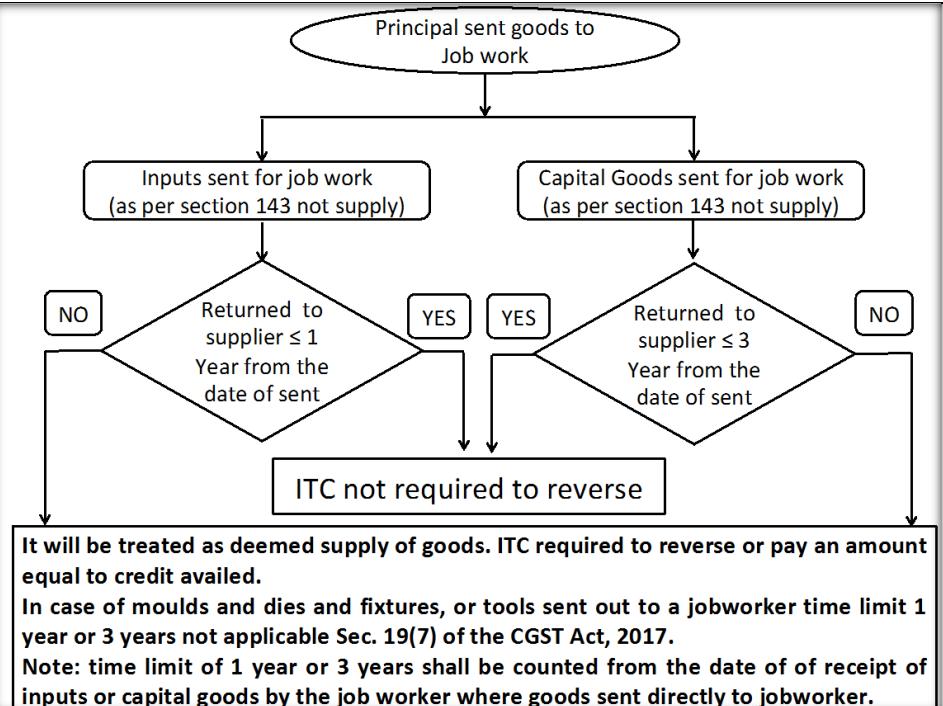
<p>ENTITLEMENT OF ITC AT THE TIME OF REGISTRATION/ VOLUNTARY REGISTRATION OR SWITCHING TO REGULAR TAX PAYING STATUS OR COMING INTO TAX-PAYING STATUS [SUB-SECTIONS (1) AND (2) OF SECTION 18 READ WITH RULE 40 OF CGST RULES]</p>	<p>CASE 1 PERSON WHO HAS APPLIED FOR REGISTRATION WITHIN 30 DAYS FROM THE DATE ON WHICH HE BECOMES LIABLE TO REGISTRATION AND HAS BEEN GRANTED SUCH REGISTRATION.</p> <p>ITC allowed on inputs held in stock and inputs contained in semi-finished or finished goods held in stock, as on the day immediately preceding the date from which he becomes liable to pay tax. ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.</p> <p>CASE 2 PERSON WHO IS NOT REQUIRED TO REGISTER, BUT OBTAINS VOLUNTARY REGISTRATION</p> <p>ITC allowed on inputs held in stock and inputs contained in semi-finished or finished goods held in stock, as on the day immediately preceding the date of registration ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.</p> <p>CASE 3 REGISTERED PERSON WHO CEASES TO PAY COMPOSITION TAX AND SWITCHES TO REGULAR SCHEME</p> <p>Inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on the day immediately preceding the date from which he becomes liable to pay tax under regular scheme. ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice. ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.</p> <p>CASE 4 REGISTERED PERSON WHOSE EXEMPT SUPPLIES BECOME TAXABLE SUPPLIES</p> <p>Inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and capital goods exclusively used for such exempt supply as on the day immediately preceding the date from which such supply becomes taxable ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice. ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.</p>
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	<p>NOTE :</p> <p>In all the above 4 cases, the registered person has to make an electronic declaration in the prescribed form on the common portal, clearly specifying the details relating to the inputs held in stock, inputs contained in semi-finished or finished goods held in stock and capital goods.</p> <p>The declaration is to be filed within 30 days (extendable by Commissioner/Commissioner of State GST/Commissioner of UTGST) from the date when the registered person becomes eligible to avail ITC.</p> <p>If the claim of ITC pertaining to CGST, SGST/UTGST, IGST put together exceeds ` 2,00,000, the declaration needs to be certified by a practicing Chartered Accountant/Cost Accountant.</p>
<p>REVERSAL OF ITC ON SWITCHING TO COMPOSITION LEVY OR EXIT FROM TAX PAYING STATUS [SECTION 18(4) READ WITH RULE 44 OF CGST RULES]</p>	<p>ITC on inputs should be reversed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs. ITC involved in the remaining useful life (in months) of the capital goods should be reversed on pro-rata basis, taking the useful life as 5 years.</p>
<p>AMOUNT PAYABLE ON SUPPLY OF CAPITAL GOODS OR PLANT AND MACHINERY ON WHICH ITC HAS BEEN TAKEN [SECTION 18(6) READ WITH RULE 40(2) & RULE 44(6) OF CGST RULES]</p>	<p>If capital goods or plant and machinery on which ITC has been taken are supplied outward by the registered person, he must pay an amount that is the higher of the following:</p> <p>ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods to be taken as 5 years), or</p> <p>Tax on transaction value</p>
<p>TRANSFER OF ITC ON ACCOUNT OF CHANGE IN CONSTITUTION</p>	<p>In case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution.</p>

**OF
REGISTERED
PERSON
[SECTION 18(3)
READ WITH
RULE 41 OF
CGST RULES]**

ITC IN JOB WORK SECTION 19

Conditions



This 1 year and 3 years counting will start from the date of dispatch in case the goods are sent by principal to job worker.

And, in case of dispatch by supplier directly to job worker, counting will begin from date of receipt by job worker and not by date of dispatch.

DISTRIBUTION OF ITC BY ISD

Conditions

The input service distributor may distribute the credit subject to the following conditions, namely:—

- the credit can be distributed to the recipients of credit against a document called ISD invoice.
- the amount of the credit distributed shall not exceed the amount of credit available for distribution;

	<p>(c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;</p> <p>(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients proportionately on the basis of turnover.</p>
CONTENTS OF ISD INVOICE	<p>(I) name, address and GSTIN of the registered person having the same pan and same state code as the ISD;</p> <p>(ii) a consecutive serial number not exceeding 16 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;</p> <p>(iii) date of its issue;</p> <p>(iv) GSTIN of supplier of common service and original invoice number whose credit is sought to be transferred to the ISD;</p> <p>(v) name, address and GSTIN of the ISD;</p> <p>(vi) taxable value, rate and amount of the credit to be transferred; and</p> <p>(vii) signature or digital signature of the registered person or his authorized representative.</p>

QUESTIONS AND ANSWERS

Q. 1

Mr. K of Kolkata sold taxable goods to Mr. C of Chennai. Mr. B being a buyer of goods is eligible to claim the IGST as credit on purchases based on the tax invoice issued by Mr. K of Kolkata.

Step by step approach:

1. Mr K will upload the details of all tax invoices issued in GSTR 1.
2. The details with respect to sales to Mr C will auto populate/ get reflected in GSTR 2A, the same data will be pulled when Mr C will file GSTR 2 (i.e details of inward supply).
3. Mr C will then accept the details that the purchase has been made and reported by the seller correctly and subsequently the tax on purchases will be credited to 'Electronic Credit Ledger' of Mr C and he can adjust it against future output tax liability.

Q. 2

M/s. X Ltd. supplied taxable goods from the factory after manufacture in the month of Oct 2017 for sale to a distributor for Rs. 8,00,000. M/s X Ltd has suppressed this transaction. However, he deposited the GST @12% on these goods on 10-1-2018 against show cause notice issued under Section 74 (when there is fraud) of the CGST Act, 2017 by the Central Tax Officer and passed the order accordingly.

Whether distributor namely recipient of these goods is eligible to take input tax credit.

Answer.

As per rule 36(3) of the CGST Rules, 2017, No credit on payment of tax due to fraud, willful-misstatement or suppression of fact etc. shall be allowed.

In the given case no input tax credit was available to registered person if the supplier has paid tax in pursuance of order where any demand has been confirmed on account of any fraud, willful-misstatement or suppression of facts and so on under Sec. 74 of the CGST Act, 2017.

Hence, input tax credit is not allowed to recipient of these goods (i.e. distributor in the given case).

Q. 3

M/s C Ltd Chennai procured goods 10,000 Kgs @ Rs. 100 per Kg. From M/s D Ltd of Delhi. These goods came to M/s C Ltd of Chennai in the following manner

Date of dispatch	No. Kgs dispatched	Date of receipt	Normal loss in transit kgs	Abnormal loss in transit Kgs	No. Kgs received
10 th Oct	2,000	15 th Nov	2	Nil	1,998
2 nd Nov	5,000	20 th Nov	5	Nil	4,995
3 rd Dec	3,000	1 st Jan	1	20	2,979

Invoice shows 10,000 Kgs. and GST @18%.

You are required to answer

- (a) M/s C Ltd can avail the proportionate credit on 15th Nov and 20th Nov.
- (b) M/s C Ltd is eligible for input tax credit if so when.
- (c) How much credit is allowed to M/s C Ltd.

Answer.

- (a) M/s C Ltd. cannot take proportionate credit on the quantity received on 15th Nov and 20th Nov.
- (b) M/s C Ltd is eligible to avail the input tax credit on 1st Jan.
- (c) Input tax credit allowed = Rs. 1,79,640/- [(10,000 Kgs x Rs. 100) x 18% x 9980 kgs/10,000 kgs.]

Note:

- (i) Goods received in lots ITC available only on receipt of last lot/installment [1st proviso to Sec 16(2)]
- (ii) Entire input tax credit is allowed in case of transit loss (i.e. normal loss). Whereas input tax credit is not allowed to the extent of transit loss (i.e. abnormal loss).

Q. 4

M/s. X Ltd. supplied taxable goods from the factory after manufacture in the month of Oct 2017 for sale to a distributor for Rs. 8,00,000. However, he deposited the GST @12% on these goods on 10-1-2018 against show cause notice issued under Section 74 (when there is fraud) of the CGST Act, 2017 by the Central Tax Officer and passed the order accordingly.

During the month of December 2017, M/s X Ltd received goods worth Rs. 5,00,000 by paying GST 12%.

- (a) Find the Net GST deposited by M/s X Ltd. into the Government Account on 10th January 2018.
- (b) Your answer is different if M/s X Ltd. paid GST 12% against show cause notice issued under section 73 (when there is no fraud).
- (c) Rework, M/s X Ltd. paid output tax by following self-assessment (i.e. when there is no show cause notice issued)

Note: Ignore penalty and interest

Answer:

(a) Statement showing Net GST deposited by M/s X Ltd. (where there is fraud Sec. 74 of the CGST Act):

Particulars	CGST 6%	SGST 6%	Remarks
Output tax	48,000	48,000	(Rs. 8 lac x 6%)
Less: ITC (Since, it is paid against the order where there is fraud)	Not allowed	Not allowed	GST @12% paid on k 5 lac is not allowed as ITC.
Net GST liability	48,000	48,000	

(b) Our answer remain same as stated in (a) above.

(c) Statement showing Net GST deposited by M/s X Ltd. (where there is no show cause notice issued):

Particulars	CGST 6%	SGST 6%	Remarks
Output tax	48,000	48,000	(Rs. 8 lac x 6%)
Less: ITC	(30,000)	(30,000)	GST @12% paid on k 5 lac is allowed as ITC.
Net GST deposited	18,000	18,000	

Q. 5

M/s X Ltd supplied goods in the month of December 2017; the entry for debit must be made by 20th January 2018. In the absence of making payment of tax, the return cannot be filed under section 39 of the CGST Act, 2017. In such case credit to the recipient of goods or services will be denied.

Q. 6

M/s A Ltd of Aluva (Kerala) receives the input service from M/s B Ltd of Bengaluru who raises the invoice for supply of service on 17th Dec 2017 and availed the credit on the same date.

Find the time limit within which M/s A Ltd is required to pay the bill amount inclusive of tax to supplier of service.

Also explain consequence if payment is not made within the stipulated time period as mentioned in 2nd proviso to section 16(2) of the CGST Act, 2017.

Re-credit is allowed if the payment is made to the supplier of service after expiry of time period as mentioned in 2nd proviso to section 16(2) of the CGST Act, 2017.

Answer.

In the given case M/s A Ltd must pay to M/s B Ltd the value of services and GST payable thereon by 15th June 2018.

Working note:

From	To	No. of days
18 th Dec 2017	15 th June 2018	180

In case M/s A Ltd does not pay by 15th June 2018, the credit availed by it will be added to his output liability. The amount will be added to their output tax liability with interest.

Q. 7

M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of Rs. 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of Rs. 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of Rs. 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e to reverse the credit where payment is not made within 180 days from the date of invoice). Advise.

Answer

As per proviso to rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to subsection (2) of section 16.

In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(4) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

Q. 8

M/s Jay Ltd. being a manufacturer purchased machinery worth Rs. 10,00,000 on which GST Rs. 1,80,000 is paid. The manufacturer has following two options:

Option 1: claim depreciation on the entire value of machinery inclusive of GST (i.e Rs. 11,80,000) by forgoing ITC on capital goods.

Option 2: claim depreciation on the cost of machine (i.e. Rs. 10,00,000) and avail the ITC of GST portion (i.e. 1,80,000).

Q. 9

Financial year 2017-18, the registered taxable person files the return on 18th Oct 2018. It is provided that after filing of return, the input tax credit for the supply of goods or services pertaining to the period 2017-18 cannot be claimed by the registered taxable person.

Q. 10

M/s X Ltd. purchased input for Rs. 2,00,000 vide Tax Invoice No. 12 dated 1st December 2017. M/s X Ltd. has submitted annual return for the financial year 2017-18 on 15th September 2018 and return for September 2018 has been filed 19th Oct 2018. Find the time limit within which input tax credit can be availed on input by X Ltd. M/s X Ltd. wants to take input tax credit on such input on 30th September 2018, advise. Answer:

Time limit to avail the credit is earlier of the following:

- (a) 19th October 2018 or
- (b) 15th September 2018

Therefore, M/s X Ltd has to avail the input tax credit on or before 15th September 2018.

Advise:

After 15th September 2018, the registered taxable person cannot take credit based on invoice pertaining to supply of goods or services for the period 1st April 2017 to 31 March 2018. Hence, in the given case M/s X Ltd is NOT eligible to avail the input tax credit on 30th September 2018.

Q. 11

M/s X Ltd. delivered a machine to M/s Y Ltd. in January 2018 under Invoice No. 180 dated 21st January for Rs. 5,00,000 plus GST, and undertook trial runs and calibration of the same machine as per the requirements of M/s Y Ltd. The amount chargeable for the past delivery activities were covered in a debit note raised in May 2018 for Rs. 1,25,000 plus GST. M/s Y Ltd did not file its annual return till October 2018.

Find the time limit u/s 16(4) of the CGST Act, 2017 within which input tax credit can be availed by M/s Y Ltd.

Answer:

Time limit to avail the ITC on machine (vide Invoice No. 180 dt. 21.01.2018) is 30th September 2018. Time limit to avail the ITC on debit note is also 30th September 2018.

Note: though the debit note was received in the next financial year (2018-19), it relates to an invoice received in the financial year ending 31st March 2018 (i.e. 2017-18).

Therefore, the time limit for taking ITC available on Rs. 5,00,000 as well as on Rs. 1,25,000 is 30th September 2018; earlier of the date of filing the annual return for 2017-18 or the due date for filing return for September 2018. Note: As per Finance Act, 2020, the words were "invoice relating to such" has been omitted. The effect of the amendment is that date of debit note, and date of underlying invoice have been delinked. Thus, debit note in respect of an invoice can be raised even after 30th September following end of financial year to which the invoice pertains.

It means the recipient can avail ITC of GST paid through debit note, even if the supply pertains to previous financial years.

Q. 12

M/s. Vipin Ltd. purchased raw material 'A' 10,000 kg @ Rs. 80 per Kg. plus GST. The said raw material was used to manufacture product 'P'. The other information's are as under

- (i) Processing loss: 2% on inputs 'A'.
- (ii) Transaction value of 'P': Rs. 100 per kg.
- (iii) Other material 'M' used in the manufacture of 'P': Rs. 2 lac plus GST.
- (iv) GST on capital goods imported during the period and used in the manufacture of 'P':
 - a. Basic customs duty Rs. 20,000
 - b. IGST under customs under section 3(1) of the Customs Tariff Act, 1975 Rs. 10,000;
- (v) Rate of GST on 'A', 'M' and 'P': 12%.

M/s. Vipin Ltd. is not eligible for composition scheme under Section 10 of CGST Act, 2017

Compute:

- (a) Amount of input tax credit available and
- (b) Net GST payable by M/s. Vipin Ltd.

Answer:

(a) Statement showing eligible input tax credit of M/s Vipin

Particulars	Value in Rs.	Working note
Raw material 'P'	96,000	(10,000 kg x k 80) x 12%
Other material 'M'	24,000	2,00,000 x 12%
Capital goods (imported)	10,000	IGST allowed as ITC.
Total ITC	1,30,000	

(b) Net GST liability of M/s Vipin

Input 'A' 10,000 kg

Out put 'P' 9,800 kg

GST payable on value of supply 'P' = 1,17,600

(9,800 kg x Rs. 100) x 12%

Less: ITC allowed = (1,30,000)

Excess ITC c/f = (12,400)

Q. 13

M/s X Ltd manufacturer of textile products. Company received order from Government to supply goods to defense (exempted supply). The turnover of the other taxable goods and exempted goods Rs. 4 crore and Rs. 1 crore respectively. Common inputs on which GST paid Rs. 20,000.

Calculate the eligible ITC on common inputs?

Answer

Common inputs credit	= Rs. 20,000
Total turnover	= Rs. 5 crores
Credit attributable to exempted supplies	= Rs. 4,000
(Rs. 20,000 x Rs. 1 crore/ Rs. 5 crore)	

Eligible ITC is Rs. 16,000 i.e 20,000 - 4,000)

Q. 14

M/s Lips Ltd., manufactures four types of 'Nail Polishes', namely Sweety, Pretty, Beauty, Tweety. The Company has taken input tax credit of Rs. 3,00,000 on the common inputs used in the manufacture of 'Nail Polishes'. Common inputs also used partly for non-business purposes. During the financial year 2017-18 (w.e.f 1-7-2017) the company manufactured 1000 liters of each type of 'Nail Polishes'. The Company was not in a position to maintain separate set of records with regards to inputs used for final products.

GST payable on final goods @12%.

You are required to calculate the net GST payable by M/s Lips Ltd. for the year 2017-18 from the following data:

Product Name	Description	Sale price (Exclusive of GST)
Sweety	Sale to Domestic Tariff Area	Rs. 30 per 20ml. bottle
Pretty	Sale to a Special Economic Zone (SEZ)	Rs. 40 per 20ml. bottle
Beauty	Sale to A Ltd. of USA	Rs. 50 per 20ml. bottle
Tweety	Sale to Defence Canteen (Exempted from GST)	Rs. 60 per 20ml. bottle

Answer:

Statement showing GST on outward supplies:

Product Name	Description	Sale price (Exclusive of GST)	Transaction Value k	GST liable to pay k	Remarks
Sweety	Sale to Domestic Tariff Area	Rs. 30 per 20ml. bottle	15,00,000	1,80,000	Rs. 15,00,000 (1000 liters x 1000ml./20ml x Rs. 30) GST = Rs. 1,80,000 (Rs. 15,00,000 x 12%)
Pretty	Sale to a unit of SEZ (treated as exports)	Rs. 40 per 20ml. bottle	20,00,000	Zero rated supplies	Rs. 20,00,000 (1000 liters x 1000ml./20ml x Rs. 40)
Beauty	Sale to A Ltd. of USA (export sales)	Rs. 50 per 20ml. bottle	25,00,000	Zero rated supplies	Rs. 25,00,000 (1000 liters x 1000ml./20ml x Rs. 50)
Tweety	Sale to Defence Canteen (Exempted from GST)	Rs. 60 per 20ml. bottle	30,00,000	Exempted	Rs. 30,00,000 (1000 liters x 1000ml./20ml x Rs. 60)
	Total		90,00,000	1,80,000	

As per Section 17(3) of the CGST Act, 2017 read with rule 42(1)(i) and rule 42(1)(o) of the CGST Rules, 2017 proportionate reversal of credit is as follows:

Particulars	ITC reversal Rs.	WorRs.ing note
Input tax credit proportionate reversal on common inputs [rule 42(1)(o)1]	1,00,000	(Rs. 30,00,000/ Rs. 90,00,000) x Rs. 3,00,000
Credit attributable to non-business purposes on common inputs [rule 42(1)(o)1]	15,000	Rs. 3,00,000 x 5%
Total	1,15,000	

Quantum of eligible ITC (Rule 42(1)(k) of the CGST Rules, 2017) is Rs. 1,85,000/- [Rs. 3,00,000 - (1,00,000 + 15,000)]

Statement showing net GST liability or excess credit:

Therefore, the GST payable on taxable supply of goods = Rs. 1,80,000

Less: ITC credit allowed = Rs. 1,85,000

Excess ITC can be carried forward into next month = Rs. (5,000)

Q. 15

Assume in Example 3 above, M/s Lips Ltd., utilized the credit Rs. 2,25,000. Excess credit paid on 15th April 2018. Find the interest if any payable by M/s Lips Ltd.

Answer.

As per Rule 42(2) of the CGST Rules, 2017 where the aggregate of the amount calculated finally in respect of ineligible credit exceeds the aggregate of the amounts determined under rule 42(1)(i) and (j), such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of Section 50 for the period starting from the 1st day of April of the succeeding financial year till the date of payment.

Interest = Rs. 296/-

$$[(2,25,000 - 1,85,000) \times 18\% \times 15/3651]$$

Q. 16

Y Ltd. manufactures taxable and exempted goods. Y Ltd. also simultaneously provides taxable as well as exempted output services. Raw material 10,000 units were purchased @ Rs. 100 per unit used commonly during the month of January 2018 to produce all final products. GST paid on inputs 12%. Input services commonly used for all goods and services in the month of January 2018. Total ITC on inputs and input services taken into books of account in the relevant tax period is Rs. 1,74,000.

Turnover for the month of January 2018 (excluding all taxes)

Particulars	Value of finished goods (Rs.)
Taxable supply of goods	2,00,000
Exempted supply of goods (Rs. 80 per unit)	1,00,000
Taxable supply of services	1,00,000
Exempted supply of services	50,000
Total	4,50,000

You are required to compute the amount of reversal of input tax credit as per rule 42(1)(i) of the CGST Rules, 2017 of the month of January 2018.

Note: Each unit of exempted final product needs 2 units of raw materials.

Assumed that there is no process loss.

Answer.

Step 1: Calculate common input tax credit on inputs and input services which are used to supply taxable as well as exempted output supplies:

Particulars	Value in Rs.	Working note
Total ITC on inputs and input services	1,74,000	rule 42(1)(a)
Less: ITC on supplies exclusively used for the purpose other than business	Nil	rule 42(1)(b)
Less: ITC on supplies exclusively used for providing exempted supplies	(30,000)	2,500u x Rs. 100 x 12% [rule 42(1)(c)1]
Less: ITC not available u/s 17(5) of the CGST Act, 2017	Nil	rule 42(1)(d)
Input tax credit which are used to supply taxable as well as exempted output supplies	1,44,000	rule 42(1)(e).
Less: ITC on supplies used exclusively for taxable supply including Zero rated supply (i.e. ITC on normal supplies)	(90,000)	(10,000u - 2,500u) x 12% As per rule 42(1)(f)
Common ITC, which are used to supply taxable as well as exempted output supplies (denoted as "C2")	54,000	As per rule 42(1)(h)

Step 2: Amount of reversal of input tax credit attributable towards exempted supplies rule 42(1)(i) of the CGST Rules, 2017 is as follows:

$$(\text{Rs. } 1,50,000/4,50,000) \times \text{Rs. } 54,000 = \text{Rs. } 18,000/-$$

Working Note:

- (i) Number of units of exempted final products 1,250 units (i.e. Rs. 1,00,000/ Rs. 80 per unit = 1,250 units)
- (ii) Since, each unit of exempted final product needs 2 units of raw materials. Raw material used exclusively for exempted final product 2,500 units (i.e. 1,250 units x 2 units = 2,500 units).

Q. 17

Ram & Co., being a registered person under GST supplied the following in the month of January 20XX:

Particulars	Value in Rs.
Taxable supply of goods	20,00,000
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Deposit on which interest received	2,00,000
Total	42,00,000

Common inputs for the relevant tax period is Rs. 2,00,000. GST applicable rate on outward supply of goods @ 28%. Find the GST liability?

Answer:

St. showing net GST liability:	Rs.
Output tax	5,60,000
Add: ITC reversed	95,238
Out tax liability	6,55,238
Less: ITC	(2,00,000)
Net GST liability	4,55,238

Working note:**(1) Exempted supply:**

	Rs.
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Total	20,00,000

(2) Net ITC allowed = Rs. 1,04,762 (Rs. 2,00,000 – Rs. 95,238)

(3) GST liability on outwards supply

Rs. 20,00,000 x 28% = Rs. 5,60,000

(4) ITC not allowed as per Rule 42(1)(i) of CGST Rules, 2017 2,00,000 x 20 L/42 L = Rs. 95,238/- Sale of land and Recovery Agent to a banking company is treated as exempted supply as per Section 17(3) of the CGST Act, 2017 W.e.f. 25.1.2018, interest on deposits should not include in exempted supply. However, it is included in total turnover.

Working note:**(1) Exempted supply:**

	Rs.
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Total	20,00,000

(2) Net ITC allowed = Rs. 1,04,762 (Rs. 2,00,000 – Rs. 95,238)

(3) GST liability on outwards supply

Rs. 20,00,000 x 28% = Rs. 5,60,000

(4) ITC not allowed as per Rule 42(1)(i) of CGST Rules, 2017 2,00,000 x 20 L/42 L = Rs. 95,238/- Sale of land and Recovery Agent to a banking company is treated as exempted supply as per Section 17(3) of the CGST Act, 2017

W.e.f. 25.1.2018, interest on deposits should not include in exempted supply. However, it is included in total turnover.

Q. 18

Soren Enterprises is in possession of certain capital goods and purchases more of them as per the following particulars:

Particulars	Input tax on Capital Goods (Rs.)	Status of its use
Capital goods A	12,000	Exclusively used for non-business purpose.
Capital goods B	24,000	Exclusively used for zero-rated supplies
Capital goods C	60,000	Used both for taxable and exempted supplies.
Capital goods D (has been exclusively used for 2 years for exempted supplies)	1,20,000	Now there is change in use, both for taxable and exempted supplies.
Capital goods E (has been exclusively used for 3 years for taxable supplies)	1,80,000	Now there is change in use, both for taxable and exempt supplies.

Useful life of all the above capital goods is considered as 5 years.

Apportion the input tax credit of capital goods, while being informed that aggregate value of exempted supplies during the tax period being ₹6,00,000 and total turnover during the tax period being ₹. 12,00,000.

Answer:

Statement showing eligible ITC for the tax period is as follows:

Particulars	Input tax on Capital Goods (Rs.)	Status of its use	Provision under CGST
Capital goods A	Not allowed	Exclusively used for non-business purpose.	Rule 43(1)(a) of CGST Rules, 2017
Capital goods B	24,000	Exclusively used for zero-rated supplies	Fully allowed as per Rule 43(1)(b) of CGST Rules, 2017
Capital goods C	60,000		
Capital goods D	72,000		
Total ITC eligible for the tax period	1,56,000		
Capital goods C, D and E	1,700	Common credit attributable to exempt supplies	Such credit, along with the applicable interest, shall be added to the output tax liability of Soren Enterprises

Working note:

(1) As per rule 43(1)(c) of the CGST Rules, 2017 the amount of input tax in respect of capital goods not covered under clauses (a) and (b) of Rule 43(1), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of 5% points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

Q. 19

Oberoi Industries is a manufacturing company registered under GST. It manufactures two taxable products 'X' and 'Y' and one exempt product 'Z'. The turnover of 'X', 'Y' and 'Z' in the month of April, 20XX was Rs. 2,00,000, Rs.10,00,000 and Rs.12,00,000. Oberoi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

From the following particulars furnished by it, compute the amount to be credited to the electronic credit ledger of Oberoi Industries and amount of common credit attributable towards exempted supplies, if any, for the month of April, 20XX.

Particulars	GST paid
Machine 'A' purchased on 01.04.20XX for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.20XX for being exclusively used in manufacturing zero- rated supplies	38,400
Machine 'C' purchased on 01.04.20XX for being used in manufacturing all the three products - X, Y and Z	96,000
Machine 'D' purchased on April 1, 2 years before 01.04.20XX for being exclusively used in manufacturing product Z. From 01.04.20XX, such machine will also be used for manufacturing products X and Y.	1,92,000
Machine 'E' purchased on April 1, 3 years before 01.04.20XX for being exclusively used in manufacturing products X and Y. From 01.04.20XX, such machine will also be used for manufacturing product Z.	2,88,000

Answer:

Statement showing Common ITC on Capital Goods as on 1st April 20XX

Particulars	Value in Rs. (Denoted 'A')	Working note	
Capital goods C Used both for taxable and exempted supplies	96,000	As per rule 43(1)(c) of CGST Rules, 2017	
Capital goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,15,200	Proviso to rule 43(1)(c) of CGST Rules, 2017.	
	ITC		1,92,000
		Less: 5% p. q. for 8 quarters 1.92 L x 5% x 8	-76,800
		ITC attributable for taxable and exempted	1,15,200
Capital goods E (has been exclusively used for 3 years for taxable supplies). Now there is change in use, both for taxable and exempt supplies.	1,15,200	Proviso to rule 43(1)(d) of CGST Rules, 2017	
	ITC		2,88,000
		Less: 5% p. q. for 12 quarters 2.88 L x 5% x 12	-1,72,800
		ITC attributable for taxable and exempted	1,15,200
Common credit	3,26,400		

the amount of input tax credit attributable to a tax period on common capital goods during their useful life	5,440	As per Rule 43(1)(e) of the CGST Rules, 2017 calculated as: 3,26,400 - 60 = Rs. 5,440
the amount of common credit attributable towards exempted supplies	2,720	As per Rule 43(1)(g) of the CGST Rules, 2017 calculated as: Rs.5,440 x Rs.12,00,000 / Rs.24,00,000.
Note: The amount ITC not allowed of Rs. 2,720 along with the applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit as per Rule 43(1)(h) of CGST Rules, 2017.		

Statement showing Total ITC to the Electronic Credit Ledger for the month of April 20XX:

Particulars	Value in Rs. (Denoted 'A')
Capital goods B used exclusively for taxable supplies (i.e. Zero-rated supply)	38,400
Capital goods C Used both for taxable and exempted supplies	96,000
Capital goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,15,200
Electronic Credit Ledger	2,49,600

Q. 20

Roi Industries is a manufacturing company registered under GST. It manufactures two taxable products 'X' and 'Y' and one exempt product 'Z'. The turnover of 'X', 'Y' and 'Z' in the month of April, 20XX was Rs.2,00,000, Rs.10,00,000 and Rs. 12,00,000. Roi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

From the following particulars furnished by it, compute the amount to be credited to the electronic credit ledger of Roi Industries and amount of common credit attributable towards exempted supplies, if any, for the month of April, 20XX.

Particulars	GST paid (Rs.)
Machine 'A' purchased on 01.04.20XX for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.20XX for being exclusively used in manufacturing zero-rated supplies	38,400
Machine 'C' purchased on 01.04.20XX for being used in manufacturing all the three products - X, Y and Z	96,000
Machine 'D' purchased on April 1, 2 years before 01.04.20XX for being exclusively used in manufacturing product Z. From 01.04.20XX, such machine will also be used for manufacturing products X and Y.	1,92,000
Machine 'E' purchased on April 1, 3 years before 01.04.20XX for being exclusively used in manufacturing products X and Y. From 01.04.20XX, such machine will also be used for manufacturing product Z.	2,88,000

Answer:**Statement showing Common ITC on Capital Goods as on 1st April 20XX**

Particulars	Value in Rs.	Working note
Capital goods C Used both for taxable and exempted supplies	96,000	As per rule 43(1)(c) of CGST Rules, 2017
Capital goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,92,000	Proviso to rule 43(1)(c) of CGST Rules, 2017. Rs.1,92,000 ITC allowed fully, provided, Rs.77,800 is considered as output tax liability in April, 20XX. $1.92 \text{ L} \times 5\% \times 8 \text{ quarters} = \text{Rs.76,800}$.
Capital goods E (has been exclusively used for 3 years for taxable supplies). Now there is change in use, both for taxable and exempt supplies.	2,88,000	Proviso to rule 43(1)(d) of CGST Rules, 2017. ITC already availed and hence, ITC in April 20XX is not allowed.
Common credit	5,76,000	—
the amount of input tax credit attributable to a tax period on common capital goods during their useful life	9,600	As per Rule 43(1)(e) of the CGST Rules, 2017 calculated as: $5,76,000 - 60 = \text{Rs.9,600}$
the amount of common credit attributable towards exempted supplies	4,800	As per Rule 43(1)(g) of the CGST Rules, 2017 calculated as: $\text{Rs.9,600} \times \text{Rs.12,00,000} / \text{Rs.24,00,000}$.

Statement showing Total ITC to the Electronic Credit Ledger for the month of April 20XX:

Particulars	Value in Rs.
Capital goods B used exclusively for taxable supplies (i.e. Zero-rated supply)	38,400
Capital goods C Used both for taxable and exempted supplies	96,000
Capital goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,92,000
Electronic Credit Ledger	3,26,400

Q. 21

X Bank of India has corporate office in Mumbai and branches in Chennai, Delhi and Kolkata. Mumbai office provided services to Chennai office accordingly IGST paid. Office of Chennai will avail the credit of IGST. Chennai office is required to reverse such credit? Explain.

Answer

As per Section 17(4) of the CGST Act, 2017 that reversal of 50% shall not be made for the credit availed by Chennai office on services provided by corporate office. Thus, no credit reversal shall be made for the credit availed on input services provided by one registered person to another registered person holding same PAN.

Q. 21

OK Bank has availed credit of Rs. 25,00,000 lacs in the month of December 2017. Total credit, out of which Rs. 5,00,000 pertains to non-business purpose and Rs. 7,00,000 pertains to credit availed under 2nd proviso of section 17(4). Find the total input tax credit eligible to OK Bank.

Note: OK Bank opted to avail ITC an amount equal to 50% of eligible credit.

Answer:**Statement showing eligible ITC to OK Bank for the month of December 2017:**

Particulars	ITC Amount in Rs.	Remarks
Input tax credit attributable to non-business purpose	Nil	ITC fully not allowed
ITC from its other establishment	7,00,000	ITC fully allowed.
Other ITC	6,50,000	(25,00,000 - 5,00,000) -

Total ITC allowed in Form GSTR-2	13,50,000	7,00,000) x 50%
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Q. 22

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of October 20XX.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX in the following independent cases assuming that GST of Rs. 10 lakh is otherwise eligible for ITC:

Case I

Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II

Out of 100 invoices, 75 invoices involving GST of k 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case III

Out of 100 invoices, 95 invoices involving GST of k 9.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer:**Case I:**

ITC on invoices (uploaded in GSTR-1)	= Rs. 6,00,000/-
Add: 10% on Rs. 6 lac	= Rs. 60,000
	Or

ITC on invoices not uploaded in GSTR-1 is Rs. 4,00,000/-	= Rs. 60,000/-
Whichever is less	= Rs. 60,000/-
Total ITC allowed	= Rs. 6,60,000/-

Case II:

ITC on invoices (uploaded in GSTR-1)	= Rs. 8,50,000/-
Add: 10% on Rs. 8.5 lac	= Rs. 85,000
	Or

ITC on invoices not uploaded in GSTR-1 is Rs. 1,50,000/-	= Rs. 85,000/-
Whichever is less	= Rs. 85,000/-
Total ITC allowed	= Rs. 9,35,000/-

Case III:

ITC on invoices (uploaded in GSTR-1)	= Rs. 9,50,000/-
Add: 10% on Rs. 9.50 lac	= Rs. 95,000
	Or

ITC on invoices not uploaded in GSTR-1 is Rs. 50,000/-	= Rs. 0,000/-
Whichever is less	= Rs. 0,000/-
Total ITC allowed	= Rs. 10,00,000/-

Note: 10% restriction (earlier 20%) is not applicable cases:

- IGST paid on import of goods
- IGST paid on import of services (under Reverse Charge)
- Input Service Distributor distributes ITC
- Inward supplies received from Non-resident Taxable Person.

Q. 23

In the above Example 1 (case I), when can Mr. Vijay avail the balance ITC?

ANSWER: A taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent eligible ITC/ 1.1.

Therefore, Mr. Vijay may avail full ITC of Rs. 10 lakh in respect of the month of October 20XX, as and when the invoices are uploaded by the suppliers to the extent of Rs. 9.091 lakh (10 laRs.h/1.1). Hence, balance ITC of Rs. 3.4 lakh can be availed by Mr. Vijay if suppliers upload details of some of the invoices for the month of October 20XX involving ITC of Rs. 3.091 lakh out of outstanding invoices involving ITC of Rs. 4 lakh details of which had not been uploaded by the suppliers [Rs. 6 lakh + Rs.3.091 lakh = Rs. 9.091 lakh].

Suppose suppliers of Mr. Vijay upload 15 more invoices involving ITC of Rs. 3.091 lakh in the month of December 20XX. In such a scenario, ITC that can be claimed by Mr. Vijay for the month of December 20XX (in respect of such 15 invoices) will be as under -

100% ITC of Rs. 3.091 + Rs. 0.309 [10% of Rs. 3.091 lakh] = Rs. 3.4 lakh

Therefore, Mr. Vijay will be able to claim balance ITC of Rs. 3.4 lakh in the month of December 20XX.

Circular No. 123/ 42/ 2019 GST dated 11.11.2019 has clarified the following issues in relation to restriction in availment of ITC in terms of rule 36(4) as under:

- (1) The restriction is not imposed through the common portal and it is the responsibility of the taxpayer claiming credit to avail ITC on self-assessment basis.
- (2) The restriction shall be applied only on the invoices/ debit note, details of which are required by supplier to be uploaded under section 37(1) of the CGST Act. Therefore, taxpayer may avail full ITC in respect of IGST paid on imports, documents issued under RCM, credit received from ISD etc. which are outside the ambit of section 37(1).
- (3) ITC under rule 36(4) shall be calculated on total eligible ITC from all suppliers against all supplies whose details have been uploaded by the supplier. Therefore, the restriction is not on supplier basis.

Q. 24

M/s A Ltd. a registered person under GST law and purchased 10 cars for ₹ 45 lakh plus 28% GST. M/s A Ltd sold 8 cars for ₹ 55 Lakh plus 28% GST.

Find the GST liability in the following two independent cases:

- (a) M/s A Ltd is a dealer of motor vehicles
- (b) M/s A Ltd is not a dealer of motor vehicles

Q. 25

M/s Parveen Travels transporting passengers from Chennai-Mumbai-Chennai. For this purpose M/s Parveen Travels purchased Volvo Bus (air-conditioned) for ₹ 55 lakhs plus GST 28%. M/s Parveen Travels is eligible for ITC on Volvo Bus in the following two cases:

1. M/s Parveen Travels paying GST 12% on supply of output supplies.
2. M/s Parveen Travels paying GST 5% on supply of output supplies.

Answer:

Case (1). Yes. M/s Parveen Travels is eligible to avail the ITC on purchase of Volvo Bus.

Case (2). No. M/s Parveen Travels is not eligible to avail the ITC on capital goods and input goods (except input services).

Note: AC contract/stage carriage other than motor cab GST @ 5% - with ITC of input services only from similar line of business (vide Notification No. 31/2017-Central Tax (Rate) Dt.13th October 2017)

Q. 26

M/s MR Ltd. manufacturer of motor vehicles. Company purchased passenger motor vehicle for ₹ 20 lacs plus GST 28% for transportation of their employees from their residence to factory and from factory to their residence. M/s MR Ltd. is eligible to avail the credit on purchase motor vehicle?

Answer

No. M/s MR Ltd. is not in the business of transporting passengers and hence credit on purchase of motor vehicle is not allowed.

Note: If the taxable person transports its own employees free of cost it will not be covered by the aforesaid clause and hence he will not be able to claim benefit of input tax credit in respect of the same.

Q. 27

Sukhee Bhava Hospital is a clinical establishment purchased four ambulances for Rs. 32 lakhs plus GST 28%. Find the input tax credit available to Sukhee Bhava Hospital.

Answer

Input tax credit = nil

Note: Since, supply of services of Sukhee Bhava is exempted from GST under health care services.

Q. 28

Ferrari Company for conducting Formulae One car races purchased 20 Racing Cars for Rs. 80 lakhs plus GST 28%. Ferrari company is eligible for availing ITC on purchase of Racing Cars.

Answer:

No. Ferrai Company can not avail the ITC on purchase of Racing Cars which are not treated as passenger vehicles.

Q. 29

Mr. Ram a school van driver and also registered person under GST law. He purchased Omni vehicle for Rs. 8 lacs plus GST 28%. Mr. Ram is eligible for ITC on this vehicle. Explain.

Answer:

Since, Mr. Ram is a registered person supplying taxable services in the nature of transportation of passengers, he is eligible to avail the ITC on motor vehicle.

Q. 30

M/s Maruti Driving School Pvt. Ltd. supplied taxable services in the month of October 2017 for Rs. 15 lacs (plus GST 18%) to provide training on driving. Company purchased two vehicles for this purpose namely passenger vehicle for Rs. 20 lacs plus GST 28% and goods vehicle for Rs. 33 lacs plus GST 28%.

Find the net GST liability of M/s Maruti Driving School Pvt. Ltd.

Answer:

GST on output supply = Rs. 2,70,000

Less: ITC

On passenger vehicle = Rs. -5,60,000

On goods vehicle = Rs. -9,24,000

Net Excess ITC c/f = Rs. 12,14,000

Q. 31

Course completion certificate/training offered M/s SRs.y Ltd. (Flying Training Institute) purchased aircraft for Rs. 22 crores plus GST 28%. Whether the flying institute is eligible for input tax credit on purchase of air craft.

Answer

Yes. M/s Sky Ltd. (Flying Training Institute) is eligible to avail ITC.

Navigating means: transport to direct the way that a ship, aircraft, etc. will travel, or to find a direction across, along, or over an area of water or land, often by using a map.

Q. 32

M/s Sharma Travels supplied rent-a-cab services to M/s Infosys Company for transporting their employees (i.e. pickup and drop). Accordingly, M/s Sharma Travels charging monthly rent of Rs. 22,500 per cab plus GST 12%. 10 Motor cabs purchased by M/s Sharma Travels for Rs. 85,000 each plus GST 28% and used for transporting company employees. Find the Net GST liability of M/s Sharma Travels for the financial year.

Answer: Statement showing GST liability of M/s Sharma Travels for the Financial year:

Particulars	Value in Rs.	Remarks
Output supply: Rent-a-cab	3,24,000	$22,500 \times 12\% \times 12 \text{ months} \times 10 \text{ Nos}$
Less: ITC on motor vehicle	2,38,000	Since, M/s sharma travel using motor cabs for further supply, ITC allowed. $85,000 \times 10 \text{ Nos} \times 28\%$
Net GST liability	86,000	
Therefore, M/s Sharma Travels is liable to GST for the Financial year Rs. 86,000.		

Q. 33

Guidelines Academy organizes parents meeting and provides meal during meeting to students and their parents. The supplier of food charged Rs. 72,500 plus GST 18%, under the category of outdoor catering. Explain Guidelines Academy being provider of taxable supply of services namely commercial training and coaching services is eligible to avail the credit of GST paid on outdoor catering service.

Answer:

GST paid on outdoor catering is not allowed as ITC even though such services are used for business purpose. Since, it is specifically mentioned under Section 17(5)(b)(i) of the CGST Act, 2017 where credit is not allowed.

Q. 34

Annapoorna caterings supply outdoor catering services to its customers by sub-contracting the same. Subcontractor supplied food items like ice creams, North Indian Meals, South Indian Meals and so on to Annapoorna caterings. Sub-contractor raised invoice on Annapoorna caterings for supply of outdoor catering services Rs. 2,00,000 plus GST 18%. Annapoorna caterings supplied outdoor catering to its customers for Rs. 2,10,000 plus GST 18%. Find the Net GST liability of Annapoorna caterings.

Answer**Statement showing net GST liability of Annapoorna caterings:**

Particulars	Value in Rs.	Remarks
GST on outward supply	37,800	$Rs. 2,10,000 \times 18\%$
Less: ITC from similar line of business	(36,000)	$Rs. 2,00,000 \times 18\%$
Net GST liability	1,800	

Q. 35

Sky Ltd. is engaged in supply of transport of passengers by air services. The company avails outdoor catering services of M/s Anna Caterers in order to provide food and beverages to the passengers. M/s Anna Caterers raises an invoice on Sky Ltd. charging GST.

Sky Ltd. wants to avail the ITC on outdoor catering services supplied by M/s Anna Caterers. Advise.

Answer:

ITC shall be available where an inward supply of goods or services or both of a particular category is used by a registered person as an element of a taxable composite or mixed supply.

Advise: In the given case, Sky Ltd. will be entitled to avail the ITC of the GST paid to M/s Anna Caterers since outdoor catering services forms part of taxable composite supply of passengers by air services.

Q. 36

if you have taken any subscription of the gym, yoga classes, or membership of any club for any sport or for anything else, the ITC credit shall not be allowed.

Q. 37

Wipro Pro Ltd is a BPO which works on night shift basis. As per the Government Notification, it has to provide rent a cab facilities to its employees who work on night shifts.

Whether, Wipro Pro is eligible to avail ITC on rent a cab services.

Answer:

Yes. Wipro pro Ltd can claim ITC on the GST paid on such rent-a-cab services.

Q. 38

Hotel King Pvt Ltd. provider of short-term accommodation services and also provides picking up guest from airport. Accordingly, Hotel King Pvt. Ltd availed rent-a-cab services from M/s X & Co. Rent-a-cab services provided by M/s X & Co to Hotel King Pvt Ltd. during Nov 2017 for Rs. 2,00,000 plus GST 18%.

Hotel King Pvt Ltd. provided short-term accommodation services to its customers (i.e. guests) during Nov 2017 for Rs. 15,75,250 plus GST 18%.

Find the Net GST liability of Hotel King Pvt Ltd. during the month of November 2017.

Answer:

Statement showing Net GST liability of Hotel King Pvt. Ltd for the month of Nov 2017

Particulars	Value in Rs.	Remarks
GST on outward supplies	2,83,545	15,75,250 x 18%
Less: ITC on rent-a-cab service	(36,000)	2,00,000 x 18%
Net GST liability	2,47,545	

Note: In the given case Hotel King Pvt. Ltd. providing a composite supply of rent-a-cab and accommodation service. The principal supply of service is accommodation service. Hence, GST paid on rent-a-cab will be available as a credit to Hotel King Pvt. Ltd.

Q. 39

Infosys Ltd. being a registered person under GST Law paid insurance premium for its employees along with GST thereon. Infosys Ltd. is can avail the ITC of GST paid on insurance premium?

Answer.

No. Infosys Ltd cannot avail the ITC benefit in the given case.

Q. 40

M/s MRFL Ltd. being a manufacturer of taxable goods paid general insurance premium to cover loss of stock of finished goods. Company wants to avail the GST paid on such premium as input tax credit. Advise.

Answer.

GST paid on general insurance premium to cover loss of stock of finished goods is well allowed as input tax credit. Hence, M/s MRFL Ltd. is eligible to avail the tax paid on general insurance premium as ITC.

Q. 41

M/s A Ltd. being a manufacturer of laptops registered under GST. Company appointed M/s B Ltd. for construction of foundation or structural support of Hot Mix Plant (i.e. plant and machinery) that are used for making outward supply of goods or services or both. Accordingly M/s B Ltd used cement, steel, Iron, water, chemicals and labour to complete the job. GST paid on such works contract service is allowed as input tax credit to M/s A Ltd. GST paid on Hot Mix Plant (i.e. plant and machinery) is also allowed as input tax credit to M/s A Ltd.

Q. 42

M/s X Ltd manufacturer of taxable goods and registered under GST Law. M/s X Ltd assigned the contract in the month of January 2018, for Rs. 5,00,000 plus GST 18% to M/s Y Ltd. for constructing structural support of Hot Mix Plant, which is used for making taxable supply of goods.

Accordingly M/s Y Ltd used cement, steel, Iron, water, chemicals and labour to complete the job. Entire work has been completed and payment also be received in the month of January 2018.

M/s X Ltd further provides the following information to find net GST liability of M/s X Ltd. for the month of January 2018:

Inward Supply	Value in Rs.	GST Rate	Outward Supply	Value in Rs.	GST Rate
Raw material (10 Kgs)	2,00,000	18%	Finished goods	15,00,000	28%
Hot Mix Plant	6,00,000	28%			
Works contract service	5,00,000	18%			

Note: There is process loss @1% while converting raw materials into finished goods.

Answer.**Statement showing net GST liability for the month of January 2018 of M/s X Ltd.**

Particulars	GST Rs.	Remarks
Output tax	4,20,000	15,00,000 x 28%
Less: ITC on Input	(36,000)	2,00,000 x 18%
ITC on Capital goods	(1,68,000)	6,00,000 x 28%
ITC on Input service	(90,000)	5,00,000 x 18%
Net GST liability	1,26,000	

Note: Hot Mix Plant is capital goods, hence ITC allowed.

Q. 43

M/s A Ltd. being a manufacturer of laptops registered under GST. Company appointed M/s B Ltd. for construction of factory building in the factory premises. Contract price is Rs. 120 lacs plus GST 18%. M/s B Ltd., supplied cement, steel and labour while executing the contract. Whether M/s A Ltd is eligible to avail the input tax credit on such works contract service.

Answer:

GST paid on works contract services which is used for land, building or any other civil structures specifically excluded from availing input tax credit under section 17(5)(c) of the CGST Act, 2017.

Therefore, in the given case M/s A Ltd is not eligible for input tax credit. Example 45:

Mr. X being a contractor undertaken construction work of an individual residential unit otherwise than as part of a residential complex.

You are required to answer

- (a) Mr. X is liable to pay GST where he under taken pure labour contract.
- (b) Mr. X is liable to pay GST where he under taken both labour and material contract.
- (c) Mr. X is given contract to sub-contractor, can sub-contractor also get exemption if it is pure labour contract.

Answer.

As per Notification No. 12/2017 Central tax (rate) "Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex." are exempt from GST.

- (a) Since, Mr. X under taken services by way of pure labour contracts of construction of single residential unit is exempt from GST.
- (b) If in case Mr. X providing service with both labor and material i.e. termed as works contract under GST. He will be charged 12% GST.
- (c) Yes. Services provided by a sub-contractor to a contractor are also exempt as he is providing labor for the construction of residential house.

Q. 44

M/s Raji builders appoint M/s Viswa contractors for providing the service of plastering of walls. As per terms of contract M/s Raji builders provides the entire material namely cement, water, bricks and chemicals and so on. As a result M/s Viswa contractors does not use any material.

Is it works contract service?

Answer.

It cannot be considered as works contract service, as it does not involve the transfer of property.

Q. 45

M/s MR Ltd. manufacturer of laptops. Company appoints M/s RM Constructors for constructing a new factory building. Terms and conditions of contract are as follows:

S. No.	Particulars	Value in Rs.	Remarks
(1)	Land value	2 crore	Land owned by M/s MR Ltd.
(2)	Material cost	30 lacs	Material supplied by M/s RM Constructors
(3)	Service cost	10 lacs	Supplied by RM Constructors

(a) Construction completed in the month of October 2017.

(b) Assume Time of supply in the month of October 2017.

(c) Applicable rate of GST 18%.

(d) Fully payment made in the month of October 2017.

Output supplies of M/s MR Ltd during the month of October 2017 are Rs. 20,00,000 plus GST 18%.

Find the net liability of GST in the hands of M/s MR Ltd. in the month of October 2017.

Rework, if M/s MR limited is provider of works contract service.

Answer.

Net GST liability in the month of October 2017 is Rs. 3,60,000.

(20,00,000 x 18%).

Note: works contract service is not input service to M/s MR Ltd. Net GST liability in the month of October 2017 is Rs.

GST on output supply = Rs. 3,60,000

Less: ITC on Works contract service (Rs. 30 lacs + Rs. 10 lacs) x 18% = Rs. (7,20,000)

Excess ITC c/f = Rs. (3,60,000)

Note: works contract services are an input service to a supplier of works contract services.

Q. 46

M/s P Ltd. appoints M/s Q Ltd. for laying of pipelines inside its factory premises which resulting into movable property. For which M/s P Ltd. purchased pipelines for Rs. 10,00,000 plus GST 12%. On completion of works contract service M/s Q Ltd charged for Rs. 2,00,000 plus GST 18%. Find the eligible input tax credit to M/s M/s P Ltd.

Answer.

The credit of GST paid on pipelines inside the factory will be available. Since, pipelines laid inside the factory premises are in the course or furtherance of business (i.e. capital goods). Therefore, input tax credit allowed is Rs. 1,20,000.

GST paid on works contract services, which are used for laying of pipelines resulting into movable property, is also qualify for claiming input tax credit of Rs. 36,000.

Therefore, total eligible input tax credit is Rs. 1,56,000.

Q. 47

Ram is the chairman of reputed construction company. He ordered certain input goods or services like cement, steel and labour to be used for the construction of his house. Cement purchased was also used partly for the company building (i.e. captive use).

Input tax credit allowed on purchase of cement?

Answer.

ITC would not be available on purchase of cement including steel and labour.

Note. As per Section 17(5)(d) of the CGST Act, 2017, No ITC will be provided for materials used in the construction of immovable property or for furtherance of business. ITC will not be available for the goods or services or both provided to a taxable person used in the construction of an immovable property on his own account including when such goods or services or both are used in the course or furtherance of business.

Q. 48

Determine the amount of input tax credit available with Arihant Manufacturing Ltd. in respect of the following items procured by them in the month of January 2018:

Items	GST paid in Rs.
Raw materials	72,000
Food and beverages & catering services are used in the guesthouse primarily for the stay of thenewly recruited employees.	40,000
Inputs used for making structures for support of plant and machinery	1,25,000
Capital goods used as parts and components for use in the manufacture of final product	40,000

Answer.**Statement showing eligible input tax credit to Arihant Manufacturing Ltd.**

Items	ITC in Rs.
Raw materials	72,000
Food and beverages & catering services are used in the guesthouse primarily for the stay of the newly recruited employees.	Not allowed
Inputs used for making structures for support of plant and machinery	1,25,000
Capital goods used as parts and components for use in the manufacture of final product	40,000
Total credit allowed	2,37,000

Q. 49

ABC India Ltd. is engaged in the manufacture of some taxable goods. It purchased the following goods in the month of February, 2020

Items	GST paid in Rs.
Raw material used for the production of the final product	1,00,000
Goods used for generation of electricity for captive consumption	20,000
Goods used for providing free warranty - Value of such free warranty provided by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	10,000
Light diesel oil	5,000

Note. ABC India Ltd. is also purchased High Speed Diesel oil by paying central excise duty of Rs. 12,000, which is also used in the manufacturer of taxable output.

Compute the amount of input tax credit available to ABC India Ltd.

Answer**Statement showing Input tax Credit of ABC India Ltd.**

Items	ITC in Rs.
Raw material used for the production of the final product	1,00,000
Goods used for generation of electricity for captive consumption	20,000
Goods used for providing free warranty - Value of such free warranty provided by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	10,000
Light diesel oil	5,000
High Speed Diesel oil	Not allowed
Total input tax credit	1,35,000

Q. 50

Mr. A of USA being technician came to India to assemble parts of machinery. He also imported goods worth Rs. 10,00,000 and paid following customs duties:

- (i) Basic customs duty is Rs. 1,00,000.
- (ii) Education Cess 2% plus 1 % Secondary and Higher Education Cess together it is Rs. 3,000.
- (iii) Integrated Goods and Services Tax (IGST) of Rs. 1,98,540.

In India Mr. A wants to register as non-resident taxable person and his estimated liability is Rs. 2,50,000. How much Mr. A is liable to pay as advance tax?

Answer:

Mr. A of USA is liable to pay advance tax of Rs. 51,460.
i.e Rs. 2,50,000 - 1,98,540)

Q. 51

M/s X Ltd purchased shoes for their employee's personal consumption by paying GST thereon. ITC not allowed on such goods.

Q. 52

M/s Y Ltd. for safety reasons purchased hand gloves and shoes for workers as mandatory. Hence, ITC on such goods cannot be considered as used for personal purpose. Therefore, ITC allowed.

Q. 53

M/s Info Ltd. providing various facilities to their employees like club, sports facilities etc. to ensure that the employees stay comfortably in the colony. It increases the efficiency of employee. Examine the credit applicability in this case.

Answer:

Expenses incurred in colony are in the course or furtherance of business. Hence, credit of GST paid on such services will also be available to the taxable person.

Q. 54

M/s Andhra ITC Ltd. purchased inputs and capital goods by paying GST to produce electricity or steam for manufacture of taxable goods. The electricity generated for use in manufacture of goods is sometimes also supplied in the residential colony of employees. Whether, M/s Andhra ITC Ltd. is eligible to avail the credit fully?

Answer

As per the GST Law provisions there is no requirement of use of electricity in manufacture of goods. The only requirement is that the input or capital goods shall be used in the course or furtherance of business. This view also confirmed by Honble Andhra Pradesh High Court in the case of ITC Ltd. 2013(32) STR 283 (AP).

Therefore, M/s Andhra ITC Ltd. is eligible to avail input tax credit.

Q. 55

M/s X Ltd. sold goods to M/s Y Ltd. for Rs. 2,00,000 plus GST Rs. 36,000. M/s X Ltd. remitted the GST on or before the due date. During the audit of M/s X Ltd. books by the Central Tax Department quantified the GST liability Rs. 72,000 and demanded to pay differential duty of Rs. 36,000 u/s 74 of the CGST Act, 2017. Finally, M/s X Ltd. paid the differential GST of Rs. 36,000.

M/s Y Ltd. wants to avail the input tax credit of differential amount of GST, advise.

Answer:

Since, the differential GST paid by M/s X Ltd. against show cause notice u/s 74 of the CGST Act, 2017, will not be available as credit to M/s Y Ltd. in view of clause (i) of section 17(5) of the CGST Act, 2017.

Q. 56

M/s X Ltd. becomes liable to pay tax on 1st December and has obtained registration on 15th December. The GST paid goods lying in the premises of M/s X Ltd. as on 30th November are as follows:

Particulars	Value in Rs. (Excluding tax)	GST Rs.
Raw material	2,00,000	36,000
Capital goods	5,00,000	1,40,000
Raw material lying work in progress	3,00,000	54,000
Raw material lying in Finished Goods	12,00,000	2,16,000

You are required to answer the following:

- Eligible amount of input tax credit.
- Time limit to submit declaration on common portal.
- Whether any certification required while availing the credit, if so from whom.

Answer:

- (a) Eligible input tax credit is Rs. 3,06,000/-
- (b) Declaration in Form GST ITC -01 on or before 14th January should be submitted on common portal of GSTN.
- (c) Declaration regarding inputs tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds Rs. 2,00,000.

In the given case, since, input tax credit declared is Rs. 3,06,000. Therefore, certificate from a practicing Chartered Accountant or a Cost Accountant is required.

Note: M/s X Ltd. cannot take ITC on capital goods.

Q. 57

Mr. A applies for voluntary registration on 22nd November and obtained registration on 25th November. Mr. A has stock on the following two dates:

Date	Opening balance (units)	Purchased (units)	Sold (units)
21 st November	12,000	20,000	8,000

On 24th November, Mr. A purchased 5,000 units and sold 15,000 units.

On 24th November, Mr. A is also purchased plant and machinery for Rs. 2,00,000 plus GST 28%.

Mr. A purchased good at uniform rate throughout the year at Rs. 100 per unit plus GST paid 18%.

You are required to find the eligible input tax credit to Mr. A.

Answer:

Stock as on 24th November = 14,000 units

Value of stock = Rs. 14,00,000 (i.e. 14,000 units x Rs. 100 per unit).

Input tax credit eligible is Rs. 2,52,000/-

Note: ITC on capital goods not allowed.

Q. 58

Mr. C a registered taxable person, was paying tax at composition scheme upto 30th July. However, w.e.f. 31st July, Mr. C becomes liable to pay tax under regular scheme.

Other information:

- (a) Input as on 30th July for Rs. 3,54,000 (inclusive of GST paid @18%).
- (b) Capital goods purchased for Rs. 5,00,000 (invoice date 22nd April 2017, GST 18%)

Find the eligible ITC to Mr. C.

Note: Mr. C not availed depreciation on the GST paid on capital goods.

Answer:

ITC allowed on inputs = Rs. 54,000

ITC allowed on capital goods

ITC on capital goods = 90,000

Less: 5% p.q. = - 4,500 = Rs. 85,500

(Rs. 90,000 x 5% x 1)

Total ITC allowed to Mr. C as on 31st July = Rs. 1,39,500

Q. 59

M/s A Ltd. sold plant and machinery after being used in the manufacture of taxable goods for Rs. 4,00,000 on 1st November 2018. GST is payable on transaction value of plant and machinery 18%.

M/s A Ltd. was purchased this machine vide invoice dated 22nd November 2017 for Rs. 5,50,000/- plus GST 18%.

M/s A Ltd. availed the credit on said plant and machinery.

Find the amount payable by M/s A Ltd. under section 18(6) of the CGST Act, 2017.

Answer:

Particulars	Amount in Rs.	Working note
ITC taken on capital goods	99,000	5,50,000 x 18%
Less: 25% reduction	(24,750)	No. of quarters = 5 5% x 5 = 25% reduction
Balance ITC	74,250	
Tax on Transaction value	72,000	4,00,000 x 18%

Note: M/s A Ltd. shall pay amount equal to the input tax credit taken on the said capital goods reduced by 5% per quarter or part thereof from the date of the issue of the invoice for such goods or the tax on the transaction value of such capital goods u/s 15 of the CGST Act, 2017 whichever is higher. Therefore, M/s A Ltd. is liable to pay an amount of Rs. 74,250/-.

Q. 60

The goods manufactured by Royal Ltd. have been exempted from GST with effect from 15th November 20XX. Earlier these goods were liable to tax @18%. Its inputs were liable to GST @12%.

Following information is supplied on 15th November 20XX:

- (i) The inputs costing Rs. 1,44,720 are lying in stock.
- (ii) The inputs costing Rs. 77,184 are in process.
- (iii) The finished goods valuing Rs. 4,82,400 are in stock, the input cost is 50% of the value.
- (iv) The balance in electronic credit ledger account shows credit balance of Rs. 2,79,104.
- (v) Royal Ltd. also purchased capital goods for Rs. 2,00,000 by paying GST 28% (invoice dated 10th July 20XX)

The department has asked Royal Ltd. to reverse the credit taken on inputs referred above. However, Royal Ltd. contends that credit once validly taken is indefeasible and not required to be reversed. Decide.

What would be your answer if the balance in electronic credit ledger receivable account as on 15th November 20XX were Rs. 29,104?

Answer:

Statement showing amount to be paid by Royal Ltd. as on 15th November 20XX

S. No.	Particulars	Amount to be paid (Rs.)	Workings
(i)	Inputs lying in stock	17,366	$Rs. 1,44,720 \times 12/100 = Rs. 17,366$
(ii)	Inputs in process (i.e. Work in Progress)	9,262	$Rs. 77,184 \times 12/100 = Rs. 9,262$
(iii)	Inputs contained in finished goods lying in stock	28,944	$Rs. 4,82,400 \times 50\% \times 12/100 = Rs. 28,944$
(iv)	Capital goods	51,333	Useful life as per rule 44(1)(b) = 5 years (i.e. 60 months). No. of months capital goods have been in use = 4months 5 days (i.e. 5 months) The useful remaining life in months = 55 months $2,00,000 \times 28\% \times 55/60 = Rs. 51,333$
	Amount to be paid by Royal Ltd.	1,06,906	

Amount payable by Royal Ltd. = Rs. 1,06,906

Less: ITC Receivable = Rs. (2,79,104)

Excess ITC = Rs. (1,72,198)

Excess ITC in electronic credit ledger of Rs. 1,72,198 shall lapse as 15th November 2017.

If the balance in electronic credit ledger as on 15th November 20XX is Rs. 29,104, then amount payable is as follows:

Amount payable by Royal Ltd. = Rs. 1,06,906

Less: ITC Receivable = Rs. (29,104)

Amount payable = Rs. 77,802

Q. 61

M/s X Ltd. has supplied inputs to job worker M/s Y Ltd on 25th August 2017. These inputs not received back till 24th August 2018 by M/s X Ltd., after processing.

Find the consequences in this regards?

Answer:

As per section 143(3) of the CGST Act, 2017 principal will be required to pay the tax on supply of inputs. The time of supply is 25th August 2017. If the principal decided to pay tax on 25th August 2018 he will have to pay tax with interest of one year.

Q. 62

M/s X Ltd. (i.e. seller) supplied capital goods on 20th August 2017 directly to job worker M/s Y Ltd and the same received on 25th August 2017 by the job worker, based on the directions of M/s Z (i.e. Buyer-Principal).

These capital goods not received back till 24th August 2020 by M/s Z Ltd. after processing.

Find the consequences in this regards?

Answer:

These capital goods not received back by 24th August 2020 by M/s Z Ltd., after processing. As per section 143(4) of the CGST Act, 2017 principal will be required to pay the tax on supply of capital goods. The time of supply is 25th August 2017. If the principal decided to pay tax on 25th August 2020 he will have to pay tax with interest of 3 year.

Q. 63

Determine the amount of input tax credit available to Suman who hired following services and purchased following goods in the month of January 2018:

Particulars	Details	Amount (Rs.)
GTA service hired.	Under RCM	10,000 +5% GST
Outdoor catering hired for business use.	—	1,00,000+18% GST
Car hired for carrying employees.	From office to home and home to office	5,000+18% GST
Membership fee of a club.	—	2,00,000+18% GST

Answer**Statement showing amount of input tax credit available to Suman:**

Particulars	Details	Amount (Rs.)
GTA service hired.	10000 x 5%	500
Outdoor catering hired for business use.	As per section 17(5) input tax credit is disallowed.	Nil
Car hired for carrying employees.	As per section 17(5) input tax credit is disallowed.	Nil
Membership fee of a club.	As per section 17(5) input tax credit is disallowed.	Nil

Q. 64

The goods manufactured by Royal Ltd. have been exempted from GST w.e.f. 15th November 2019. Earlier these goods were liable to tax @18%. Its inputs were liable to GST @12%. Following information is supplied on 15th November 2019:

- (i) The inputs costing Rs.1,44,720 are lying in stock.
- (ii) The inputs costing Rs.77,184 are in process
- (iii) The finished goods valuing Rs.4,82,400 are in stock, the input cost is 50% of the value.
- (iv) The balance in electronic credit ledger account shows credit balance of Rs.2,79,104.
- (v) Royal Ltd. also purchased capital goods for Rs.2,00,000 by paying GST 28%

(invoice dated 10th July 2019)

The department has asked Royal Ltd. to reverse the credit taken on inputs referred above. However, Royal Ltd. contends that credit once validly is taken is indefeasible and not required to be reversed. Decide.

What would be your answer if the balance in electronic credit ledger receivable account as on 15th November 2019 were Rs.29,104?

Answer:**Statement showing amount to be paid by Royal Ltd. as on 15th November 2019**

S. No.	Particulars	Amount to be paid Rs.	Workings
(i)	Inputs lying in stock	17,366	Rs.1,44,720 x 12/100 = Rs.17,366
(ii)	Inputs in process (i.e. work in progress)	9,262	Rs.77, 184 x 12/100 = Rs.9,262

(iii)	Inputs contained in finished goods lying in stock	28,944	Rs.4,82,400 x 50% x 12/100 = Rs.28,944
(iv)	Capital goods	51,333	Useful life as per rule 44(1)(b)= 5 years (i.e. 60 months). No. of months capital goods have been in use = 4 months 5 days (i.e. 5 months) The useful remaining life in months = 55 months Rs.2,00,000x28%x55/60= Rs.51,333
Amount to be paid by Royal Ltd.		1,06,906	

Amount payable by Royal Ltd. = Rs. 1, 06,906

Less: ITC Receivable = Rs.(2, 79,104)

Excess ITC = Rs. (1, 72,198)

Excess ITC in electronic credit ledger of Rs.1, 72,198 shall lapse as 15th November 2019.

If the balance in electronic credit ledger as on 15th November 2019 is Rs.29,104, then amount payable is as follows:

Amount payable by Royal Ltd. = Rs. 1, 06,906

Less: ITC Receivable = Rs. (29,104)

Excess ITC = Rs. 77,802

Q. 65

Determine the amount of input tax credit available with Arihant Manufacturing Ltd. in respect of the following items procured by them in the month of January 2018:—

Items	GST paid in Rs.
Raw materials	72,000
Food and beverages & catering services are used in the guest house primarily for the stay of the newly recruited employees	40,000
Inputs used for making structures for support of plant and machinery	1,25,000
Capital goods used as parts and components for use in the manufacture of final product	40,000

Answer:

Statement showing eligible input tax credit to Arihant Manufacturing Ltd.

Items	ITC in Rs.
Raw materials	72,000
Food and beverages & catering services are used in the guesthouse primarily for the stay of the newly recruited employees	Not allowed
Inputs used for making structures for support of plant and machinery	1,25,000
Capital goods used as parts and components for use in the manufacture of final product	40,000
Total credit allowed	2,37,000

Q. 66

Write a short note on “Purposes & importance of filing of returns under GST”

Answer:

Purposes of filing of Return under GST: The returns serve the following purposes —

- (i) Mode for transfer of information to tax administration;
- (ii) Compliance verification program of tax administration;
- (iii) Finalization of the tax liabilities of the taxpayer within stipulated time period;
- (iv) Providing necessary inputs on basis of which policy decision can be taken;
- (v) Management of audit and anti-evasion programs of tax administration.

Importance of filing of returns in GST Law:

Under the GST laws, the correct and timely filing of returns is of utmost importance because of two reasons.

- (i) Firstly, under GST laws, a taxpayer is required to estimate his tax liability on "self-assessment" basis and deposit the tax amount along with/before the filing of such return. The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been computed by the taxpayer.
- (ii) Secondly, under the GST regime, filing of returns not only determines the tax liability of the person filing the same, but it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into taxable activities.

Q. 67

ABC India Ltd. is engaged in the manufacture of some taxable goods. It purchased the following goods in the month of October, 2017:—

Items	GST paid in
Raw material used for the production of the final product	1,00,000
Goods used for generation of electricity for captive consumption	20,000
Goods used for providing free warranty - Value of such free warranty provided by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	10,000
Light diesel oil	5,000

Note: ABC India Ltd. is also purchased High Speed Diesel oil by paying central excise duty of Rs. 12,000, which is also used in the manufacturer of taxable output.

Compute the amount of input tax credit available to ABC India Ltd.

Answer:

Statement showing input tax credit (ITC) of ABC India Ltd.

Items	ITC in Rs.
Raw material used for the production of the final product	1,00,000
Goods used for generation of electricity for captive consumption	20,000
Goods used for providing free warranty - Value of such free warranty provided by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	10,000
Light diesel oil	5,000
High Speed Diesel oil	Not allowed
Total input tax credit	1,35,000

Q. 68

M/s. Vipin Ltd. purchased raw material 'A' 10,000 kg @ Rs. 80 per Kg. plus GST. The said raw material was used to manufacture product 'P'. The other information's are as under:

- (i) Processing loss: 2% on inputs 'A'.
- (ii) Transaction value of 'P': Rs. 100 per kg.
- (iii) Other material 'M' used in the manufacture of 'P': Rs. 2 lakh plus GST.
- (iv) GST on capital goods imported during the period and used in the manufacture of 'P':
 - a. Basic customs duty Rs. 20,000
 - b. IGST under customs under section 3(1) of the Customs Tariff Act, 1975 Rs. 10,000;
- (v) Rate of GST on 'A', 'M' and 'P': 12%.

M/s. Vipin Ltd. is not eligible for composition scheme under Section 10 of CGST Act, 2017

Compute:

- (a) Amount of input tax credit available and
- (b) Net GST payable by M/s. Vipin Ltd.

Answer:**Statement showing eligible input tax credit of M/s Vipin Ltd.**

Particulars	Value in (Rs.)	Working note
Raw material 'P'	96,000	(10,000 kg x Rs. 80) x 12%
Other material 'M'	24,000	Rs. 2,00,000 x 12%
Capital goods (imported)	10,000	IGST allowed as ITC.
Total ITC	1,30,000	

(b) Net GST liability of M/s Vipin Ltd.

Input 'A' 10,000 kg —

Output 'P' 9,800 kg

GST payable on value of supply 'P' (9,800 kg x Rs. 100) x 12%

= Rs. 1,17,600

less: ITC allowed = Rs. (1,30,000)

Excess ITC c/f = Rs. (12,400)

Q. 69

M/s. Basu Ltd. is operating in two states Andhra Pradesh and Tamil Nadu. The tax liability for the month of August 2018 is as follows

Sl. No.	Tax Liability	Andhra Pradesh (Rs.)	Tamil Nadu (Rs.)
1.	Output CGST Payable	25,000	10,000
2.	Output SGST Payable	10,000	5,000
3.	Output IGST payable	3,000	2,500
4.	Input CGST	8,000	13,000
5.	Input SGST	15,000	1,500
6.	Input IGST	12,000	16,000

Calculate the tax payable for the month of August 2018.

Answer:**Net Tax payable for the month of August 2018 is as follows:**

Particulars	Andhra Pradesh			Tamil Nadu		
	CGST	SGST	IGST	CGST	SGST	IGST
Output tax	25,000	10,000	3,000	10,000	5,000	2,500
Input credit available for setoff	8,000	15,000	12,000	13,000	1,500	16,000
Input credit adjusted	8,000	10,000	3,000	10,000	1,500	2,500
Tax payable after setting of ITC	17,000	-	-	-	3,500	-
Input Tax available for further set-off	-	5,000	9,000	3,000	-	13,500
Inter Adjustment of ITC	9,000	-	(9,000)	-	3,500	(3,500)
Net Tax payable in cash	8,000	-	-	-	-	-
Input credit carry forwarded to next month	-	5,000	-	3,000	-	10,000

Notes:

1. IGST Input tax credit can be adjusted against Output tax of liability of IGST, CGST, SGST, UTGST (set off can be done in same Order)
2. SGST Input tax credit cannot be adjusted against output CGST & Vice-Versa.
3. CGST & SGST Input tax credit of one State cannot be adjusted against Output CGST & SGST of other state (same principle is applicable to IGST credit also).

Q. 70

ABC India Ltd. is engaged in the manufacture of some taxable goods. It purchased the following goods in the month of October, 2018

ITEMS	GST paid in Rs.
Raw material used for the production of the final product	1,00,000
Goods used for generation of electricity for captive consumption	20,000
Goods used for providing free warranty - Value of such free warranty provided	10,000

by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	
Light diesel oil	5000

Note: ABC India Ltd. is also purchased High Speed Diesel oil by paying central excise duty of Rs. 12,000, which is also used in the manufacturer of taxable output. Compute the amount of input tax credit available to ABC India Ltd.

Answer:

Statement showing eligible input tax credit to ABC India Ltd.

Items	ITC in Rs.
Raw material used for the production of the final product	1,00,000
Goods used for generation of electricity for captive consumption	20,000
Goods used for providing free warranty - Value of such free warranty provided by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	10,000
Light diesel oil	5000
High Speed Diesel oil	Not allowed
Total input tax credit	1,35,000

Q. 71

Wrote a short note on “Distribution of credit by input service distributor”.

Answer:

Distribution of credit by input service distributor:

(1) The Input Service Distributor (ISD) shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

(2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—

- A. the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
- B. the amount of the credit distributed shall not exceed the amount of credit available for distribution;
- C. the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
- D. the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
- E. the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Q. 72

M/s X Ltd. becomes liable to pay tax on 1st December, 2019 and has obtained registration on 15th December, 2019.

The GST paid goods lying in the premises of M/s X Ltd. as on 30th November, 2019 are as follows:

Particulars	Value in Rs.	GST
	(Excluding tax)	Rs.
Raw materials	2,00,000	36,000
Capital goods	5,00,000	1,40,000
Raw material lying work in progress	3,00,000	54,000
Raw material lying in Finished goods	12,00,000	2,16,000

You are required to answer the following:

- (i) Eligible amount of input tax credit.
- (ii) Time limit to submit declaration on common portal.
- (iii) Whether any certification required while availing the credit, if so from whom.

Answer:

(i) Eligible ITC is Rs. 3, 06,000

($2,16,000 + 54,000 + 36,000$)

(ii) Declaration in Form GST ITC-01 on or before 14th January should be submitted on common portal of GSTN.

(iii) Declaration regarding input tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, state tax, union territory tax and integrated tax exceeds Rs.2, 00,000.

In the given case, ITC declared is Rs.3,06,000. Therefore, certificate from a practicing Chartered Accountant or a Cost Accountant is required.

Note: M/s X Ltd. cannot take ITC on capital goods.

Q. 73

What conditions are required to be fulfilled for taking Input Tax Credit?

Answer:

Conditions for taking Input Tax Credit (ITC):

Section 16(2) of the CGST Act, 2017: Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) He is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying documents as may be prescribed;

(b) He has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

Note: Further explanation has been provided for Sec 16(2)(b) explanation vide CGST Amendment Act,2018 that: For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) Where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) Where the services are provided by the supplier to any person on the direction of and on account of such registered person.

(c) Subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) He has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment; Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed;

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

Q. 74

M/s. X Ltd. manufacturer of taxable goods and registered under GST Law. M/s. X Ltd. assigned the contract in the month of January 2018, for Rs. 5,00,000 plus GST 18% to M/s. Y Ltd. for constructing structural support of Hot Mix Plant, which is used for making taxable supply of goods. Accordingly M/s. Y Ltd. used cement, steel, Iron, water, chemicals and labour to complete the job. Entire work has been completed and payment also be received in the month of January 2018. M/s. X Ltd. further provides the following information to find net GST liability of M/s. X Ltd. for the month of January 2018:

Inward supply	Value in Rs.	GST Rate	Outward supply	Value in Rs.	GST Rate
Raw material (10 Kgs)	2,00,000	18%	Finished goods	15,00,000	28%
Hot Mix Plant	6,00,000	28%			
Works contract service	5,00,000	18%			

Note: there is process loss @1% while converting raw materials into finished goods.

Answer:

Statement showing net GST liability for the month of January 2018 of M/s. X Ltd.

Particulars	GST Rs.	Remarks
Output tax	4,20,000	15,00,000 x 28%
Less: ITC on Input	(36,000)	2,00,000 x 18%
ITC on Capital goods	(1,68,000)	6,00,000 x 28%
ITC on Input service	(90,000)	5,00,000 x 18%
Net GST liability	1,26,000	

Note: Hot Mix Plant is capital goods, hence ITC allowed.

Q. 75

M/s X Ltd. being a registered person supplying taxable goods in the following manner:

Particulars	Rs.
Intra-State supply of goods	18,00,000
Inter-State supply of goods	13,00,000
Intra-State purchases	13,00,000
Inter-State purchases	1,50,000
ITC at the beginning of the relevant tax period:	
CGST	1,30,000
SGST	1,30,000
IGST	1,70,000

- (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
- (ii) Inward and outward supplies are exclusive of taxes.
- (iii) All the conditions necessary for availing the input tax credit have been fulfilled. Compute the net GST payable by M/s X Ltd during the tax period. Make suitable assumptions.

Answer:

Statement showing input tax credit (i.e. Electronic Credit Ledger)

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Opening balance	1,30,000	1,30,000	1,70,000
Add: ITC for the tax period	1,17,000	1,17,000	27,000
Total credit	2,47,000	2,47,000	1,97,000

Statement showing Net GST payable by M/s X Ltd for the tax period

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Output tax	1,62,000	1,62,000	2,34,000
Less: ITC allowed	-2,47,000	-2,47,000	-1,97,000
Sub-total	-85,000	-85,000	37,000
Less: CGST credit adjusted against IGST	37,000	Nil	-37,000
Net GST liability	Nil	Nil	Nil
Excess ITC c/f	48,000	85,000	Nil

Q. 76

Mr. Roy, a supplier of goods, pays GST under regular scheme. Mr. Roy is not eligible for any threshold exemption. He has made the following outward taxable supplies in a tax period:

Particulars	Rs.
Intra-State supply of goods	16,50,000
Inter-State supply of goods	6,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	Rs.
Intra-State purchases of goods	10,70,000
Inter-State purchases of goods	1,60,000

Mr. Roy has following ITCs with him at the beginning of the tax period:

Particulars	Rs.
CGST	41,500
SGST	41,500
IGST	92,000

Note:

- Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
- Both inward and outward supplies are exclusive of taxes, wherever applicable.
- All the conditions necessary for availing the ITC beginning of the tax period: Compute the net GST payable by Mr. Roy during the tax period. Make suitable assumptions as required.

Answer:**Computation of GST payable by Mr. Roy on outward supplies —**

S. No.	Particulars	(Rs.)	GST(Rs.)
(i)	Intra-state supply of goods		
	CGST @ 9% on Rs. 16,50,000	1,48,500	
	SGST @ 9% on Rs. 16,50,000	1,48,500	2,97,000
(ii)	Inter-state supply of goods		
	IGST @ 18% on Rs. 6,00,000		1,08,000
	Total GST payable		4,05,000

Computation of total ITC:

Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
Opening ITC	41,500	41,500	92,000
Add: ITC on Intra-State purchases of goods valuing Rs. 10,80,000	96,300	96,300	Nil
Add: ITC on Inter-State purchases of goods valuing Rs. 1,50,000	Nil	Nil	28,800
Total ITC	1,37,800	1,37,800	1,20,800

Computation of GST payable from cash ledger:

Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
GST payable	1,48,500	1,48,500	1,08,000
Less: ITC	1,37,800	1,37,800	1,08,000
Balance of IGST credit i.e. Rs. (1,20,800 - 1,08,000) to be utilised for payment of CGST and SGST	10,700	2,100	
GST payable from cash ledger	Nil	8,600	Nil

Q. 77

Mr. C a registered taxable person, was paying tax at composition scheme upto 30th July. However, w.e.f. 31st July, Mr. C becomes liable to pay tax under regular scheme.

Other information:

- (i) Unutilized inputs at day end on 30th July for Rs.3,54,000 (inclusive of GST paid @ 18%)
- (ii) Capital goods purchased for Rs.5,00,000 (invoice date 22nd April, 2017, GST charged separately @18%)

Find the eligible ITC to Mr. C 5

Note: Mr. C has not availed depreciation on the GST paid on capital goods.

Answer:

PARTICULARS	AMOUNT (Rs.)
ITC allowed on inputs	54,000
ITC allowed on capital goods	
ITC on capital goods	90,000
Less: 5% p.a.	4,500
	85,500
Total ITC allowed to Mr. C as on 31 st July	= Rs.54,000

Q. 78

M/s. Abishek Industries Ltd., has given the following information pertaining to the month of October, 2019:

Sl. No.	Particulars	Amount
1.	Total Input Tax Credit (ITC) on inputs and input services	18,00,000
2.	ITC attributable exclusively for non-business purposes (included in S. No. 1 above)	1,50,000
3.	ITC attributable exclusively for effecting exempt supplies (included in S. No. 1 above)	6,50,000
4.	ITC in respect of inputs on which credit is not available u/s.17(5) (included in S. No. 1 above)	50,000
5.	ITC attributable exclusively for effecting taxable supplies (included in S. No. 1 above)	5,50,000
6.	Total turnover	1,12,65,000
7.	Total value of exempt supplies	54,16,000

You are required to calculate the amount of common input tax credit to be reversed in respect of exempt supplies as per rule 42 of CGST Rules, 2017. 10

Answer:

Sl. No.	Particulars	Amount	Denotes
1	Total Input Tax Credit (ITC) on inputs and input services	18,00,000	T
2	ITC attributable exclusively for non-business purposes (included in S. No. 1 above)	1,50,000	T1
3	ITC attributable exclusively for effecting exempt supplies (included in S. No. 1 above)	6,50,000	T2
4	ITC in respect of inputs on which credit is not available u/s. 17(5) (included in S. No. 1 above)	50,000	T3
5	ITC attributable exclusively for effecting taxable supplies (included in S. No. 1 above)	5,50,000	T4
6	Total value of exempt supplies	54,16,000	E
7	Total Turnover	1,12,65,000	F
8	Total ITC credited to Electronic Credit Ledger C1 = 18,00,000 - (1,50,000 + 6,50,000 + 50,000)	9,50,000	C1 = T -(T1+T2+T3)

9	Common Credit C2 = 9,50,000 - 5,50,000	4,00,000	C2 = C1 - T4
10	ITC attributable towards exempt supplies D1 = (54,16,000 - 1,12,65,000) x 4,00,000	1,92,312	D1 = (E-F)xC2
11	ITC attributable to non-business purposes presumed to be included in common credit D2 = 4,00,000 x 5%	20,000	D2 = 5% of C2
12	ITC attributable to the purposes of effecting taxable supplies C3 = 4,00,000 - (1,92,312 + 20,000)	1,87,688	C3 = C2 -(D1 + D2)
13	ITC to be reversed as per rule 42	2,12,312	D1 + D2

Q. 79

M/s. XYZ Ltd., having its Head Office at Mumbai, is registered as ISD. It has three units in different states namely 'Mumbai', 'Chennai' and 'Delhi' which are operational in the current year. M/s. XYZ Ltd. furnishes the following information for the month of December 2017. You are required to distribute the below input tax credit (i) CGST and SGST paid on services used only for Mumbai Unit: Rs. 3,00,000 (ii) IGST, CGST and SGST paid on services used for all units: Rs. 12,00,000.

Total Turnover of the units for the Financial Year 2016-17 are as follows:

Unit	Turnover in (Rs.)
Turnover of Mumbai unit	5,00,00,000
Turnover of Chennai	3,00,00,000
Turnover Delhi	2,00,00,000
Total turnover	10,00,00,000

Answer:**Statement showing distribution of input tax credit:**

Particulars	Credit distributed to all the units			
	Total credit available (Rs.)	Mumbai	Chennai	Delhi
CGST & SGST paid on services used only for Mumbai Unit.	3,00,000	3,00,000	0	0
IGST, CGST & SGST paid on services used in all units Distribution on pro-rata basis to all the units which are operational in the current year	12,00,000	6,00,000	3,60,000	2,40,000
Total	15,00,000	9,00,000	3,60,000	2,40,000

Working note:

- (1) CGST & SGST paid on services used only for Mumbai Unit should be distributed only to that unit.
- (2) Credit distributed pro rata basis on the basis of the turnover of all the units is as under: -

Particulars	Rs.
(a) Unit Mumbai: (5,00,00,000/10,00,00,000) x 12,00,000	6,00,000
(b) Unit Chennai: (3,00,00,000/10,00,00,000) x 12,00,000	3,60,000
(c) Unit Delhi: (2,00,00,000/10,00,00,000) x 12,00,000	2,40,000

Q. 80

M/s. Alpha Limited Ahmadabad receives the input services from M/s. Beta Limited of Mumbai who raises the invoice for supply of services on 25th November, 2017 and availed the credit on the same date. Find the time limit within which M/s. Alpha Limited is required to pay the bill amount to M/s. Beta Limited. Also explain the consequences if payment is not made within the stipulated period as mentioned in Section 16(2) of CGST Act.

Answer:

As per second proviso to Section 16(2) of the CGST Act, 2017, where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed.

As per the above provision M/s. Alpha Ltd., is required to pay the bill amount including tax to M/s. Beta Ltd., on or before 23rd May 2018 [i.e., 180 days from 25th November 2017]. 6 days for November, 31 days for December, 31 days for

January, 28 days for February, 31 days for March, 30 days for April and 23 days for May. If the payment is not made within the stipulated date, an amount equal to the input tax credit availed by M/s. Alpha Ltd shall be added to its output tax liability along with the interest thereon. The interest rate stipulated for this purpose is 18% p.a.

Q. 81

State whether input tax credit is available in the following cases: 3+2+2=7

- (i) Motor car purchased by driving school for imparting training to the customers. Whether your answer would be different if the motor car is purchased by a manufacturing company to be used by its Managing Director for official purposes.
- (ii) Amount spent for construction of factory building.
- (iii) Gift articles purchased on the occasion of Diwali to be distributed among the employees.

Answer:

- (i) Motor car purchased by driving school for imparting training to the customers is an exception to the blocked credit item as per Section 17(5) (a) (i) (C) of CGST Act, 2017. Hence, ITC is available. Yes, motor car purchased by a manufacturing company to be used by its managing director is a blocked credit item as per Section 17(5)(a) of CGST Act, 2017. Hence, ITC is not available.
- (ii) As per Section 17(5) (c) and (d) of CGST Act, 2017, amount spent for construction of factory building is an item for which input tax credit is not available.
- (iii) As per Section 17(5) (h) of CGST Act, 2017, input tax credit shall not be available for goods disposed of by way of gift or free samples.

Q. 82

Write a short note on “Distribution of input tax credit by ISD and manner of such distribution”

Answer:

Distribution of input tax credit by ISD:

The Head Office would be procuring certain services which would be for common utilization of all units across the country. The bills for such expenses would be raised on the Head Office. But the Head Office itself would not be providing any output supply so as to utilize the credit which gets accumulated on account of such input services.

ISD mechanism enables such proportionate distribution of credit of input services amongst all the consuming units.

For the purposes of distributing the input tax credit, an ISD has to issue an ISD invoice, as prescribed in rule 54(1) of the CGST Rules, 2017, clearly indicating in such invoice that it is issued only for distribution of input tax credit.

The input tax credit available for distribution in a month shall be distributed in the same month and details furnished in FORM GSTR-6. Further, an ISD shall separately distribute both the amount of ineligible and eligible input tax credit.

Manner of Distribution of ITC by ISD:

- (i) The credit has to be distributed only to the unit to which the supply is directly attributable to. For example, an ISD has 4 units across the country. However, if a particular input

- service pertains exclusively to only one unit and the bill is raised in the name of ISD, the ISD can distribute the credit only to that unit and not to other units.
- (ii) If input services are attributable to more than one recipient of credit, the distribution shall be in the pro-rata basis of turnover in the State/Union Territory. For example, an ISD has 4 units across the country. If the input services are common for all units, then it will be distributed according to the ratio of turnover of all the units.

Q. 83

R Ltd. provides the following information:

Date of invoice in respect of purchase of Plant and Machinery	01.11.2018
(Life of Plant and Machinery is five years)	
Value of Plant and Machinery excluding GST	20,00,000
GST charged in respect of Plant and Machinery @ 18%	3,60,000
Date of supply of Plant and Machinery owing to obsolescence	10.01.2020
Value of outward supply of Plant and Machinery	12,00,000

Determine how much amount of GST to be paid on the supply of such machine.

Answer:

In the light of above information, the amount to be paid by R Ltd. shall be computed as under:

A. Input tax credit taken on purchase of Plant and Machinery	Rs. 3,60,000
B. Time gap in quarters between date of purchase and supply of plant and machinery	1 year 2 months and 10 days i.e. 5 quarters (including part of the month)
C. Rate of Reduction in tax paid	Five percentage points per quarter of a year or part thereof (as the total life is taken as 5 years amounting to 20 quarters)
D. Total reduction in tax paid for five quarters or part thereof	Five percentage point x 5 quarters = Twenty-five percentage points
E. Amount of Reduction in tax paid	25% x of Rs. 3,60,000 = Rs. 90,000
F. Amount of GST to be paid on the basis of reduction in input tax credit taken [A-E]	Rs. 2,70,000
G. Transaction Value of the Plant and Machinery	Rs. 12,00,000
H. Tax on the transaction value of Plant and Machinery	Rs. 2,16,000 [12,00,000 x 18%]
I. In terms of Section 18(6) amount to be paid- Higher of the amount given at SI. No. F and SI. No. H	Rs. 2,70,000

Q. 84

From the following information provided to you, determine, how would you utilize ITC on account of SGST available in the Electronic Credit Ledger:

Particulars	Amount
Amount of ITC on account of SGST available in the Electronic Credit Ledger for the month of June, 2019	2,00,000
CGST payable for the month of June, 2019	73,000
IGST payable for the month of June, 2019	96,000
SGST payable for the month of June, 2019	30,000

Answer:

Particulars	Amount (Rs.)
Amount of ITC on account of SGST available in the Electronic Credit Ledger for the month of June, 2019	2,00,000
Less: SGST payable for the month of June, 2019 debited in the electronic ledger	30,000
Balanced amount of ITC on account of SGST for the month of June, 2019	1,70,000

Less: IGST payable for the month of June, 2019 debited in the electronic ledger	96,000
Balance of ITC on account of SGST available in the Electronic Credit Ledger	74,000
CGST payable for the month of June, 2019 Rs. 73,000 (cannot be adjusted against input tax credit on account of SGST)	Nil
Balance input tax credit on account of SGST carried forward	74,000

REGISTRATION UNDER GST

INTRODUCTION

WHY REGISTRATION IS FUNDAMENTAL REQUIREMENT?	REGISTRATION IS THE MOST FUNDAMENTAL REQUIREMENT <u>FOR IDENTIFICATION OF TAXPAYERS.</u>
WHAT WILL BE DISABILITY IN CASE OF NON REGISTRATION?	WITHOUT REGISTRATION, A PERSON CAN <ul style="list-style-type: none"> ➤ NEITHER COLLECT TAX FROM HIS CUSTOMERS ➤ NOR CLAIM ANY INPUT TAX CREDIT OF TAX PAID BY HIM.
WHAT DO WE ACTUALLY MEAN BY THE WORD REGISTRATION?	<ul style="list-style-type: none"> ➤ OBTAINING A UNIQUE NUMBER FROM ➤ FOR THE PURPOSE OF COLLECTING TAX ➤ ON BEHALF OF THE GOVERNMENT AND ➤ TO AVAIL INPUT TAX CREDIT

ADVANTAGES OF GST REGISTRATION

LEGAL RECOGNITION AS SUPPLIER	LEGAL AUTHORISATION TO COLLECT TAXES FROM HIS CUSTOMERS AND PASS ON ITC.
CLAIMINGITC	SEAMLESS FLOW OF ITC
ELIGIBLE TO APPLY FOR GOVERNMENT BIDS/CONTRACTS.	REGISTERED PERSON CAN EASILY GAIN TRUST FROM CUSTOMERS.

ONE REGISTRATION ONE STATE

<u>GENERAL RULE</u> ONE ENTITY ONE REGISTRATION ONE STATE	<u>HOWEVER</u> MORE THAN ONE REGISTRATION IS NOT PROHIBITED
<u>SO</u> ONE SINGLE ENTITY CAN TAKE MULTIPLE REGISTRATIONS IN A SINGLE STATE.	<u>FOR EXAMPLE</u> MULTIPLE REGISTRATIONS PERMITTED FOR SEPARATE BUSINESS VERTICAL. & ONE AS AN INPUT SERVICE DISTRIBUTOR AND OTHER FOR OUTWARD SUPPLY

TURNOVER LIMIT FOR REGISTRATION**1) FOR SUPPLIER ENGAGED EXCLUSIVELY IN “SUPPLY OF GOODS”**

STATE	TURNOVER LIMIT
MANIPUR MIZORAM NAGALAND TRIPURA	Rs. 10 LAKHS
UTTARAKHAND MEGHALAYA SIKKIM ARUNACHAL PRADESH PUDUCHERRY TELANGANA	Rs. 20 LAKHS
REST STATES OF INDIA	Rs. 40 LAKHS

**2) FOR SUPPLIER ENGAGED IN
“SUPPLY OF SERVICES” OR BOTH “GOODS AND SERVICES”**

STATE	TURNOVER LIMIT
MANIPUR MIZORAM NAGALAND TRIPURA	Rs. 10 LAKHS
REST STATES OF INDIA	Rs. 20 LAKHS

MEANING OF AGGREGATE TURNOVER

1. The turnover will be computed PAN wise.
2. The **partner and partnership** firm will have different PAN Nos. Thus the turnover of the partner and partnership firm will not be aggregated.
3. The HUF and individual coparcener of the family have different PAN Nos. Hence, turnover of Karta of HUF in his individual capacity and turnover of Karta as a Karta of HUF will not be aggregated.

INCLUSIONS	EXCLUSIONS
<ul style="list-style-type: none"> ➤ DOMESTIC SUPPLY ➤ EXPORT SUPPLY ➤ TAXABLE SUPPLY ➤ EXEMPT SUPPLY ➤ NON TAXABLE SUPPLY ➤ INTRA STATE SUPPLY ➤ INTER STATE SUPPLY ➤ INTER-STATE SUPPLIES BETWEEN DISTINCT PERSONS HAVING SAME PAN ➤ SUPPLY ON OWN ACCOUNT ➤ SUPPLY ON BEHALF OF PRINCIPAL. 	<ul style="list-style-type: none"> ➤ INWARD SUPPLIES ON WHICH THE RECIPIENT IS REQUIRED TO PAY TAX UNDER REVERSE CHARGE MECHANISM (RCM). ➤ CENTRAL TAX (CGST) ➤ STATE TAX (SGST) ➤ UNION TERRITORY TAX AND ➤ INTEGRATED TAX (IGST) ➤ COMPENSATION CESS

REGISTRATION UNDER GST
IN CASE OF TRANSFER OF GOING CONCERN

CASES OF TRANSFER OF BUSINESS	FORMALITIES UPON TRANSFER
EITHER SUCCESSION OR OTHERWISE	THE TRANSFeree OR THE SUCCESSOR, SHALL BE LIABLE TO BE REGISTERED

REGISTRATION UNDER GST
IN CASE OF AMALGAMATION OR DEMERGER

AMALGAMATION CAN BE OF ANY NATURE (PURCHASE OR MERGER)	TRANSFeree COMPANY SHALL TAKE REGISTRATION
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PERSONS NOT LIABLE FOR REGISTRATION

ANY PERSON ENGAGED EXCLUSIVELY IN THE BUSINESS OF SUPPLYING OF GOODS OR SERVICES OR BOTH THEY ARE NOT LIABLE TO TAX OR WHOLLY EXEMPT	AN AGRICULTURIST, TO THE EXTENT OF SUPPLY OF PRODUCE OUT OF CULTIVATION OF LAND.	OTHERS AS MAY BE PREScribed
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COMPULSORY REGISTRATION IN CERTAIN CASES

I. PERSON MAKING ANY INTER-STATE TAXABLE SUPPLY OF GOODS;

If a person makes an inter-state taxable supply of Goods, he will be liable to obtain registration and pay GST.

II. CASUAL TAXABLE PERSONS MAKING TAXABLE SUPPLY;

1. Causal taxable person means a person who **occasionally undertakes** transactions involving supply of goods or services or both in the course or furtherance of business, in a State or a Union territory where he has no fixed place of business.
2. A casual taxable person **cannot exercise** the option to pay tax under **composition levy**.
3. Casual taxable persons are **required to obtain GST registration** under a special category **at least 5 days prior** to the undertaking business.
4. There is no special form to register as a casual taxable person. Casual taxable person can use the normal form **GST REG-01** which is used by other taxable persons for registration.
5. He has to pay **advance tax** at the time of registration as per the estimated tax liability computed and declared.
6. On depositing the amount, **an acknowledgement** shall be issued electronically to the applicant in **FORM GST REG-02**.
7. The certificate of **registration** shall be **valid** for the **period specified** in the application for registration **or ninety days** from the effective date of registration, **whichever is earlier**.
8. The proper officer may **extend registration** for a period **not exceeding 90 days**.
9. The casual taxable person is **eligible for the refund** of any balance of the advance tax deposited by him after adjusting his tax liability.
10. **Input tax credit shall be availed** in respect of goods or services or both received by a casual taxable person.
11. It is clarified that in case of **long running exhibitions (for a period more than 180 days)**, the taxable person **cannot be treated as a CTP** and thus such person would be required to obtain registration as a normal taxable person.
12. In such case of taking **normal registration**, he would **not** be required to pay **advance tax** for the purpose of registration.
13. He **can surrender such registration** once the **exhibition is over**.

III. PERSON WHO ARE REQUIRED TO PAY TAX UNDER REVERSE CHARGE;

IV. PERSON WHO ARE REQUIRED TO PAY TAX UNDER SEC. 9(5) OF CGST (I.E. ELECTRONIC COMMERCE OPERATOR);

1. Electronic commerce operator: shall include every person **who**, directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and/or services or in providing any information or any other services

2. **But shall not include** persons engaged in supply of goods and/or services on their own behalf.

For Example: Titan company supplying watches and jewels through its own website would not be considered as an e-commerce operator for the purpose of this provision.

V. NON-RESIDENT TAXABLE PERSON MAKING TAXABLE SUPPLY;

1. Non-resident taxable person means any person who **occasionally undertakes transactions** involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who **has no fixed place of business or residence in India**.
2. A non-resident taxable person **cannot** exercise the option to pay tax under **composition levy**.
3. Non-resident taxable person has to **apply for registration at least five days prior** to commencing his business in India using a valid passport (and **need not have a PAN** in India).
4. A simplified form **GST REG-09** is required to be filled.
5. The application for registration made by a non-resident taxable person **has to be signed by his authorized signatory** who shall be a **person resident in India** having a valid PAN.
6. He has to make **mandatory advance deposit of tax** for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.
7. The certificate of registration shall be **valid for the period specified** in the application for registration **or ninety days** from the effective date of registration, whichever is earlier.
8. In case the non-resident taxable person intends to **extend the period of registration** indicated in his application of registration, an application in **FORM GSTREG-11** shall be submitted electronically through the Common Portal, either directly or through Facilitation Centre notified by the Commissioner, before the end of the validity of registration granted to him.
9. The validity period of 90 days can be extended by a further period **not exceeding ninety days**.
10. **Input tax credit shall not be available** in respect of goods or services or both received by a non-resident taxable person **except on goods imported by him**.
11. The amount of **advance tax** deposited by a non-resident taxable person under, will be **refunded only after** the person has furnished all the **returns** required

VI. PERSONS WHO ARE REQUIRED TO DEDUCT TAX UNDER SEC 51, WHETHER OR NOT SEPARATELY REGISTERED UNDER THIS ACT;

VII. PERSONS WHO MAKE TAXABLE SUPPLY OF GOODS OR SERVICES OR BOTH ON BEHALF OF OTHER TAXABLE PERSON WHETHER AS AN AGENT OR OTHERWISE;

1. Clearing and forwarding (C&F) Agent receives the goods on behalf of the principal.
2. Subsequently he supplies goods to the customer as an agent of the principal.
3. He maintains the stock and report to the principal.
4. Such an agent shall be liable to obtain the registration compulsorily.

VIII. INPUT SERVICE DISTRIBUTOR, WHETHER OR NOT SEPARATELY REGISTERED UNDER CGST;

1. **ISD mechanism** is meant for **distributing the credit on common invoices** pertaining to **input services only and not goods** (i.e. inputs or capital goods).
2. An ISD will have to compulsorily take a **separate registration** as such ISD and apply for the same in form **GST REG-1**.
3. There is **no threshold limit** for registration for an ISD.
4. For the purposes of distributing the input tax credit, an **ISD has to issue an ISD invoice**, clearly indicating in such invoice that it is issued only for distribution of input tax credit.
5. The **credit has to be distributed** only **to the unit** to which the supply is directly attributable to.
For example, if an ISD has 4 units across the country. However, if a particular input service pertains exclusively to only one unit and the bill is raised in the name of ISD, the ISD can distribute the credit only to that unit and not to other units.
6. If **input services are attributable to more than one recipient** of credit, the distribution shall be in the **pro-rata basis of turnover** in the State/Union Territory.
For example, if an ISD has 4 units across the country. If the input services are common for all units, then it will be distributed according to the ratio of turnover of all the units.
7. An ISD will have to file **monthly returns in GSTR-6** within **13 days** after the end of the month and will have to furnish information of all ISD invoices issued.
8. An **ISD** shall **not** be required to file **Annual return**.

IX. PERSONS WHO SUPPLY OF GOODS OR SERVICES OR BOTH, OTHER THAN SUPPLIES SPECIFIED UNDER SEC 9(5), THROUGH SUCH ELECTRONIC COMMERCE OPERATOR WHO IS REQUIRED TO COLLECT TAX AT SOURCE UNDER SEC 52;

XI. EVERY PERSON SUPPLYING ONLINE INFORMATION AND DATABASE ACCESS OR RETRIEVAL SERVICES FROM PLACEOUTSIDE INDIA TO A PERSON IN INDIA, OTHER THAN A REGISTERED PERSON; AND

1. Online Information and Database Access or Retrieval services means services **whose delivery is mediated by information technology** over the internet or an electronic network and the nature of which renders their supply **essentially automated** and involving **minimal human intervention** and **impossible to ensure** in the **absence of information technology**.
2. It includes electronic services such as:
 - (i) **advertising** on the internet;
 - (ii) providing **cloud services**;
 - (iii) provision of **e-books**, movie, music, software and other intangibles through telecommunication networks or internet;
 - (iv) providing **data or information**, retrievable or otherwise, to any person in electronic form through a computer network;
 - (v) **online supplies of digital content** (movies, television shows, music and the like);
 - (vi) digital **data storage**; and
 - (vii) **online gaming**;

XI. SUCH OTHER PERSON OR CLASS OF PERSONS AS MAY BE NOTIFIED BY THE GOVT. ON THE RECOMMENDATION OF THE COUNCIL.

PROCEDURE FOR REGISTRATION

WHEN TO TAKE REGISTRATION	Apply for registration within 30 days from the date on which he becomes liable to registration.
INFORMATION TO BE FURNISHED AT THE TIME OF REGISTRATION	<p>1. Legal name of business 2. PAN, 3. Mobile number, 4. e-mail address, 5. State or Union territory in Part A of Form GST REG -01 on Common Portal.</p> <p>On successful verification of these numbers, a reference number will be generated.</p> <p>Applicant shall submit Part B of Form GST REG-01, duly signed, along with documents specified in the said Form at the Common Portal.</p>
ACKNOWLEDGEMENT	Form GST REG – 02
CERTIFICATE OF REGISTRATION	<p>Form GST REG-06</p> <p>If all documents are found to be in order, the Proper Officer shall approve the registration within 3 working days from the date of submission.</p>
DEEMED REGISTRATION	If the Proper Officer fails to take action in 3 working days from the date of submission, the registration is deemed to have been approved.
QUERIES FROM GST DEPARTMENT BEFORE GRANTING REGISTRATION	<p>Form GST REG – 03</p> <p>Within 3 working days from the date of submission</p>
REPLY FROM THE APPLICANT	<p>Form GST REG – 04</p> <p>Within 7 working days from the date of receipt of such information</p>

	<p>The Proper Officer is satisfied with the clarification; he may approve the grant of registration to the applicant within 7 working days on receipt of such clarification.</p> <p>Where no action is taken in 7 working days on the clarification received from the applicant, the registration is deemed to have been granted.</p>
REJECTION BY DEPARTMENT	<p>If no reply is furnished by applicant in response to notice issued or Proper Officer is not satisfied with the clarification, he shall reject such application with reasons in writing and inform the applicant in Form GST REG-05.</p>

GST IDENTIFICATION NUMBER

TWO CHARACTERS	TEN CHARACTERS	TWO CHARACTERS	ONE CHARACTER
STATE CODE	PAN	ENTITY CODE	CHECKSUM CHARACTER

EFFECTIVE DATE OF REGISTRATION

IF REGISTRATION APPLIED WITHIN GIVEN TIME LIMIT OF 30 DAYS	IF REGISTRATION APPLIED AFTER GIVEN TIME LIMIT OF 30 DAYS
<p>Registration will be effective from the date on which Liability to take registration arises.</p>	<p>Registration will be effective from the date on which Registration is granted.</p>

FURNISHING BANK ACCOUNT DETAILS

BANK account **DETAILS** must be furnished **WITHIN 45 DAYS** from the date of grant of registration.

CANCELLATION OF REGISTRATION

CASE: 1

CANCELLATION BY THE REGISTERED PERSON TAXPAYER HIMSELF

PROBABLE REASONS FOR CANCELLATION	<ul style="list-style-type: none"> ● Business has been discontinued. ● The business has been sold or transferred to some other party. ● There is any change in the constitution of the business (like Partnership firm now converted into Private Limited company and so on). ● Turnover is not more than specified limit.
APPLICATION FOR CANCELLATION	GST REG-16
CANCELLATION ORDER	GST REG-19 (Within 30 Days of Application)
REJECTION OF CANCELLATION APPLICATION	GST REG-20
QUERIES BY GST DEPARTMENT	GST REG-17
REPLY BY APPLICANT	GST REG-18 (Within 7 days of GST REG-17)

CASE: 2

CANCELLATION BY GST DEPARTMENT

PROBABLE REASONS FOR CANCELLATION	<ul style="list-style-type: none"> ● If the registered person has violated any of GST provisions or laws. ● A composition registered person has not filed tax returns for three consecutive quarters. ● A normal registered person who has not filed returns consecutively for six months. ● A voluntarily registered person who has not commenced any business in the six months from the registration date. ● If the registration is obtained by fraud
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	methods, the proper officer has the right to cancel the registration with retrospective effect.
SHOW CAUSE NOTICE BY GST DEPARTMENT	GST REG-17
REPLY BY APPLICANT	GST REG-18 (Within 7 days of GST REG-17)
CANCELLATION ORDER	GST REG-19 (Within 30 Days of GST-18)
REJECTION OF CANCELLATION APPLICATION	GST REG-20
QUERIES BY GST DEPARTMENT	GST REG-17
REPLY BY APPLICANT	GST REG-18 (Within 7 days of GST REG-17)

CASE: 3**CANCELLATION BY LEGAL HEIR OF REGISTERED PERSON**

PROBABLE REASONS FOR CANCELLATION	Death of the person.
APPLICATION FOR CANCELLATION	GST REG-16
CANCELLATION ORDER	GST REG-19 (Within 30 Days of Application)
REJECTION OF CANCELLATION APPLICATION	GST REG-20
QUERIES BY GST DEPARTMENT	GST REG-17
REPLY BY APPLICANT	GST REG-18 (Within 7 days of GST REG-17)

REVOCATION OF CANCELLATION OF REGISTRATION

APPLICATION FOR REVOCATION	GST REG-21 (Within 30 Days of GST REG-19)
REVOCATION ORDER	GST REG-22 (Within 30 Days of GST REG-21)
QUERIES BY GST DEPARTMENT	GST REG-23

REPLY BY APPLICANT	GST REG-24 (Within 7 days of GST REG-23)
REJECTION OF REVOCATION APPLICATION	GST REG-05

QUESTIONS AND ANSWERS

Q. 1

Apple manufactures computers, tablets, phones, headphones, music players and more. Management at Apple can divide the overall company performance into smaller segments based on these products to measure where the company is succeeding.

Note: It is similar to AS 17 Business Segments

Q. 2

Mr. J has been involved in supplying taxable material in J&K, since, 1st July 2017. His turnover in the month of Nov 2017 exceeded the limit of Rs. 20 lacs. Mr. J is required to register under GST law?

Answer:

Taxable turnover exceeds Rs. 20 lacs, and then the supplier shall apply for registration in the month of Nov 2017. Therefore, Mr. J is required to register under GST law.

Q. 3

Mr. C of Calicut is trading on his own goods and also acting as an agent of Mr. B of Bengaluru. Mr. C turnover in the financial year 2017-18 is Rs. 12 lacs in his own account and Rs. 9 lacs on behalf of principal. Whether Mr. C is liable to register compulsorily under GST law.

Answer:

As per explanation 1 in computing the total turnover, both the value of supply on his own account that is Rs. 12 lacs and on behalf of principal Rs. 9 lacs will be aggregated. Hence, the aggregate turnover will be Rs. 21 lacs. Mr. C is liable to register compulsorily under the GST law.

Q. 4

Mr. Rajan is a farmer with an annual turnover in relation to agriculture of Rs. 18,00,000 lakh. Since this income is agriculture-related, the turnover is exempt from GST. However, Mr. Rajan also supplies plastic bags worth of Rs. 2,50,000 (taxable goods) along with his crop and charges separately for this. Mr. Rajan is required to register under GSTRs. Advise. Answer:

Mr. Rajan is required to register under GST because his aggregate turnover exceeds the threshold limit of Rs. 20 lakh.

Q. 5

Mr. X a dealer dealing with Intra State supply of goods and services has place of business in India furnished the following information in the financial year.

1. Sale of taxable goods by Head Office located in Chennai for Rs. 1,00,000
2. Supply of taxable services by Branch office at Bengaluru for Rs. 50,000
3. Supply of goods exempted from GST Rs. 10,000
4. Export of goods and services for Rs. 2,00,000
5. Sale of goods acting as agent on behalf of principal for Rs. 15,00,000

Answer:

Statement showing aggregate turnover in a Financial Year

Particulars	Value in Rs.
Sale of taxable goods by Head Office located in Chennai	1,00,000
Supply of taxable services by Branch office at Bengaluru	50,000
Supply of goods exempted from GST	10,000
Export of goods and services	2,00,000
Sale of goods acting as agent on behalf of principal	15,00,000
Aggregate turnover	18,60,000

Since, aggregate turnover does not exceed Rs. 20 lakhs, Mr. X is not required to register under GST.

Q. 6

Mr. CMA Manish, an unregistered person under GST, has place of profession in Bhubaneswar, Odisha, supplies taxable services to Infosys Ltd, a registered person under GST in Bangalore.

Answer the following:

- (a) Is it inter-State supply or intra-State supply.
- (b) Who is liable to pay GST.

Note: Mr. CMA Manish turnover in the P.Y. is Rs. 18 lakhs.

Answer:

Any person making inter-state supply has to compulsorily obtain registration and therefore in such cases, section 5(4) of IGST will not come into play.

However, Services providers providing aggregate supplies including inter-state services up to Rs. 20 lakh will be exempted from registration.

- (a) It is inter-State supply.
- (b) Mr. C is not liable to pay IGST. Since, registration is not made mandatory to him.

Q. 7

M/s Moon Pvt. Ltd. incorporated in Chennai on 1st July 2019 has the following details for the year 2019-20:

S. No.	Particulars	Value in lacs)
i	Inter-State exempted supply of goods	4.0
ii	Intra-State supplies of services	5.0
iii	Non-taxable supplies	2.0
iv	Exempted supplies of services	0.60
V	Value of export of goods	7.0

M/s Moon Pvt. Ltd. is required to register compulsorily under GST Law, advise.

Whether your answer is different if S. No. (i) above, inter-State taxable supply goods for Rs. 4 lacs.

Answer:

Aggregate turnover is as follows:

S. No.	Particulars	Value (Rs. in lacs)
I	Inter-State exempted supply of goods	4.0
II	Intra-State supplies of services	5.0
III	Non-taxable supplies	2.0
IV	Exempted supplies of services	0.60
V	Value of export of goods	7.0
	Aggregate turnover	18.60

Advise: Since, aggregate turnover of Moon Pvt. Ltd. does not exceed Rs. 20 lakhs, registration is not compulsory in the financial year 2019-20.

Yes. Our answer is different in the case of M/s Moon Pvt. Ltd. made inter state taxable supply of goods. As per Sec. 24 of the CGST Act, 2017 Person making any inter-state taxable supply of goods is required to register under GST Law irrespective of his aggregate turnover. Therefore, M/s Moon Pvt. Ltd. is required to register under GST Law.

Q. 8

Mr. Gold runs a retail shop for handmade jewellery and is registered in Chennai. Mr. Gold is planning to sell the jewellery at an exhibition in Mumbai, to be held from 1st January 2018 to 10th January 2018. Advise time with regard to registration and payment of GST.

Answer:

Mr. Gold should apply for registration as a casual taxable person within 5 days prior to the date of commencing the exhibition on 1st January 2018. Mr. Gold should also make an advance deposit of the estimated tax liability for the period from 1st January 2018 to 10th January 2018.

Q. 9

M/s X Ltd is an advertising company located in Chennai and is registered as a normal taxable person there. Now, they have secured an assignment to manage digital marketing for the Koti Deepothsavam Festival, which will take place in Hyderabad, Telangana. This will require M/s X Ltd. to displace some resources in Hyderabad until the festival is over. Advise M/s X Ltd. to obtain for separate registration in the State of Telangana.

Answer:

In this case, since M/s X Ltd does not have too many assignments coming from Hyderabad, they can register as a Casual Taxable Person in Telangana for 90 days. This will enable the organizers of the festival to take input credit on all GST paid to M/s X Ltd.

Q. 10

M/s X Ltd. incorporated in Bangalore, with its business locations of selling and servicing of goods in Bangalore, Chennai, Mumbai and Kolkata.

M/s X Ltd. an ISD situated in Bangalore receives invoices indicating Z 4 lakhs of Central tax, Z 4 lakhs of State tax and Z 7 lakhs of integrated tax on input service. Input services commonly used by the units of M/s X Ltd. How these taxes are distributed by M/s X Ltd. to their other units.

Answer:

M/s X Ltd. can distribute central tax, State tax as well as integrated tax of Z 15 lakhs as credit of integrated tax amongst its locations at Bangalore, Chennai, Mumbai and Kolkata through an ISD invoice containing the amount of credit distributed.

Q. 11

M/s XYZ Ltd, having its head Office at Mumbai, is registered as ISD. It has three units in different states namely 'Mumbai', 'Chennai' and 'Delhi' which are operational in the current year. M/s XYZ Ltd furnishes the following information for the month of December 2017. You are required to distribute the below input tax credit.

- (i) CGST and SGST paid on services used only for Mumbai Unit: Rs. 3,00,000/-
- (ii) IGST, CGST & SGST paid on services used for all units: Rs. 12,00,000/- Total Turnover of the units for the Financial Year 2016-17 are as follows: -

Unit	Turnover in Rs.
Turnover of Mumbai unit	5,00,00,000
Turnover of Chennai	3,00,00,000
Turnover of Delhi	2,00,00,000
Total turnover	10,00,00,000

Answer:**Statement showing distribution of input tax credit:**

Particulars	Credit distributed to all the units			
	Total credit available	Mumbai	Chennai	Delhi
CGST & SGST paid on services used only for Mumbai Unit.	3,00,000	3,00,000	0	0
IGST, CGST & SGST paid on services used in all units Distribution on pro-rata basis to all the units which are operational in the current year	12,00,000	6,00,000	3,60,000	2,40,000
Total	15,00,000	9,00,000	3,60,000	2,40,000

Working note:

(1) CGST & SGST paid on services used only for Mumbai Unit should be distributed only to that unit.

(2) Credit distributed pro rata basis on the basis of the turnover of all the units is as under –

(a) Unit Mumbai:	$(5,00,00,000/10,00,00,000)*12,00,000$	6,00,000
(b) Unit Chennai:	$(3,00,00,000/10,00,00,000)*12,00,000$	3,60,000
(c) Unit Delhi:	$(2,00,00,000/10,00,00,000)*12,00,000$	2,40,000

Q. 12

Discuss under following situations , who is liable to pay GST and take GST registration .

S. No.	Cases
1.	Praveen owns a radio taxi. He provides his service in Kolkata through Ola.
2.	Navdeep owns a radio taxi and operates with Delhi based Electronic Commerce Operator (ECO) named "Timepe taxi"
3.	Ganpati Ltd. is running a hotel in Mumbai and providing boarding and loading service through "journey.com" (a UK based website). Total turnover of Ganpati Ltd. is Rs. 70 lakhs.
4.	TVM Ltd. is running hotel in Kolkata and providing boarding and loading service through "journey.com" (a UK based website). Total turnover of TVM Ltd. is Rs. 17 lakhs.
5.	Rupesh is a plumber providing housekeeping services through Goclean.com (Nepal based website), turnover of Rupesh is Rs. 15 lakhs.
6.	Mr. C, recovery agent provides recovery service to Punjab national bank..
7.	Mineral exploration contract for 18 months is awarded to a Chennai based company in respect of specific sites in Mumbai by a Mumbai based corporation (i.e. local authority).

Answer:

S. No.	Cases	Who is liable to pay GST
1.	Praveen owns a radio taxi. He provides his service in Kolkata through Ola.	Ola or its agent in India.
2.	Navdeep owns a radio taxi and operates with Delhi based Electronic Commerce Operator (ECO) named "Timepe taxi".	ECO "Timepe taxi" will pay GST.
3.	Ganpati Ltd. is running a hotel in Mumbai and providing boarding and loading service through "journey.com" (a UK based website). Total turnover of Ganpati Ltd. is Rs. 70 lakhs.	Ganpati Ltd. will pay GST.
4.	TVM Ltd. is running hotel in Kolkata and providing boarding and loading service through "journey.com" (a UK based website). Total turnover of TVM Ltd. is Rs. 17 lakhs.	"journey.com" or its agent in India will pay GST.
5.	Rupesh is a plumber providing housekeeping services through Goclean.com (Nepal based website), turnover of Rupesh is Rs. 15 lakhs.	Goclean.com or its agent in India will pay GST.
6.	Mr. C, recovery agent provided recovery service to Punjab national bank.	Punjab national bank will be liable to pay GST under reverse charge mechanism.
7.	Mineral exploration contract for 18 months is awarded to a Chennai based company in respect of specific sites in Mumbai by a Mumbai based corporation (i.e. local authority).	Chennai based company will pay GST.

Q. 12

State any five circumstances under which registration can be cancelled by tax payer and also explain the procedure of cancellation of registration .

Answer:

The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration in such manner and within such period as may be prescribed. Under following circumstances registration can be cancelled by tax payer [section 29(1)]:

- Business has been discontinued.
- Business has been sold or transferred to some other party.. Change in the constitution of the business (like Partnership firm now converted into Private Limited company and so on).

- Amalgamation with other legal entity. Death of the proprietor.

Procedure for cancellation of registration:

1. A registered person , other than a person to whom registration has been granted or a person to whom a unique identity number has been granted, seeking cancellation of his registration shall electronically submit an application in Form GST REG-16,
2. A proper officer can send the show cause / cancellation notice to a registered person in FORM GST REG -17.
3. The concerned person must reply back within 7 days of notice explaining why his/her registration should not be cancelled. The reply to the show cause notice issued shall be furnished in FORM REG-18.
4. This form will be used by the proper officer to issue a formal order for cancellation of registration. The order is to be sent within 30 days from the application date or from the date of response in FORM GST REG- 19.
5. If proper officer is satisfied with the explanation, he can use this form to drop the cancellation proceeding and pass a formal order in FORM GST REG-20.

Q. 13

Write a short note on “Concept of distinct person under GST”.

Answer:

Distinct persons are persons with different GSTINs belonging to one legal entity (single PAN) situated within the same state or in two different states or in a different country.

Provisions of Distinct Person under the CGST (Amendment) Act [u/s 25 (2),(4) and (25):

- (2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:
Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.
- (4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
For example: If person has one place of business in Maharashtra for which registration is obtained and another place of business of the same person in Gujarat for which registration is obtained then such place of businesses will be considered as distinct person.
- (5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

Q. 14

Write a short note on “Advantages of voluntary registration under GST”.

Answer:

Advantages of voluntary registration under GST:

- (i) Legally recognized as supplier of goods or services; this helps in attracting more customers.
- (ii) Provide input tax credit to customers. As they can issue taxable invoices, they can collect GST. Their customers can take input credit on their purchases.
- (iii) They will be more competitive than other small business as buying from them will ensure input credit.
- (iv) Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees etc.
- (v) They can make inter-state sales without any restrictions.

Q. 15

Mrs. Lakshmi, intending to start a new business in January 2020, furnishes the following information pertaining to the period upto 31.03.2020

Estimated supplies	Rs.
Intra-State supplies of taxable goods	14,00,000
Intra-state supplies of exempt services	4,00,000
Export sales	3,20,000
Supplies made as agent of a principal	2,40,000

Ascertain the aggregate turnover. She wants to know whether she should get herself registered for GST purposes. You are required to help her. Further, what will be the GST payable by her, if the GST rate for taxable goods supplied is 18%?

Answer:

Computation of aggregate turnover

Estimated supplies	Amount in (Rs.)
Intra-State supplies of taxable goods	14,00,000
Intra-state supplies of exempt services	4,00,000
Export sales	3,20,000
Supplies made as agent of a principal	2,40,000
Aggregate turnover	23,60,000

Since the aggregate turnover exceeds Rs. 20 lakhs, Mrs. Lakshmi has to get her registered.

Computation of taxable supplies and GST

Estimated supplies	Amount in (Rs.)
Intra-State supplies of taxable goods	14,00,000
Intra-state supplies of exempt services	Nil
Export sales	Nil
Supplies made as agent of a principal	Nil
Aggregate taxable supplies	14,00,000
Estimated GST payable:	
CGST @9%	1,26,000
SGST @9%	1,26,000

Q. 16

Describe the procedure for application of registration and filing of returns by the casual taxable persons.

Answer:

Application for Registration by Casual taxable persons:

Casual taxable persons are required to obtain GST registration under a special category at least 5 days prior to the undertaking business.

There is no special form to register as a casual taxable person. Casual taxable person can use the normal form GST REG-01 which is used by other taxable persons for registration.

A casual taxable person, before applying for registration, declares his:

- Permanent Account Number,
- mobile number,
- e-mail address,
- 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.

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. The mobile number declared shall be verified through a one-time password sent to the said mobile number; and the e-mail address shall be verified through a separate one-time password sent to the said e-mail address.

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. Using this reference number generated, the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Returns by Casual taxable persons:

The casual taxable person is required to furnish the following returns electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

1) Form GSTR-1: giving the details of outward supplies of goods or services to be filed on or before the tenth day of the following month.

2) Form GSTR-2: giving the details of inward supplies to be filed after tenth but before the fifteenth day of the following month.

3) Form GSTR-3: to be filed after fifteenth day but before the twentieth day of the following month.

Annual return: However, a casual tax person shall not be required to file any annual return as required by a normal registered taxpayer.

Q. 17

Write a short note on “Advantages of voluntary registration under GST”.

Answer:

Advantages of voluntary registration under GST:

- (i) Legally recognized as supplier of goods or services; this helps in attracting more customers.
- (ii) Provide input tax credit to customers. As they can issue taxable invoices, they can collect GST. Their customers can take input credit on their purchases.
- (iii) They will be more competitive than other small business as buying from them will ensure input credit.
- (iv) Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees etc.
- (v) They can make inter-state sales without many restrictions.

Q. 18

State the procedure to be adopted for registration under GST.

Answer:

Procedure to be adopted for registration under GST [u/s 25 of CGST Act]:

Every person who is liable to be registered shall apply for registration within 30 days from the date on which he becomes liable to registration. Before applying for registration, he should declare his:

1. Legal name of business
2. PAN,
3. Mobile number,
4. e-mail address,
5. State or Union territory

In Part A of Form GST REG -01 on Common Portal.

On successful verification of these matters, a reference number will be generated.

Applicant shall submit Part B of Form GST REG-01, duly signed, along with documents specified in the said Form at the Common Portal.

Form GST REG-02 is the acknowledgement of Application.

If these documents are found to be in order, the Proper Officer shall approve the registration within 3 working days from the date of submission.

Q. 19

Write a short note on “Transactions through E-commerce Operators”.

Answer:

Rule 78 deals with the matching of details furnished by the e-Commerce operator with the details furnished by the supplier.

The following details relating to the supplies made through an e-Commerce operator, as declared in FORM GSTR-8, shall be matched with the corresponding details declared by the supplier in FORM GSTR-1-

- (a) GSTIN of the supplier;
- (b) GSTIN or UIN of the recipient, if the recipient is a registered person;
- (c) State of place of supply;
- (d) Invoice number of the supplier;
- (e) Date of invoice of the supplier;
- (f) Taxable value; and
- (g) tax amount

Provided that for all supplies where the supplier is not required to furnish the details separately for each supply, the following details relating to such supplies made through an e-Commerce operator, as declared in FORM GSTR-8, shall be matched with the corresponding details declared by the supplier in FORM GSTR-1

- (a) GSTIN of the supplier;
- (b) State of place of supply;
- (c) Total taxable value of all supplies made in the State through e-commerce portal; and
- (d) Tax amount on all supplies made in the State:

Q. 20

Describe the procedure for application of registration by casual taxable person.

Answer:

Application for Registration by Casual taxable persons:

Casual taxable persons are required to obtain GST registration under a special category at least 5 days prior to the undertaking business.

There is no special form to register as a casual taxable person. Casual taxable person can use the normal form GST REG-01 which is used by other taxable persons for registration.

A casual taxable person, before applying for registration, declares his:

- Permanent Account Number,
- mobile number,
- e-mail address,
- 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.

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. The mobile number declared shall be verified through a one-time password sent to the said mobile number; and the e-mail address shall be verified through a separate one-time password sent to the said e-mail address.

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. Using this reference number generated, the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Q. 21

Write a Short note on “Distinct person under GST Act”.

Answer:

Distinct persons are persons with different GSTINs belonging to one legal entity (single PAN) situated within the same state or in two different states or in a different country.

Provisions of Distinct Person under the CGST (Amendment) Act [u/s 25(2),(4) and 25]

A person seeking registration under this Act shall be granted a single registration in a State or Union territory. Provided that a person having multiple business verticals in a State or Union territory

may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

A person who has obtained or is required to obtain more than one registration whether in one State or Union territory or more than one States or Union territory shall in respect of each such registration, be treated as distinct person for the purpose of this Act.

Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment in another State or Union territory, then such establishment shall be treated as establishments of distinct persons for the purpose of this Act.

Q. 22

List out the category of persons who are not liable for registration under GST. State at least six category of persons who are required to compulsorily register under GST law.

Answer:

Persons not liable for registration:

- (i) Section 23(1)(a): Any person engaged exclusively in the business of supplying of goods or services or both they are not liable to tax or wholly exempt from tax under CGST or IGST.
- (ii) Section 23(1)(b): An agriculturist, to the extent of supply of produce out of cultivation of land.
- (iii) Section 23(2): The Government may on the recommendation of the GST Council.

Compulsory registration in certain cases:

- (i) Person making any inter-state taxable supply.
- (ii) Casual taxable persons making taxable supply.
- (iii) Person who are required to pay tax under reverse charge.
- (iv) Non-Resident taxable person making taxable supply.
- (v) Input service distributor, whether or not separately registered under CGST.
- (vi) Person who are required to pay tax under Section 9(5) of CGST Act (i.e., Electronic Commerce Operator).

Q. 23

State the procedure to be adopted for registration under GST [u/s 25 of CGST].

Answer:

Registration Procedure under GST [u/s 25 of CGST]:

Every person who is liable to be registered shall apply for registration within 30 days from the date on which he becomes liable to registration, before applying for registration declare his

1. Legal name of business
2. PAN,
3. Mobile number,
4. e-mail address,
5. State or Union territory

In Part A of Form GST REG -01 on Common Portal.

On successful verification of these numbers, a reference number will be generated.

Applicant shall submit Part B of Form GST REG-01, duly signed, along with documents specified in the said Form at the Common Portal.

Form GST REG - 02: Acknowledgement of Application

If these documents are found to be in order, the Proper Officer shall approve the registration within 3 working days from the date of submission.

Q. 24

Discuss about the advantages of voluntary registration under GST.

Answer:

The advantages of voluntary registration under GST are given below:

- (i) Legally recognized as supplier of goods or services; this helps in attracting more customers.

- (ii) Provide input tax credit to customers. As they can issue taxable invoices, they can collect GST. Their customers can take input credit on their purchases.
- (iii) They will be more competitive than other small business as buying from them will ensure input credit.
- (iv) Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees etc.
- (v) They can make inter-state sales without many restrictions.

Q. 25

Write a short note on “Aggregate Turnover as per section 2(6) of the CGST Act”

Answer:

Aggregate turnover as per Section 2(6) of CGST Act, 2017:

The term "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.

Aggregate turnover includes:

- The value of exported goods/services
- Exempted goods/services or both which attracts nil rate of tax or wholly exempt from tax and includes non taxable supply.
- Inter-state supplies between distinct persons having same PAN
- Supply on own account and on behalf of principal.

Aggregate turnover excludes:

- Inward supplies on which the recipient is required to pay tax under Reverse Charge Mechanism (RCM).
- Central tax (CGST),
- State tax (SGST),
- Union territory tax and
- Integrated tax (IGST)
- Compensation Cess

Q. 26

What are the advantages of taking registration in GST? Explain the conditions subject to which separate registration can be granted for multiple business verticals within a State or Union Territory.

Answer:

Advantages of taking registration in GST:

1. Legally recognised as supplier of goods or services.
2. Proper accounting of taxes paid on the input goods or services which can be utilised for payment of GST due on supply of goods or services or both by the business.
3. Legally authorised to collect tax from the purchasers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers or recipients.

Separate registration for multiple business verticals within a State or Union Territory [Rule 11 of the CGST Rules, 2017]:

(1) As per Rule 11(1) Any person having multiple business verticals within a State or a Union territory, requiring a separate registration for any of its business verticals shall be granted separate registration in respect of each of the verticals subject to the following conditions, namely:-

- (A) Such person has more than one business vertical;
- (B) The business vertical of a taxable person shall not be granted registration to pay tax under section 10 (composition levy) if any one of the other business verticals of the same person is paying tax under section 9;

Where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other business verticals of the said person shall become ineligible to pay tax under the said section.

- (C) All separately registered business verticals of such person shall pay tax under the Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.
- (2) A registered person eligible to obtain separate registration for business verticals may submit a separate application in FORM GST REG-01 in respect of each such vertical. [Rule 11(2)]
- (3) The provisions relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.

Q. 27

Write a short note on “Advantages of voluntary registration”

Answer:

Advantages of voluntary registration:

1. Legally recognized as supplier of goods or services; this helps in attracting more customers.
2. Provide input tax credit to customers. As they can issue taxable invoices, they can collect GST. Their customers can take input credit on their purchases.
3. They will be more competitive than other small business as buying from them will ensure input credit.
4. Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees etc.
5. They can make inter-state sales without many restrictions.

Q. 27

State the advantages to a taxpayer for obtaining registration under GST.

Answer:

The following are advantages to a taxpayer who obtain registration under GST:

- (i) He is legally recognized as supplier of goods or services or both.
- (ii) He is legally authorized to collect taxes from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients.
- (iii) He can claim input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
- (iv) Seamless flow of Input Tax Credit from suppliers to recipients at the national level.
- (v) Registered person is eligible to apply for Government bids or contracts or assignments.
- (vi) Registered person under GST can easily gain trust from customers.

Q. 29

Mr. Vishnu, who has started a business for supply of goods and services in Tamil Nadu, furnishes the following information pertaining to the period commencing on 01-07-2017 and ended on 31-03-2018:

Sl No.	Particulars	Amount (Rs.)
(i)	Sale of diesel on which Sale Tax (VAT) is levied by Tamil Nadu Government	7,00,000
(ii)	Supply of goods, after completion of job work, from the place of Mr. Vishnu, directly by his principal under whom he is registered as job worker	4,20,000
(iii)	Export supply to Dubai	6,00,00
(iv)	Supply to its own additional place of business in Tamil Nadu, under same registration	5,00,000
(v)	Supply of goods exempt from GST	8,20,000

Your are required to help him in deciding whether he has to go for registration under GST law.

Answer:**Computation of aggregate turnover for CGST registration**

S. No.	Particulars	Amount (Rs.)
(i)	Sale of diesel on which Sale Tax (VAT) is levied by Tamil Nadu Government. As per section 2(47) of the CGST Act, 2017, non-taxable supply of goods like diesel, to be also included	7,00,000
(ii)	Supply of goods, after completion of job work, from the place of Vishnu, directly by his principal. This will be treated as the supply of goods by the principal in terms of explanation (ii) to section 22 of the CGST Act, 2017.	Nil
(iii)	Export supply to Dubai Specifically includable in the aggregate turnover in terms of section 2(6) of the CGST Act, 2017.	6,00,000
(iv)	Supply to its own additional place of business in Tamil Nadu Supply made without consideration to units within the same State (under same registration) is a not a supply and hence not includable in aggregate turnover.	Nil
(v)	Supply of goods exempt from GST As per section 2(47) of the CGST Act, 2017, supply of exempt goods like diesel, to be also included	8,20,000
Aggregate turnover for CGST registration purposes		21,20,000

Since the aggregate turnover exceeds Rs.20 laksh, Vishnu has to get himself registered. He should be advised accordingly.

Note: as Mr. Vishnu makes export supply, he is a person making interstate taxable supply and is liable for compulsory registration under Section 24 of CGST Act, irrespective of whether his turnover exceeds the threshold limit of Rs.20 lakhs or not.

Q. 30

Write a short note on “Procedure for Registration under GST”.

Answer:

Under section 25 of GST, every person who is liable to be registered shall apply for registration within 30 days from the date on which he becomes liable to registration, before applying for registration declare his

1. Legal name of business
2. PAN
3. Mobile number
4. E-mail address
5. State or union territory

In Part A of Form GST REG-01 on common portal

On successful verification of these numbers, a reference number will be generated. Applicant shall submit Part B of Form GST REG-01, duly signed, along with documents specified in the said Form at the common portal. Form GST REG-02: Acknowledgement of Application

If these documents are found to be in order, the proper office shall approve the registration within 3 working days from the date of submission.

Certification of Registration shall be granted in Form GST-REG-06. Certification of Registration contains Goods and Services Tax Identification number (GSTIN), two characters for the state code, ten characters for the PAN, two characters for the entity code and one checksum character.

Q. 31

Discuss the following with reference to the provisions of CGST Act:

- (i) Persons who are not liable for registration; and
- (ii) Persons who are compulsorily required to be registered.

Answer:**(i) Persons not liable for registration:**

- Sec 23(1)(a): Any person engaged exclusively in the business of supplying of goods or services or both they are not liable to tax or wholly exempt from tax under CGST or IGST.
- Sec 23(1)(b): An agriculturist, to the extent of supply of produce out of cultivation of land.
- Sec 23(2): The government may, on the recommendation of the GST Council. Specify/notify such persons/class of persons.

(ii) Compulsory registration in certain cases:

Sec 24: The following categories of persons shall be required to be registered under GST:

- 1) Persons making any inter - state taxable supply;
- 2) Casual taxable person making taxable supply;
- 3) Person who are required to pay tax under reverse charge;
- 4) Persons who are required to pay tax under sec. 9(5) of CGST (i.e., Electronic commerce operator);
- 5) Non - resident taxable person making taxable supply;
- 6) Person who are required to deduct tax under sec 51, whether or not separately registered under this act;
- 7) Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- 8) Input services distributor, whether or not separately registered under CGST;
- 9) Persons who supply of goods or services or both, other than supplies specified under Sec 9(5), through such electronic commerce operator who is required to collect tax at source under Sec 52;
- 10) Every electronic commerce operator;
- 11) Every person supplying online information and database access or retrieval services from place outside India to a person in India, other than a registered person; and
- 12) Such other person or class of person as may be notified by the Govt. on the recommendation of the council.

Q. 32

Mrs. Lakshmi, intending to start a new business in January, 2018, furnishes the following information pertaining to the period upto 31.03.2018:

Estimated supplies	(Rs.)
Intra-State supplies of taxable goods	14,00,000
Intra-State supplies of exempt services	4,00,000
Export sales	3,20,000
Supplies made as agent of a principal	2,40,000

Ascertain the aggregate turnover. She wants to know whether she should get herself registered for GST purposes. You are required to help her. Further, what will be the GST payable by her, if the GST rate for taxable goods supplied is 18%?

Answer:

Computation of aggregate turnover

Estimated supplies	Amount (Rs.)
Intra-State supplies of taxable goods	14,00,000
Intra-State supplies of exempt services	4,00,000
Export sales	3,20,000
Supplies made as agent of a principal	2,40,000
Aggregate turnover	23,60,000

Since the aggregate turnover exceeds Rs. 20 lakhs, Mrs. Lakshmi has to get her registered.

Computation of taxable supplies and GST

Estimated supplies	Amount
Intra-State supplies of taxable goods	14,00,000
Intra-State supplies of exempt services	Nil
Export sales	Nil

Supplies made as agent of a principal	Nil
Aggregate taxable supplies	14,00,000
Estimated GST payable:	
SGST at 9%	1,26,000
CGST at 9%	1,26,000

Alternative answer: As per sec. 24 (vii) of the CGST Act it is states that persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise, have to mandatorily take registration irrespective of their amount of turnover. As per this provision, threshold limit of Rs. 20 lakhs (Rs. 10 lakhs in special category of states) is not applicable for intermediaries.

Q. 33

List out the category of persons who are not liable for registration under GST. State at least four category of persons who are required to compulsorily register under GST law.

Answer:

Persons not liable for registration:

- (i) Sec. 23(1)(a): Any person engaged exclusively in the business of supplying of goods or services or both they are not liable to tax or wholly exempt from tax under CGST or IGST.
- (ii) Sec. 23(1)(b): An agriculturist ,to the extent of supply of produce out of cultivation of land.
- (iii) Sec. 23(2): The government may, on the recommendation of the GST Council exempt any person/class of persons.

Compulsory registration in certain cases:

Sec 24 of the CGST Act: The following categories of persons shall be required to be registered under GST:

- (i) Persons making any inter - state taxable supply;
- (ii) Casual taxable persons making taxable supply;
- (iii) Persons who are required to pay tax under reverse charge u/s 9(3) of CGST Act.
- (iv) Persons who are required to pay tax under sec.9(5) of CGST Act (i.e., Electronic Commerce Operator);
- (v) Non - resident taxable person making taxable supply;
- (vi) Persons who are required to deduct tax under sec 51, whether or not separately registered under this act;
- (vii) Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input services distributor, whether or not separately registered under CGST;
- (ix) Persons who supply of goods or services or both, other than supplies specified under sec 9(5), through such electronic commerce operator who is required to collect tax at source under sec 52;
- (x) Every electronic commerce operator;
- (xi) Every persons supplying online information and database access or retrieval services from place outside India to a person in India , other than a registered person; and
- (xii) Such other person or class of persons as may be notified by the Govt. on the recommendation of the council.

Q. 34

Write a short note on “Advance payment of GST and refund claim by casual trading person”

Answer:

Advance payment of GST:

The Common Portal, after making the mandatory advance deposit of tax for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought will give the applicant a temporary reference number. The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger.

The amount deposited shall be credited to the electronic cash ledger of casual taxable person. On depositing the amount, an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

The casual taxable person can make taxable supplies only after the issuance of the certificate of registration.

Refund by Casual taxable person:

The casual taxable person is eligible for the refund of any balance of the advance tax deposited by him after adjusting his tax liability. The balance advance tax deposit can be refunded only after all the returns have been furnished, in respect of the entire period for which the certificate of registration was granted to him had remained in force.

The refund relating to balance in the electronic cash ledger has to be made in serial no. 14 of the last FORM GSTR-3 return required to be furnished by him.

Q. 35

What are the advantages of taking registration in GSTRs. 5

Answer:

Registration will confer following advantages to the business:

- i) Legally recognized as supplier of goods or services.
- ii) Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- iii) Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- iv) Become eligible to avail various other benefits and privileges rendered under the GST laws.

Q. 36

Discuss the circumstances where registration is liable to be cancelled. 3

Answer:

Section 29(1) of the CGST Act, 2017 provides that the proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where:

1. the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
2. There is any change in the constitution of the business; or
3. The taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24

Further, section 29(2) of the CGST Act, 2017 provides that the proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

- A. a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- B. person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
- C. any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
- D. any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- E. Registration has been obtained by means of fraud, wilful misstatement or suppression of facts further, the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

Q. 37

Pure Oils, Delhi has started the supply of machine oils and high-speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month:

SI. No.	Particulars	Rs. *
(i)	Supply of machine oils in Delhi	2,00,000
(ii)	Supply of high-speed diesel in Delhi	4,00,000
(iii)	Supply made through Fortis Lubricants- an agent of Pure Oils in Delhi	3,75,000
(iv)	Supply made by Pure Oils from its branch located in Punjab	1,80,000

* excluding GST

Determine whether Pure Oils is liable for registration. Will your Answer change, if Pure Oils supplies machine oils amounting to Rs. 2,50,000 from its branch located in Himachal Pradesh in addition to the above-mentioned supplies?

Answer:

As per section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs.20 lakhs.

However, if such taxable supplies are made from any of the specified special category States, namely, States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand, he shall be liable to be registered if his aggregate turnover in a financial year exceeds Rs.10 lakhs. As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

- i) All taxable supplies,
- ii) All exempt supplies,
- iii) Exports of goods and/ or services and
- iv) All inter-state supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, state tax, union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Further, the explanation to section 22 provides that the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.

Section 9 of the CGST Act, 2017 provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of high-speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includable while computing the aggregate turnover.

In the backdrop of the above-mentioned discussion, the aggregate turnover for the month of April, 20XX is computed as under:

S. No.	Particulars	Amount (in Rs.)
(i)	Supply of machine oils in Delhi	2,00,000
(ii)	Add: Supply of high-speed diesel in Delhi	4,00,000
(iii)	Add: Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi	-
(iv)	Add: Supply made by Pure Oils from its branch located in Punjab	1,80,000
	Aggregate Turnover	7,80,000

Since the aggregate turnover does not exceed Rs.20 Lakhs, Pure Oils is not liable to be registered.

If Pure Oils made supply of machine oils amounting to Rs.2,50,000 from its branch in Himachal Pradesh in addition to the above supply, then threshold limit of registration will be reduced to Rs.10 lakhs as Himachal Pradesh is one of the specified special Category States.

Aggregate Turnover in that case would be Rs. 7,80,000 + Rs. 2,50,000 = Rs. 10,30,000. So, if Pure Oils supplies machine oils amounting to Rs. 2,50,000 from its branch in Himachal Pradesh, then it is liable to be registered.

Q. 38

In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income-tax Act, 1961. State one exception to it.

Answer:

A Permanent Account Number is mandatory to be eligible for grant of registration.

One exception to this is a non-resident taxable person. A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

TAX INVOICE UNDER GST

INTRODUCTION

WHEN A TAX INVOICE IS NEEDED?	<ol style="list-style-type: none"> 1. WHEN A REGISTERED PERSON IS MAKING OUTWARD SUPPLY 2. WHEN A REGISTERED PERSON IS RECEIVING INWARD SUPPLY UNDER REVERSE CHARGE
WHEN A TAX INVOICE IS NOT NEEDED?	<ol style="list-style-type: none"> 1. DEALING ONLY IN EXEMPTED SUPPLIES 2. AVALING THE COMPOSITION SCHEME (COMPOSITION DEALER)
WHAT WILL BE THE SUBSTITUTE OF INVOICE WHEN IT IS NOT ISSUED?	BILL OF SUPPLY
WHEN BOTH INVOICE AND BILL OF SUPPLY ARE NOT NEEDED?	IF THE VALUE OF THE SUPPLY IS LESS THAN ` 200/-

IMPORTANCE OF TAX INVOICE

ESSENTIAL DOCUMENT FOR THE RECIPIENT TO AVAIL INPUT TAX CREDIT (ITC)	INVOICE IS AN IMPORTANT INDICATOR OF THE TIME OF SUPPLY.
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TIME LIMIT TO ISSUE TAX INVOICE OR BILL OF SUPPLY

<u>GOODS</u>	<u>SERVICES</u>
INVOICE ISSUED BEFORE OR AT THE TIME OF REMOVAL OF GOODS FOR SUPPLY TO THE RECIPIENT.	INVOICE SHALL BE ISSUED BEFORE OR WITHIN 30 DAYS FROM THE DATE OF THE SUPPLY OF SERVICE.

SPECIAL RULE FOR BANKING/ NBFC/ INSURER

INVOICE SHALL BE ISSUED **BEFORE OR WITHIN 45 DAYS** FROM THE DATE OF THE SUPPLY OF SERVICE.

CONTENTS OF TAX INVOICE

THERE IS NO FORMAT PRESCRIBED FOR AN INVOICE, however, invoice rules makes it mandatory for an invoice to have the following fields (only applicable field are to be filled):

- (a) Name, address and GSTIN of the supplier
- (b) A consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters like hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination there of, unique for a financial year
- (c) Date of its issue
- (d) Name, address and GSTIN or UIN, if registered, of the recipient.
- (e) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more
- (f) HSN code of goods or Accounting Code of Services
- (g) Description of goods or services
- (h) Quantity in case of goods and unit or Unique Quantity Code there of
- (i) Total value of supply of goods or services or both
- (j) Taxable value of supply of goods or services or both, taking into account the discount or abatement, if any
- (k) Rate of tax (Central tax, State tax, Integrated tax, union territory tax or cess)
- (l) Amount of tax charged in respect of taxable goods or services (Central tax, State tax, Integrated tax, union territory tax or cess)
- (m) Place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce
- (n) Address of delivery where the same is different from the place of supply
- (o) Whether the tax is payable on reverse charge basis
- (p) Signature or digital signature of the supplier or his authorized representative

SIGNATURE/DIGITAL SIGNATURE OF THE SUPPLIER/HIS AUTHORISED REPRESENTATIVE NOT REQUIRED ON

- (i) Electronic tax invoice
- (ii) Electronic bill of supply
- (iii) Electronic consolidated tax invoice in case of banking companies etc. and
- (iv) Electronic ticket for passenger transportation service

MANNER OF ISSUING TAX INVOICE

- (1) The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner, namely,- by marking on face of the invoice
 - (a) **Original** for Recipient;
 - (b) Duplicate for Transporter; and
 - (c) Triplicate for Supplier.
- (2) The invoice shall be prepared in duplicate, in the case of the supply of services, in the following manner, namely,-
 - (a) Original for recipient; and
 - (b) Duplicate for supplier.
- (3) The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in **FORM GSTR-1**.

INVOICE IN CASE OF CONTINUOUS SUPPLY OF GOODS

In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

INVOICE IN CASE OF CONTINUOUS SUPPLY OF SERVICES

- (a) Where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;
- (b) Where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
- (c) Where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

BILL OF SUPPLY UNDER GST

INTRODUCTION

WHAT IS BILL OF SUPPLY?	A BILL OF SUPPLY IS SIMILAR TO A GST INVOICE EXCEPT THAT BILL OF SUPPLY DOES NOT CONTAIN ANY TAX AMOUNT AS THE SELLER CANNOT CHARGE GST TO THE BUYER.
WHEN A BILL OF SUPPLY IS ISSUED?	<ol style="list-style-type: none"> 1. DEALING ONLY IN EXEMPTED SUPPLIES 2. AVALING THE COMPOSITION SCHEME (COMPOSITION DEALER)

CONTENTS OF BILL OF SUPPLY

A bill of supply shall be issued by the supplier containing the following details:

- (a) Name, address and GSTIN of the supplier
- (b) A consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters like hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination there of, unique for a financial year
- (c) Date of its issue
- (d) Name, address and GSTIN or UIN, if registered, of the recipient
- (e) HSN Code of goods or Accounting Code for Services
- (f) Description of goods or services or both
- (g) Value of supply of goods or services or both taking into account discount or abatement, if any
- (h) Signature or digital signature of the supplier or his authorized representative

CREDIT & DEBIT NOTE UNDER GST

CREDIT NOTE

WHEN A CREDIT NOTE IS NEEDED?	<p>IN CASES WHERE TAX INVOICE HAS BEEN ISSUED FOR A SUPPLY AND SUBSEQUENTLY IT IS FOUND THAT THE VALUE OR TAX CHARGED IN THAT INVOICE IS MORE THAN WHAT IS ACTUALLY PAYABLE/CHARGEABLE</p> <p>OR</p> <p>WHERE THE RECIPIENT HAS RETURNED THE GOODS,</p> <p>THE SUPPLIER CAN ISSUE A CREDIT NOTE TO THE RECIPIENT.</p>
REPORTING OF CREDIT NOTE	DECLARATION NEEDED IN THE RETURN FOR THE MONTH DURING WHICH SUCH CREDIT NOTE HAS BEEN ISSUED
LAST DATE OF CREDIT NOTE REPORTING	<ul style="list-style-type: none"> • SEPTEMBER FOLLOWING THE END OF THE FINANCIAL YEAR IN WHICH SUCH SUPPLY WAS MADE <p>OR</p> <ul style="list-style-type: none"> • THE DATE OF FURNISHING OF THE RELEVANT ANNUAL RETURN, <p><u>WHICHEVER IS EARLIER.</u></p>
WHETHER ONE CREDIT NOTE COVERS ONLY ONE INVOICE	A DEALER MAY ISSUE ONE CREDIT NOTE FOR MULTIPLE INVOICES

DEBIT NOTE

WHEN A DEBIT NOTE IS NEEDED?	<p>IN CASES WHERE TAX INVOICE HAS BEEN ISSUED FOR A SUPPLY AND</p> <p>SUBSEQUENTLY IT IS FOUND THAT THE VALUE</p> <p>OR</p> <p>TAX CHARGED IN THAT INVOICE IS LESS THAN WHAT IS ACTUALLY PAYABLE/ CHARGEABLE,</p> <p>THE SUPPLIER CAN ISSUE A DEBIT NOTE TO THE RECIPIENT.</p>
REPORTING OF DEBIT NOTE	DECLARATION NEEDED IN THE RETURN FOR THE MONTH DURING WHICH SUCH DEBIT NOTE HAS BEEN ISSUED

CONTENTS OF CREDIT NOTE & DEBIT NOTE

- (a) The word “Credit / Debit Note”, wherever applicable, indicated prominently
- (b) Name, address and GSTIN of the supplier
- (c) Nature of the document
- (d) A consecutive serial number containing alphabets or numerals or special characters like hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year
- (e) Date of issue of the document
- (f) Name, address and GSTIN or UIN, if registered, of the recipient
- (g) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered
- (h) Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply
- (i) Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient.
- (j) Signature or digital signature of the supplier or his authorized representative.

REVISED INVOICE & VARIOUS VOUCHERS UNDER GST

REVISED INVOICE

A REGISTERED PERSON MAY ISSUE,
WITHIN ONE MONTH
FROM THE DATE OF ISSUANCE OF
CERTIFICATE OF REGISTRATION

A REVISED INVOICE AGAINST THE
INVOICE ALREADY ISSUED
DURING THE PERIOD BEGINNING
WITH THE EFFECTIVE DATE OF
REGISTRATION
TILL THE DATE OF ISSUANCE OF
CERTIFICATE OF REGISTRATION TO
HIM.

RECEIPT VOUCHER ON RECEIPT OF ADVANCE PAYMENT

WHEN TO ISSUE

REGISTERED PERSON HAS TO ISSUE A
RECEIPT VOUCHER OR ANY OTHER
DOCUMENT,
EVIDENCING THE RECEIPT OF
ADVANCE PAYMENT.

RATE OF GST

IF AT THE TIME OF RECEIPT OF
ADVANCE,
(I) THE RATE OF TAX IS NOT
DETERMINABLE, THE TAX MAY BE
PAID @ 18%;
(II) THE NATURE OF SUPPLY IS NOT
DETERMINABLE, THE SAME SHALL BE
TREATED AS INTER-STATE SUPPLY.

REFUND VOUCHER

WHERE ANY SUCH RECEIPT VOUCHER
IS ISSUED,
BUT SUBSEQUENTLY

**NO SUPPLY IS MADE AND NO TAX
INVOICE IS ISSUED,**

THE REGISTERED PERSON WHO HAS
RECEIVED THE ADVANCE PAYMENT
CAN ISSUE

**A REFUND VOUCHER
AGAINST SUCH PAYMENT**

ELECTRONIC TICKET

A REGISTERED PERSON SUPPLYING SERVICES BY WAY OF ADMISSION TO **EXHIBITION OF CINEMATOGRAPH FILMS IN MULTIPLEX SCREENS** SHALL BE REQUIRED TO ISSUE AN ELECTRONIC TICKET

THE SAID ELECTRONIC TICKET SHALL BE DEEMED TO BE A TAX INVOICE FOR ALL PURPOSES OF THE ACT, EVEN IF SUCH TICKET DOES NOT CONTAIN THE DETAILS OF THE RECIPIENT OF SERVICE BUT CONTAINS THE OTHERPREScribed INFORMATION

QUESTIONS AND ANSWERS

Q. 1

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S. No.	Recipient of supply	Amount (Rs.)
1	Raghav Traders - a registered retail dealer	190
2	Dhruv Enterprises - an unregistered trader	358
3	Gaurav - a Painter [unregistered]	500
4	Oberoi Orphanage - an unregistered entity	188
5	Aaradhya - a Student [unregistered]	158

None of the recipients require a tax invoice [Raghav Traders being a composition dealer].

Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

Answer:

Jain & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage [worth Rs.188] and Aaradhya [worth Rs.158] as the value of goods supplied to these recipients is less than Rs.200 as also these recipients are unregistered and don't require a tax invoice. As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than Rs.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 Rs.200.

Q. 2

Write a short note on "Tax invoice".

Answer:

Tax Invoice: Under the GST regime, a "tax invoice" means the tax invoice referred to in section 31 of the CGST Act, 2017.

For example, if a registered person is making or receiving supplies (from unregistered persons), then a tax invoice needs to be issued by such registered person.

However, if a registered person is dealing only in exempted supplies or is availing the composition scheme (composition dealer), then such a registered person needs to issue a bill of supply in lieu of tax invoice.

An invoice or a bill of supply need not be issued if the value of the supply is less than Rs. 200/-, subject to specified conditions provisos to sub section (3) of Section 31 of the CGST Act, 2017.

Importance of Tax Invoice under GST: Under GST, a tax invoice is an essential document for the recipient to avail Input Tax Credit (ITC).

A registered person cannot avail Input Tax Credit unless he is in possession of a tax invoice or a debit note.

GST is chargeable at the time of supply. Invoice is an important indicator of the time of supply.

Q. 3

What are the provisions relating to issuance of invoice in case of "continuous supply of goods" and "continuous supply of services"?

Answer:

In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

In case of continuous supply of services, invoice will be issued as follows:

- 1) Where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;
- 2) Where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

3) Where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

Q. 4

Write a short note on “Tax invoice”

Answer:

Tax Invoice: Under the GST regime, a "tax invoice" means the tax invoice referred to in section 31 of the CGST Act, 2017.

For example, if a registered person is making or receiving supplies (from unregistered persons), then a tax invoice needs to be issued by such registered person.

However, if a registered person is dealing only in exempted supplies or is availing the composition scheme (composition dealer), then such a registered person needs to issue a bill of supply in lieu of tax invoice.

An invoice or a bill of supply need not be issued if the value of the supply is less than ₹ 200/-, subject to specified conditions provisos to sub section (3) of Section 31 of the CGST Act, 2017.

Importance of Tax Invoice under GST: Under GST, a tax invoice is an essential document for the recipient to avail Input Tax Credit (ITC).

A registered person cannot avail Input Tax Credit unless he is in possession of a tax invoice or a debit note.

GST is chargeable at the time of supply. Invoice is an important indicator of the time of supply.

Q. 5

Write a short note on “Credit Notes as per CGST Act”

Answer:

Credit Notes as per CGST Act: In cases where tax invoice has been issued for a supply and subsequently it is found that the value or tax charged in that invoice is more than what is actually payable /chargeable or where the recipient has returned the goods, the supplier can issue a credit note to the recipient.

A registered person who issues such a credit note has to declare details of such credit note in the return for the month during which such credit note has been issued but not later than —

- September following the end of the financial year in which such supply was made or
- The date of furnishing of the relevant annual return, whichever is earlier.

The tax liability of the registered person will be adjusted in accordance with the credit note issued, however no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Q. 6

Write short notes on “Revised Invoice as per Section 31(3)(a) of the CGST Act, 2017”

Answer:

A registered person may, within one month from the date of issuance of certificate of registration and in such manner as prescribed in the Invoice Rules, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him.

This provision is necessary, as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the time period and registration is granted, the effective date of registration is the date on which the person became liable for registration. Thus there would be a time lag between the date of grant of certificate of registration and the effective date of registration.

For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that Input Tax Credit can be availed by the recipient on such supplies.

Q. 7

Surana & Co. is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S. No.	Recipient of supply	Amount (Rs.)
1	Shivam Traders - A Composition Scheme retail dealer	190
2	Harsh Enterprises - an unregistered trader	358
3	Sonam - A painter [unregistered]	500
4	Chandak orphanage - an unregistered entity	188
5	Lovely - a student [unregistered]	158

None of the recipients require a tax invoice. Determine in respect of which of the above supplies, Surana & Co. may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

Answer:

S. No.	Recipient	Value of Supply (Rs.)	Issue of Consolidated Tax Invoice	Reasons
1	Shivam Traders - A Composition Scheme retail dealer	190	No	Recipient being a Registered person
2	Harsh Enterprises - an unregistered trader	358	No	Value of supply > Rs.200
3	Sonam - A painter [unregistered]	500	No	Value of supply < Rs.200
4	Chandak orphanage - an unregistered entity	188	Yes	<ul style="list-style-type: none"> Unregistered Recipient Value of supply is less than Rs.200 Recipient don't require a tax invoice
5	Lovely - a student [unregistered]	158	Yes	<ul style="list-style-type: none"> Unregistered Recipient Value of supply is less than Rs.200 Recipient don't require a tax invoice

Q. 8

Write a short note on “Manner of issuing invoice”

Answer:

Manner of issuing invoice [Rule 48 of the CGST Act, 2017]:

(1) The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner, namely by marking on the face of the invoice

- Original for Recipient;
- Duplicate for Transporter; and
- TriPLICATE for Supplier.

(2) The invoice shall be prepared in duplicate, in the case of supply of services, on the following manner namely

- Original for Recipient; and
- Duplicate for Supplier.

(3) The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in FORM GSTR-1.

Q. 9

Write a short note on “Harmonised System of Nomenclature (HSN)”

Answer:

Harmonised System of Nomenclature (HSN): Goods are classified under Central Excise Tariff Act based on the "Harmonized System of Nomenclature" having eight digit classifications. All goods are classified using 4 digit system. These are called 'headings'. Further 2 digits are added for sub-classification, which are termed as 'sub-headings'. Further 2 digits are added for sub-sub-classification, which is termed as 'tariff item'. Rate of duty is indicated against each 'tariff item' and not against heading or sub-heading.

Harmonised System of Nomenclature (HSN) is an internationally accepted product coding system, formulated to facilitate trade flow and analysis of trade statistics. The system was developed by World Customs Organisation (WCO), which was earlier known as Customs Cooperative Council. HSN was adopted by International Convention of Harmonised System of Nomenclature.

The CETA is also based on the HSN pattern, of course, with some deviation. HSN has got commercial as well as judicial recognition.

Q. 10

What is 'bill of supply' and 'invoice-cum- bill of supply' under GST?

Answer:

Bill of supply: A bill of supply is similar to a GST invoice except that bill of supply does not contain any tax amount as the seller cannot charge GST to the buyer.

A bill of supply is issued in cases where tax cannot be charged:

- Registered person is selling exempted goods/services,
- Registered person has opted for composition scheme

Invoice-cum-bill of supply: As per Notification No. 45/2017-Central Tax, dated 13th October 2017— If a registered person is supplying taxable as well as exempted goods/services to an unregistered person, then he can issue a single "invoice-cum-bill of supply" for all such supplies.

Q. 11

Write a short note on “Revised Invoice as per Section 31(3)(a) of the CGST Act, 2017”

Answer:

A registered person may, within one month from the date of issuance of certificate of registration and in such manner as prescribed in the Invoice Rules, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him.

This provision is necessary, as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the time period and registration is granted, the effective date of registration is the date on which the person became liable for registration. Thus there would be a time lag between the date of grant of certificate of registration and the effective date of registration.

For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that Input Tax Credit can be availed by the recipient on such supplies.

Q. 12

The aggregate turnover of Lili Services Ltd. exceeded Rs. 20 lakhs on 14th August. He applied for registration on 3rd September and was granted the registration certificate on 8th September. You are required to advise Lili Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

Answer:

As per section 25 of the CGST Act read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since Lili Services Ltd.'s turnover exceeded Rs. 20 lakhs on 14th August, it became liable to registration on same day. Further,

it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is date on which he becomes liable to registration, i.e. 14th August.

As per section 31 of the CGST Act read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration. Therefore, in the given case, Lili Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (14th August) till the date of issuance of certificate of registration (8th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 8th October.

Q. 13

What is 'bill of supply' and 'invoice-cum- bill of supply' under GST?

Answer:

Bill of supply:

A bill of supply is similar to a GST invoice except that bill of supply does not contain any tax amount as the seller cannot charge GST to the buyer.

A bill of supply is issued in cases where tax cannot be charged:

- Registered person is selling exempted goods/services,
- Registered person has opted for composition scheme

Invoice-cum-bill of supply:

As per Notification No. 45/2017-Central Tax, dated 13th October 2017 —

If a registered person is supplying taxable as well as exempted goods/services to an unregistered person, then he can issue a single "invoice-cum-bill of supply" for all such supplies.

Q. 14

Write a short note on "Tax invoice"

Answer:

Tax invoice: Under the GST regime, a "tax invoice" means the tax invoice referred to in section 31 of the CGST Act, 2017.

For example, if a registered person is making or receiving supplies from unregistered persons, then a tax invoice needs to be issued by such registered person.

However, if a registered person is dealing only in exempted supplies or is availing the composition scheme (composition dealer), then such a registered person needs to issue a bill of supply in lieu of tax invoice. An invoice or a bill of supply need not be issued if the value of the supply is less than Rs. 200/-.

Importance of tax invoice under GST:

Under GST, a tax invoice is an essential document for the recipient to avail Input Tax Credit (ITC).

A registered person cannot avail Input Tax Credit unless he is in possession of a tax invoice or a debit note.

GST is chargeable at the time of supply. Invoice is an important indicator of the time of supply.

Q. 15

Following is the GST tax invoice issued by a registered supplier:

M/S ABC Pvt. Ltd.

Chennai

Date:12-01-2018		GST no: 33AXCC A1234MZU
Purchaser: John Britto, Kochi	GST no. Of purchaser: 31AAVPR6745J1ZU	
	Quantity (Nos.)	Value (Rs.)
Ready-made shirts	10,000	12,00,000
IGST		2,16,000
Total amount		14,16,000

Being computer printout, no signature is required
 Identify any five mistakes or errors found in the above GST tax invoice.

Answer:

Mistakes in Tax Invoice issued

- (i) Tax invoice does not contain the serial number
- (ii) Address of the supplier is missing
- (iii) GST number of the supplier is incorrect
- (iv) Address of the purchaser is missing
- (v) Rate per unit of the goods supplied is not given
- (vi) HSN/SAC of goods supplied not given
- (vii) Rate of GST not given
- (viii) Signature is required of authorised person of supplier

Q. 16

Write short notes on “Contents of receipt voucher”

Answer:

A registered person shall, on receipt of advance payment with respect to any supply of goods/services, issue a receipt voucher or any other document, evidencing receipt of such payment. A receipt voucher shall contain the following particulars -

- (A) Name, address and GSTIN of the supplier.
- (B) A consecutive serial number (not exceeding 16 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 GSTIN or UIN, if registered, of the recipient
- (E) Description of goods or services.
- (F) Amount of advance taken.
- (G) Rate of tax (CGST, SGST, IGST, UTGST or GST cess).
- (H) Amount of tax charged in respect of taxable goods or services (CGST, SGST, IGST, UTGST or GST cess)
- (I) Place of supply along with the name of State and its code, in case of a supply in the course of inter-state trade or commerce.
- (J) Whether the tax is payable on reverse charge basis.
- (K) Signature or digital signature of the supplier or his authorized representative.

Q. 17

Mr. Kamal Tripathi, a supplier who has recently taken registration under the GST law, wants to keep the rates for goods supplied confidential. He wants to know whether he can raise the tax invoices showing consolidated value of the goods supplied and the GST together. He will be making Inter-State supplies also. Advise Kamal Tripathi suitably, having regard to the provisions of the CGST Act, 2017.

Answer:

Essentials of tax invoice under GST

Section 31 of the CGST Act, 2017 read with the CGST Rules, 2017, inter alia, provides that tax invoice shall contain the following particulars -

- (a) Total value of supply of goods or services or both;
- (b) Rate of tax (here SGST and CGST);
- (c) Amount of tax charged in respect of taxable goods or services (here SGST and CGST)

Therefore, the supplier is bound to show all the above separately in the tax invoice.

His proposed action is incorrect and not tenable in law. Advice should be given on the above lines.

Q. 18

Write short notes on “Contents of a revised tax invoice and credit or debit note”

Answer:

Contents of a revised tax invoice and credit or debit note:

1. The word "Revised Invoice", wherever applicable, indicated prominently
2. Name, address and GSTIN of the supplier
3. Nature of the document
4. A consecutive serial number containing alphabets or numerals or special characters like hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year
5. Date of issue of the document
6. Name, address and GSTIN or UIN, if registered, of the recipient
7. Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered
8. Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply
9. Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient.
10. Signature or digital signature of the supplier or his authorized representative.

Q. 19

Write a short note on “Debit Note”

Answer:

Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed. (Section 34(3) of CGST Act)

Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed. (Section 34(4) of CGST Act).

ACCOUNTS & RECORDS UNDER GST

INTRODUCTION

WHY ACCOUNTS MAINTENANCE IS REQUIRED?	<p>THE COMPLIANCE VERIFICATION IS DONE BY THE DEPARTMENT THROUGH SCRUTINY OF RETURNS, AUDIT AND/OR INVESTIGATION.</p> <p>THIS REQUIRES CERTAIN OBLIGATIONS TO BE CAST ON THE TAXPAYER FOR KEEPING AND MAINTAINING ACCOUNTS AND RECORDS.</p>
WHAT ARE THE MAJOR HEADS OF ACCOUNTS MAINTENANCE?	<p>(A) PRODUCTION OR MANUFACTURE OF GOODS</p> <p>(B) INWARD AND OUTWARD SUPPLY OF GOODS OR SERVICES, OR BOTH</p> <p>(C) STOCK OF GOODS</p> <p>(D) INPUT TAX CREDIT AVAILED</p> <p>(E) OUTPUT TAX PAYABLE AND PAID</p> <p>(F) ANY OTHER PARTICULARS DEEMED NECESSARY</p>

RULES REGARDING MAINTENANCE OF ACCOUNTS & RECORDS

Rule 56(1)	<p>Requires Records of</p> <p>(a) goods or services imported or exported or</p> <p>(b) supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, refund vouchers and e-way bills</p>
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Rule 56(2)	Requires Records of Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the <ul style="list-style-type: none"> • opening balance, • receipt, • supply, • goods lost, stolen, destroyed, • written off or disposed of by way of gift or • free sample and • the balance of stock including raw materials, finished goods, scrap and wastage thereof.
Rule 56(3)	Requires Records of Advances received, paid and adjustments made thereto.
Rule 56(4)	Requires Records of Tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.
Rule 56(5)	Requires Records of (a) names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act; (b) names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter; (c) the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.
Rule 56(6)	GOODS FOUND ELSEWHERE If any taxable goods are found to be stored at any place(s) other than those declared without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.
Rule 56(7)	MODE OF MAINTENANCE Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration.

	MAY BE ELECTRONIC OR PHYSICAL OR BOTH
Rule 56(8)	<p>RECTIFICATION OF ERRORS & OVERWRITING ETC.</p> <p>Any entry in registers, accounts and documents SHALL NOT BE ERASED, EFFACED OR OVERWRITTEN, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter, The correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.</p>
Rule 56(9)	<p>SERIAL NUMBER OF VOLUMES</p> <p>Each volume of books of account maintained manually by the registered person shall be serially numbered.</p>
Rule 56(10)	<p>RECORDS FOUND ELSEWHERE</p> <p>If any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.</p>
Rule 56(11)	<p>RECORD MAINTENANCE BY AGENT</p> <p>Every agent shall maintain accounts depicting the,-</p> <p>(a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;</p> <p>(b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;</p> <p>(c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;</p> <p>(d) details of accounts furnished to every principal; and</p> <p>(e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.</p>
Rule 56(12)	<p>RECORDS REGARDING PRODUCTION</p> <p>Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.</p>
Rule 56(13)	RECORD MAINTENANCE BY SERVICE PROVIDER

	<p>Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.</p>
Rule 56(14)	<p>RECORD MAINTENANCE BY WORKS CONTRACTOR</p> <p>Every registered person executing works contract shall keep separate accounts for works contract showing –</p> <p>(a) the names and addresses of the persons on whose behalf the works contract is executed;</p> <p>(b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;</p> <p>(c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;</p> <p>(d) the details of payment received in respect of each works contract; and</p> <p>(e) the names and addresses of suppliers from whom he received goods or services.</p>
Rule 56(15)	<p>AUTHENTICATION BY DIGITAL SIGNATURE</p> <p>The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.</p>
Rule 56(16)	<p>PRESERVATION PERIOD</p> <p>Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36.</p>
SECTION 36	<p>PRESERVATION PERIOD</p> <p>As per section 36 of the CGST Act, 2017 every registered taxable person must maintain the accounts books and records for at least 72 months (6 years) from the due date of furnishing of annual return for the year pertaining to such accounts and records.</p> <p><i>The last date of filing the Annual return is 31st December of the following year.</i></p>

Rule 56(17)	RECORDS MAINTENANCE BY CARRIER AND C&F AGENT Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him .
Rule 56(18)	PRODUCTION OF DOCUMENTS UPON DEMAND Every registered person <u>shall, on demand, produce</u> the books of accounts which he is required to maintain under any law for the time being in force.

QUESTIONS AND ANSWERS

Q. 1

For the year 2017-2018, the due date of filing the annual return is 31.12.2018. The books & records of 2017-2018 must be maintained for 6 years, i.e., 31.12.2024.

If the taxpayer is a part of any proceedings before any authority (First Appellate) or is under investigation then he must maintain the books for 1 year after the order of such proceedings/appeal has been passed

Q. 2

Write a short note on “Items for which true and correct accounts are to be maintained”.

Answer:

Every registered person is required to maintain a true and correct account of the following:

- (i) Production or manufacture of goods
- (ii) Inward and outward supply of goods or services, or both
- (iii) Stock of goods
- (iv) Input tax credit availed
- (v) Output tax payable and paid
- (vi) Any other particulars deemed necessary

The above records must be maintained at each place of business registered under GST.

Q. 3

Write a short note on “Details of accounts maintained by registered persons, executing works contract services”.

Answer:

Details of accounts maintained by registered persons, executing works contract services: As per rule 56(14) of the CGST Rules, 2017 every registered person executing works contract shall keep separate accounts for works contract showing—

- (1) The names and addresses of the persons on whose behalf the works contract is executed;
- (2) Description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- (3) Description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
- (4) The details of payment received in respect of each works contract; and
- (5) The names and addresses of suppliers from whom he received goods or services.

Q. 4

Write a short note on “Items for which true and correct accounts are to be maintained”.

Answer:

True and correct maintenance of accounts under section 35(1) of the CGST Act, 2017 As per section 35(1) of the CGST Act, 2017, every registered person is required to maintain a true and correct account of the following:

- a. Production or manufacture of goods.
- b. Inward and outward supply of goods or services, or both
- c. Stock of goods
- d. Input tax credit availed
- e. Output tax payable and paid
- f. Any other particulars deemed necessary

PAYMENT OF TAX UNDER GST

HEADS OF MAKING PAYMENT OF GST

IGST	CGST	SGST
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PERSON LIABLE TO PAY TAX

A Registered dealer is required to make GST payment if GST liability exists.	Registered dealer required to pay tax under Reverse Charge Mechanism(RCM)	E-commerce operator is required to collect and pay TCS	Dealers required deducting TDS
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HOW TO PAY TAX

ELECTRONIC CASH LEDGER	ELECTRONIC CREDIT LEDGER
By internet banking or by using Credit or Debit cards or National Electronic Fund Transfer(NEFT) or Real Time Gross Settlement(RTGS) or by such other modes as may be prescribed	As per the rules regarding Utilisation of ITC

UTILISATION OF ITC

Inward supply	Outward supply			Remarks
	CGST	SGST	IGST	
ITC of CGST	Allowed	Not allowed	Allowed	1st CGST next IGST in that order
ITC of SGST	Not allowed	Allowed	Allowed	1st SGST next IGST in that order
ITC of IGST	Allowed	Allowed	Allowed	W.e.f. 1-4-2019 section 49A of CGST Act, 2017 read with Rule 88A of CGST Rules, 2017: IGST credit can be adjusted equally between CGST and SGST or any other proportion at the option of the assessee.

The **input tax credit on account of central tax, State tax or Union territory tax** shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, **only after the input tax credit available on account of integrated tax has first been utilised fully** towards such payment.

SERIAL ORDER OF PAYMENT OF TAX

Step 1	First self-assessed tax, and other dues related to returns of previous tax periods
Step 2	Self-assessed tax, and other dues related to the return of the current tax period
Step 3	Any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.
“Tax dues” means the tax payable under this Act and does not include interest, fee and penalty	“Other dues” means interest, penalty, fee or any other amount payable under this Act or the rules madethereunder.

MAJOR HEAD & MINOR HEAD

MAJOR HEAD	MINOR HEAD
Integrated tax, Central tax, State/UT tax and Cess	Tax, interest, penalty, fee and others
RULE REGARDING HEAD ADJUSTMENTS	
If amount from one major/minor head is intended to be transferred to another major/minor head.	The amount from one minor head can also be transferred to another minor head under the same major head.
Minor head for transfer of amount may be same or different.	
Amount can be transferred from the head only if balance under that head is available at the time of transfer.	

INTEREST UNDER GST

INTEREST PAYABLE BY TAXPAYER

LATE PAYMENT OF TAX	18% PER ANNUM
INELIGIBLE OR EXCESS ITC AVAILED	24% PER ANNUM

RULES REGARDING INTEREST CALCULATION

Interest shall be calculated from the day succeeding the day on which such tax was due to paid.	Online payments even made after 8 pm will be credited on the same day to the taxpayer's account.
Payments under the 10000 rupees limit , it can be done over the counter with cash, cheques, demand draft through authorised banks or through Digital Mode.	Payments exceeding the amount of ` 10000 will be collected through digital mode only.
Interest payable for actual period of delay, not for whole month.	Interest is payable even if duty/tax is paid before issue of show cause notice

INTEREST PAYABLE BY DEPARTMENT

Refund of tax has been withheld from a person on account of an appeal or proceeding but which is later found to be eligible to be paid .	6% PER ANNUM
Refund of tax has not been given to a person within 60 days from the date of receipt of application for refund.	6% PER ANNUM
Refund ordered by an adjudicating authority or Appellate Authority or Appellate Tribunal or court has not been paid to a person within 60 days from the date of receipt of application for refund.	9% PER ANNUM
<p>No refund shall be granted if refund amount is less than 1,000/-. So, no interest is payable by the Department</p>	

QUESTIONS AND ANSWERS

Q. 1

M/s X Ltd. being a registered person supplying taxable goods in the following manner

Particulars	Rs.
Intra-State supply of goods	18,00,000
Inter-State supply of goods	13,00,000
Intra-State purchases	13,00,000
Inter-State purchases	1,50,000
ITC at the beginning of the relevant tax period:	
CGST	1,30,000
SGST	1,30,000
IGST	1,70,000

- (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
- (ii) Inward and outward supplies are exclusive of taxes.
- (iii) All the conditions necessary for availing the input tax credit have been fulfilled. Compute the net GST payable by M/s X Ltd. during the tax period. Make suitable assumptions.

Answer:

Statement showing input tax credit (i.e. Electronic Credit Ledger)

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Opening balance	1,30,000	1,30,000	1,70,000
Add: ITC for the tax period	1,17,000	1,17,000	27,000
Total credit	2,47,000	2,47,000	1,97,000

Statement showing Net GST payable by M/s X Ltd for the tax period

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Output tax	1,62,000	1,62,000	2,34,000
Less: ITC allowed	-2,47,000	-2,47,000	-1,97,000
Sub-total	-85,000	-85,000	37,000
Less: CGST credit adjusted against IGST	37,000	Nil	-37,000
Net GST liability	Nil	Nil	Nil
Excess ITC c/f	48,000	85,000	Nil

Q. 2

Mr. A has output Tax Liability of Rs.1,00,000/- towards CGST & SGST/UGST and Rs.20,000 towards IGST and also interest payable of Rs.1800/-. Explain the manner of discharge tax liability by Mr. A in the following two independent cases:

1. Input tax credit available of CGST & SGST is Rs.25,000/- each & IGST is Rs.25,000/-
2. Input tax credit not available.

Answer:

Case 1:

In case Input Tax credit available-

Ledger	Particulars	CGST	SGST	IGST	Interest payable	Total
Electronic liability ledger	Output tax payable	50,000	50,000	20,000	1,800	1,21,800
Electronic credit ledger	Input Tax Credit	25,000	25,000	25,000		75,000
	Net output tax liability	25,000	25,000	-		50,000
	IGST Credit set off (Note-1)	5,000	-	-		5,000
Electronic cash	Cash to be	20,000	25,000	-	1800 (Note-2)	46,800

ledger	deposited					
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Note

1. IGST Credit can be adjusted against CGST or SGST in any proportion.

2. Interest cannot be adjusted with Input Tax credit Case 2: In case Input Tax credit is not available-

Ledger	Particulars	CGST	SGST	IGST	Interest payable	Total
Electronic liability ledger	Output tax payable	50,000	50,000	20,000	1,800	1,21,800
Electronic ledger	Cash Amount to be deposited	50,000	50,000	20,000	1,800	1,21,800

Order of claiming input tax credit is as follows-

Q. 3

Y Ltd is operating in two states Andhra Pradesh and Tamil Nadu. The tax liability for the month of August 20XX is as follows—

S. No.	Tax Liability	Andhra Pradesh (Rs.)	Tamil Nadu (Rs.)
1.	Output CGST Payable	25,000	10,000
2.	Output SGST Payable	10,000	5,000
3.	Output IGST payable	3,000	2,500
4.	Input CGST	8,000	13,000
5.	Input SGST	15,000	1,500
6.	Input IGST	12,000	16,000

Calculate the tax payable for the month of August 20XX.

Answer:

Net Tax payable for the month of August is as follows—

Particulars	Andhra Pradesh			Tamil Nadu		
	CGST	SGST	IGST	CGST	SGST	IGST
Output tax	25,000	10,000	3,000	10,000	5,000	2,500
Less: ITC of IGST	(9,000)	Nil	(3,000)	(8,500)	(5,000)	(2,500)
Out tax after adjustment of IGST ITC	16,000	10,000	Nil	1,500	Nil	Nil
Less: ITC of CGST & SGST	(8,000)	(15,000)	nil	(13,000)	(1,500)	nil
Net tax payable by E-cash ledger	8,000	nil	nil	nil	nil	nil
Input credit carry forwarded to next month	-	5,000	-	(11,500)	(1,500)	nil

Notes:

1. IGST Input tax credit should be adjusted against Output tax of liability of IGST. Excess of IGST credit after payment of IGST can be adjusted against payment of CGST or SGST/UTGST in any proportion as decided by the assessee.
2. SGST Input tax credit cannot be adjusted against output CGST & Vice-Versa.
3. CGST & SGST Input tax credit of one State cannot be adjusted against Output CGST & SGST of other state (same principle is applicable to IGST credit also).

Q. 4

X Ltd has following tax liabilities under the provisions of Act-

S. No	Particulars	Amount (Rs.)
1.	Tax liability of CGST, SGST/UGST, IGST for supplies made during August 2017	1,00,000
2.	Interest & Penalty on delayed payment and filing of returns belonging to August 2017	20,000
3.	Tax liability of CGST, SGST/UGST, IGST for supplies made during September 2017	1,20,000
4.	Interest & Penalty on delayed payment and filing of returns belonging to September 2017	20,000
5.	Demand raised as per section 73 or section 74 under CGST Act, 2017 belonging to	8,00,000

July 2017	
6. Demand raised as per the old provisions of Indirect Taxes	1,00,000

X Ltd has Rs. 5,00,000 in Electronic cash ledger. Suggest X Ltd in discharging the tax liability.

Answer:

Balance in Electronic cash ledger can be used in the following manner to discharge tax liability by X Ltd-

Particulars	Amount
Balance available in Electronic cash ledger	5,00,000
Less-	
Tax liability of CGST, SGST/UGST, IGST for supplies made during August 2017	(1,00,000)
Interest & Penalty on delayed payment and filing of returns belonging to August 2017	(20,000)
Tax liability of CGST, SGST/UGST, IGST for supplies made during September 2017	(1,20,000)
Interest & Penalty on delayed payment and filing of returns belonging to September 2017	(20,000)
Demand raised as per section 73 or section 74 UNDER CGST Act, 2017	(2,40,000)
Balance in electronic cash ledger	Nil

The balance amount of Z 5,60,000 towards demand raised under section 73 or section 74 under CGST Act, 2017 to be discharged before discharging liability of demand rose under old provisions of Indirect Taxes.

Q. 5

Miss Nitya has following balances in her Electronic Cash Ledger as on 28/02/20XX as per GST portal.

Major Heads	Minor Heads	Amount (Rs.)
	Tax	40,000
CGST	Interest	1,000
	Penalty	800
SGST	Tax	80,000
	Interest	400
	Penalty	1,200
	Fee	2,000
	Tax	45,000
IGST	Interest	200
	Penalty	Nil

Her tax liability for the month of February, 20XX for CGST and SGST was Rs. 75,000 each. She failed to pay the tax and contacted you as legal advisor on 12/04/2018 to advise her as to how much amount of tax or interest she is required to pay, if any, by utilizing the available balance to the maximum extent possible as per GST Laws. She wants to pay the tax on 20-04-20XX.

Other Information:—

- (i) Date of collection of GST was 18th February, 20XX.
- (ii) No other transaction after this up to 20th April 20XX.
- (iii) Ignore penalty for this transaction.
- (iv) No other balance is available.

You are required to advise her with reference to legal provisions with brief notes on the legal provisions applicable.

Answer:

Statement showing GST and Interest liability:

Particulars	CGST Rs.	SGST Rs.	Interest CGST	Interest SGST	IGST Rs.	Remarks
Output tax liability	75,000	75,000	1147	1147	Nil	75,000 x 18% x 31/365 = 1147
Less: Electronic Cash ledger of CGST/ SGST	-40,000	-80,000	-1,000	-400		

Less: transfer from e-cash ledger of IGST Major head	-35,000	Nil	-147	-747		
Excess balance in electronic cash ledger c/f	Nil	5,000	Nil	NIL	9,106	45000-35000-147-747

Note:

- (1) Major head refers to - Integrated tax, Central tax, State/UT tax and Cess.
- (2) Minor head refers to - tax, interest, penalty, fee and others.
- (3) Section 49(10) of CGST Act, 2019 permits if amount from one major/minor head is intended to be transferred to another major/minor head. Minor head for transfer of amount may be same or different.
- (4) The amount from one minor head can also be transferred to another minor head under the same major head.
- (5) Amount can be transferred from the head only if balance under that head is available at the time of transfer.

Q. 6

M/s Rajendra Dyeing Pvt. Ltd. supplied goods worth Rs. 0,00,000 to M/s Y Ltd in the month of September, 2017 plus GST 12%. M/s Rajendra Dyeing Pvt. Ltd. paid the GST on 5th December 2018. The amount of input tax credit is 70,000 is available in the books. Calculation of interest payment if any under section 50 of the CGST Act, 2017.

Answer:

$$\begin{aligned}
 \text{Tax} &= \text{Rs. } 1,20,000 \\
 \text{Less: ITC} &= \text{Rs. } (70,000) \\
 \text{Tax payable} &= \text{Rs. } 50,000
 \end{aligned}$$

Interest shall be calculated from the next day of the due date of payment from 21st October 2017 to the actual date of payment i.e. 5th December 2018.

Interest is $\text{Rs. } 50,000 \times 18\% \times 411/365 = \text{Rs. } 10,134/-$

Q. 7

M/s Nose Ltd reduced the amount of Rs. 2,25,000 from the output tax liability in contravention of the provisions of section 42(10) of the CGST Act, 2017 in the month of January 2018 (vide invoice date 12.01.2018), which is ineligible credit at invoice level. As a result a show cause notice issued Central Tax Department under section 74 of the CGST Act, 2017 along with interest. M/s Nose Ltd paid the tax and interest on 5th March 2018. Find the interest liability if any?

Note: ignore the penalty.

Answer:

As per section 42(10) read with section 50(3) of the CGST Act, 2017 amount reduced from the output tax liability in contravention of the provisions of section 42(7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in section 50(3) of the CGST Act, 2017.

Therefore, applicable rate of interest is @24% per annum.

January month return due date is 20th of February 2018.

Interest = $\text{Rs. } 1,923/-$

$(\text{Rs. } 2,25,000 \times 24\% \times 13/365)$

Note: from 21st February 2018 to 5th March 2018 = 13 days

Q. 8

X Ltd. manufactured and cleared taxable goods on 1st August 2017 for Rs. 20,00,000 plus GST 12%. After payment of GST on or before the due date, it is noticed that these goods are exempted from GST and applied for want refund of GST on 15th November 2017. Department acknowledged the receipt on 15th December November 2017. Department granted the refund on 23rd January 2018.

Find the interest if any on delay refund.

Note: X Ltd. not passed ITC to recipient of supply.

Answer:

From 15th November 2017 to 22nd January 2018 = 69 days
Less: from 15th November 2017 to 13th Jan 2018 = (60) days
No. of days delay = 9 days
Interest = Rs. 355/- i.e. 2,40,000 x 6% x 9/365)

Q. 9

Write a short note on “Electronic credit ledger”

Answer:

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 Sec. 41, to be maintained in such manner as may be prescribed.

The amount available in the e-credit ledger may be used for making any payment towards output tax under this Act or under the IGST Act in such manner and subject to such conditions and within such time as may be prescribed.

Q. 10

Explain when tax payer can be levied with Interest on late payment of tax.

Answer:

The two scenarios where a tax payer will be liable to pay interest are:

- (i) Delayed payment of tax
- (ii) Input tax credit has been claimed in excess or where it was not eligible to be claimed/Tax liability has been shown to be less than the actual

TDS UNDER GST

TDS DEDUCTORS

DEPARTMENT OR ESTABLISHMENT OF CENTRAL GOVERNMENT OR STATE GOVERNMENT	LOCAL AUTHORITY.
GOVERNMENT AGENCIES	PERSONS OR CATEGORY OF PERSONS NOTIFIED BY THE CENTRAL GOVERNMENT ON RECOMMENDATION OF THE COUNCIL.

NOTIFIED DEDUCTORS

<p>An authority or a board or any other body,</p> <p>(i) set up by an Act of Parliament or a State Legislature; or</p> <p>(ii) established by any Government, with fifty-one percent or more participation by way of equity or control, to carry out any function;</p>	<p>Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860)</p>
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PUBLIC SECTOR UNDERTAKINGS (PSU)

EXEMPTION FROM TDS

<p>POST AUDIT AUTHORITIES UNDER MINISTRY OF DEFENCE</p>	<p>SUPPLY OF GOODS AND/OR SERVICES FROM A PSU TO ANOTHER PSU, WHETHER A DISTINCT PERSON OR NOT</p>
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RULES REGARDING TDS

RATE OF TDS	2%
PAYMENT THRESHOLD FOR TDS	THE TOTAL VALUE OF SUPPLY UNDER ' A CONTRACT ' EXCEEDS INR 2.5 LAKHS
WHETHER VALUE OF SUPPLY WILL INCLUDE TAX AMOUNT	VALUE OF SUPPLY SHALL EXCLUDE THE TAX INDICATED IN THE INVOICE
DEPOSIT OF DEDUCTED AMOUNT	AMOUNT DEDUCTED SHALL BE PAID TO THE CENTRAL GOVERNMENT WITHIN TEN DAYS AFTER THE END OF THE MONTH
TDS CERTIFICATE	DEDUCTOR SHALL FURNISH A TDS CERTIFICATE IN FORM GSTR-7A TO THE DEDUCTEE
CONTENTS OF TDS GSTR 7A	(A) CONTRACT VALUE (B) RATE OF DEDUCTION (C) AMOUNT DEDUCTED (D) AMOUNT PAID TO THE APPROPRIATE GOVERNMENT (E) ANY OTHER PARTICULARS AS MAY BE PRESCRIBED
TIME LIMIT OF PROVIDING CERTIFICATE	WITHIN FIVE DAYS OF REMITTANCE
PENALTY FOR NOT FURNISHING CERTIFICATE	THE DEDUCTOR HAS TO PAY A LATE FEE OF INR 100 PER DAY FROM THE 6 TH DAY UNTIL THE DAY HE FURNISHES THE CERTIFICATE. THE MAXIMUM LATE FEE IS PRESCRIBED AS INR 5000 .
DEDUCTION OPTIONS	<p>I. INDIVIDUAL BILL- WISE DEDUCTION AND ITS DEPOSIT TO THE GOVERNMENT BY DDO</p> <p>II. BUNCHING OF DEDUCTIONS AND ITS DEPOSIT BY DDO</p>

TCS UNDER GST

BASICS

TCS = TAX COLLECTION AT SOURCE	IT IS A CONCEPT BORROWED FROM THE INCOME TAX
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LET US SAY
 INR 1180 is the invoice value
 (Basic amount is INR 1000 plus tax is INR 180).

Then the payer shall collect 1%

(i.e. INR 10) and make the payment of such tax to the Government.

Net amount of INR 1170 (i.e. 1180-10) shall be paid to the concerned supplier.

PERSONLIABLE TO COLLECT TCS

EVERY E-COMMERCE OPERATOR OTHER THAN AN AGENT

HENCE COMPANIES LIKE AMAZON, FLIPKART, ETC. WHICH DISPLAYS/LISTS ON THEIR PORTAL PRODUCTS AS WELL AS SERVICES WHICH ARE ACTUALLY SUPPLIED BY SOME OTHER PERSON TO THE CONSUMER ARE ELECTRONIC COMMERCE OPERATOR.

RULES REGARDING TCS

RATE OF TCS	1%
TCS IS CALCULATED	Net Value of Taxable Supplies = $[(\text{Aggregate Value of Taxable Supplies of Goods + Services}) - (\text{Section 9(5) Services})] - (\text{Aggregate Value of Returned Taxable Supplies + Goods})$

WHETHER VALUE OF SUPPLY WILL INCLUDE TAX AMOUNT	VALUE OF SUPPLY SHALL EXCLUDE THE TAX INDICATED IN THE INVOICE	
THRESHOLD EXEMPTION FROM TCS	NO SUCH THRESHOLD	
WHAT ABOUT THE SUPPLY MADE BY ECO ON ITS OWN	HOWEVER, THE SUPPLIES MADE BY THE ELECTRONIC COMMERCE OPERATOR ON ITS OWN ACCOUNT ARE NOT SUBJECT TO TCS REQUIREMENTS SINCE THE ABOVE STATED CONDITIONS ARE NOT FULFILLED.	
DEPOSIT OF TCS AMOUNT WITH GOVERNMENT	WITHIN TEN DAYS AFTER THE END OF THE MONTH IN WHICH SUCH COLLECTION IS MADE	
PAYMENT OF TCS THROUGH ITC	NOT ALLOWED	
TCS TO BE INDICATED IN INVOICE	NOT REQUIRED	
TCS CERTIFICATE	NO PROVISION OF TCS CERTIFICATE	
PENALTIES		
TCS NOT COLLECTED	TCS COLLECTED BUT NOT PAID TO THE GOVERNMENT	LATE FILING OF TCS RETURNS
INR 10,000/- OR THE AMOUNT NOT COLLECTED OR SHORT COLLECTED, WHICHEVER IS HIGHER.	RECOVERY BY DEPARTMENT WITH PENALTY U/S 122	GENERAL PENALTY UP TO INR 25,000/-

RETURNS

WHAT IS RETURN

RETURN	“Return” means any return prescribed or otherwise required to be furnished. A return is a document containing details of income which a taxpayer is required to file with the tax administrative authorities.
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METHODS TO FILE GST RETURN

Methods to file GST Return	<ol style="list-style-type: none"> 1. GSTN portal (www.gst.gov.in) 2. Utilities provided by GSTN 3. GST suvidha providers (GSPS)
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Various Returns

GSTR-1	Details of outward supplies of taxable goods and/ or services effected (Section 37 of the CGST Act, 2017).	MONTHLY	10 TH OF NEXT MONTH
GSTR-2	Details of inward supplies of taxable goods and/ or services effected claiming input tax credit (Section 38 of the CGST Act, 2017).	MONTHLY	15 TH OF NEXT MONTH
GSTR-3	Monthly return on the basis of finalization of details of outward supplies and inward supplies along with the payment of amount of tax (Section 39(1) of the CGST Act, 2017).	MONTHLY	20 TH OF NEXT MONTH
GSTR-3B	Simple return for Jul 2017- Mar 2018	MONTHLY	20 TH OF NEXT MONTH
GSTR-4	Return for Composition Dealer (Section 39(2) of the CGST Act, 2017)	QUARTERLY	18 TH OF THE MONTH POST QUARTER
GSTR-5	Return for Non-Resident foreign taxable person (Section 39(5) of the CGST Act, 2017)	MONTHLY	20 TH OF NEXT MONTH OR WITHIN 7 DAYS AFTER

			REGISTRATION EXPIRES WHICHEVER IS EARLIER
GSTR-6	Return for Input Service Distributor (Section 39(4) of the CGST Act, 2017)	MONTHLY	13 TH OF NEXT MONTH
GSTR-7	Return for authorities deducting tax at source (Section 39(3) of the CGST Act, 2017)	MONTHLY	10 TH OF NEXT MONTH
GSTR-8	Details of supplies effected through e-commerce operator and the amount of tax collected	MONTHLY	10 TH OF NEXT MONTH
GSTR-9	<p>Annual Return (section 44 of the CGST Act, 2017)</p> <p>(a) Who Files: Registered Person other than an ISD, TDS/TCS Taxpayer, Casual Taxable Person and Non-resident Taxpayer.</p> <p>(b) In this return, the taxpayer needs to furnish details of expenditure and details of income for the entire Financial Year.</p> <p>(c) The persons who are non-residents and are providing OIDAR service in India to unregistered persons have been exempted from submitting GSTR-9 and GSTR-9C (vide NT 30/2019 CT dated 28/6/2019)</p>	ANNUALLY	31 ST DECEMBER OF NEXT FINANCIAL YEAR
GSTR-10	Final Return (Section 45 of the CGST Act, 2017)	ONCE. WHEN REGISTRATION IS CANCELLED OR SURRENDERED	WITHIN THREE MONTHS OF THE DATE OF CANCELLATION OR DATE OF CANCELLATION ORDER, WHICHEVER IS LATER.
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming refund	MONTHLY	28 TH OF THE MONTH FOLLOWING THE MONTH

			FOR WHICH STATEMENT IS FILED
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Special Rule for Composition Dealer

Special Rule for Composition Dealer	<p>(i) They will furnish Form GST CMP-08 containing details of payment of self - assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.</p> <p>(ii) Furnish a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.</p>
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Revision/Rectification of Return

Revision/Rectification of Return	<p>No rectification or revision is allowed. Only option is to do adjustments in upcoming return.</p> <p>However, no rectification is allowed after furnishing the return for the month of September following the end of the financial year to which, such details pertain, or furnishing of the relevant annual return, whichever is earlier.</p>
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PENALTY / LATE FEE

PENALTY / LATE FEE	<p>/ As per GST Act Late fee is ` 100 per day per Act. So it is 100 under CGST & 100 under SGST. Total will be ` 200/ day. Maximum is ` 5,000.</p> <p>There is no late fee on IGST.</p> <p>If the GSTR is not filed for a given quarter/month, then the taxpayer cannot file the next quarter's return either.</p>
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QUESTIONS AND ANSWERS

Q. 1

Write short notes on ‘First Return and Revision of Returns in GST’

Answer:

First Return: As per section 40 of the CGST Act, 2017 every registered person who has made outward supplies in the period between the dates on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

Revision of Returns: The mechanism of filing revised returns for any correction of errors/omissions has been done away with. The rectification of errors/omissions is allowed in the subsequent returns. However, no rectification is allowed after furnishing the return for the month of September following the end of the financial year to which, such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Q. 2

Write a short note on “First GST return and subsequent rectification of errors in GST returns”

Answer:

First return and rectification of errors in returns under GST First Return:

As per section 40 of the CGST Act, 2017 every registered person who has made outward supplies in the period between the dates on which he became liable to registration till the date on which registration had been granted shall declare the same in the first return furnished by him after grant of registration.

Rectification of errors in Returns:

The mechanism of filing revised returns for any correction of errors/omissions has been done away with. The rectification of errors/ omissions is allowed in the subsequent returns.

However, no rectification is allowed.

- After furnishing the return for the month of September following the end of the financial year to which, such details pertain,
- Or furnishing of the relevant annual return,
- Whichever is earlier.

Q. 3

Write short notes on ‘Final Return under GST’

Answer:

Final Return under GST:

As per Section 45 of CGST Act, 2017, every registered person who is required to furnish a return under sub-section (1) of section 39 and 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, in such form and manner as may be prescribed.

Rule 81 of CGST Rules, 2017, provides that every registered person required to furnish a final return under section 45, shall furnish such return electronically in FORM GSTR-10 through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

MATCHING CONCEPTS

Matching of ITC

Matching of ITC	Details of inward supply furnished by receiver will be matched by corresponding outward supply furnished by supplier. Matching happens when ITC claimed by receiver is equal to or less than the outward tax paid by supplier.
DETAILS TO BE MATCHED	(a) GSTIN of the supplier; (b) GSTIN of the recipient; (c) invoice or debit note number; (d) invoice or debit note date; and (e) tax amount

INSTANCES OF MATCHING MISMATCHING

INSTANCES	<p>All Transactions where Input credit details of recipient are matched for output tax as stated by supplier and recipient The transaction is treated as Matched Transactions.</p> <p>Transactions where the input tax credit is duplicated by the recipient. Shall be communicated to the registered person in FORM GST MIS 1</p> <p>Transactions where the claim for input tax credit is higher than the output tax as declared by the supplier. Shall be added to the output tax liability of the recipient</p> <p>Transactions where the claim for input tax credit is higher than the output tax as declared by the supplier because the supplier has not furnished a particular transaction. Shall be added to the output tax liability of the recipient</p>
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DISCREPANCY

COMMUNICATION OF DISCREPANCY IN THE CLAIM OF INPUT TAX CREDIT	COMMUNICATION TO RECEIVER GST MIS-1
RECTIFICATION	If the recipient or the supplier has rectified the error, the inward

OF DISCREPANCY	supply and outward supply will match and credit will be finally accepted.
DISCREPANCY NOT RECTIFIED	If the supplier or recipient does not rectify the discrepancy, the amount to the extent of discrepancy shall be added to the output tax liability of the recipient in his return to be furnished.

EXPORT, IMPORT AND REFUND UNDER GST

EXPORT OF GOODS AND SERVICES

Export of Goods:

Provision relating to export of goods

Sub-Section 5 of section 2 of IGST Act, 2017 defines - "Export of Goods", with its grammatical variations and cognate expressions, means taking out of India to a place outside India.

Supply of goods where supplier located in India and the place of supply outside India - Deemed to be Inter-State Supply- Supply of goods, when the supplier is located in India and the place of supply is outside India, shall be deemed to be a supply of goods in the course of inter-state trade or commerce [Section 7(5)(a)]

Following aspects need to be noted:

- (a) The movement of goods is alone relevant and not the location if the exporter/importer.
- (b) Unlike export of service which requires fulfilment of certain conditions for a supply to qualify as 'export of service' like the nature of currency in which payment is required to be made, location of the exporter etc, export of goods doesn't require fulfilment of any such conditions.

Export of Services:

Provision relating to export of service

Export of Services as per 2(6) of IGST Act, 2017: "export of services" means the supply of any service when,—

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

Explanation 1 of Section 8.—For the purposes of this Act, where a person has,—

- (i) an establishment in India and any other establishment outside India;
- (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) An establishment in a State or Union territory and any other establishment registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Supply of service where supplier located in India and the place of supply outside India - Deemed to be Inter-State Supply- Supply of service, when the supplier is located in India and the place of supply is outside India, shall be deemed to be a supply of service in the course of inter-state trade or commerce [Section 7(5)(a)].

ILLUSTRATION:

Determination of POS and Export of Service:

A Ltd., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, A Ltd has approached ABC Consultants, Mumbai, to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.

The survey is to be solely based on oral replies of the surveyees; they will not be provided any sample by A Ltd, to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment.

With reference to the provision of GST Law, determine the place of supply of the service. Also, explain whether the said supply will amount to export of service?

Solution:

As per Sec 13(2) of the IGST Act, 2017 in case where the location of the supplier of services or the location of the recipient of services is outside India, the place of supply of services except the services specified in sub-section (3) to (13) shall be the location of the recipient of services.

The given case does not fall under any of such specific situations and thus, the place of supply in this will be determine under sec 13(2). Thus, the place of supply of service in this case is the location of recipient of services i.e., USA.

As per sec 2(6) of the IGST Act, 2017 export of services means the supply of any services when -

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

Since all the above 5 conditions are fulfilled in the given case, the same will be considered as a n export of service.

IMPORT OF GOODS AND SERVICES

Import of goods

Provision relating to import of goods

Export of Services as per 2(10) of IGST Act, 2017:"import of goods" with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

Import of goods - Deemed to be intra-state supply - As per section 7(2) of IGST Act, 2017 Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.

Place of supply of goods imported into India.

The place of supply of goods,—

(a) imported into India shall be the location of the importer(Section 11 of IGST Act, 2017)

Import of services

Provision relating to import of services

(11) "import of services" means the supply of any service, where—

- (i) The supplier of service is located outside India;
- (ii) The recipient of service is located in India; and
- (iii) The place of supply of service is in India;

Thus, only where the location of supplier is outside India but the location of recipient and the place of supply is in India, it shall qualify as import of services.

As per Section 7(4) of IGST Act, 2017 - Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.

ZERO RATED SUPPLY

Sub section 16(1) of the IGST Act defines 'Zero rated supply' as follows:

Zero rated supply means any of the following supplies of goods or services or both namely-

- (a) Export of goods or services or both or
- (b) Supply of goods or services or both to a Special Economic Zone(SEZ) developer or an SEZ unit.

Thus export of goods or services and supplies to a SEZ unit of its developer shall be treated as zero rated supply thereby entitles the said unit or developer for all benefits i.e. availment of input tax credit or refund of unutilized ITC.

Input tax credit eligible in respect of Zero-Rated Supply- As per 16(2)of IGST Act, 2017 : Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

Question:

Whether services of short-term accommodation, conferencing, banqueting etc. provided to a Special Economic Zone (SEZ) developer or a SEZ unit should be treated as an inter-State supply (under section 7(5)(b) of the IGST Act, 2017) or an intra-State supply (under section 12(3)(c) of the IGST Act, 2017)? - Circular 48/22/2018 - GST

Solution:

As per section 7(5) (b) of the IGST Act, the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply. In the instant case, section 7(5)(b) of the IGST Act is a specific provision which states that such supplies shall be treated as interstate supplies.

Therefore it is clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.

Question:

Whether the benefit of zero rated supply can be allowed to all procurements by a SEZ developer or a SEZ unit such as event management services, hotel and accommodation services, consumables etc? - Circular 48/22/2018 -GST

Solution:

As per section 16(1) of the IGST Act, "zero rated supplies" means supplies of goods or services or both to a SEZ developer or a SEZ unit. Whereas, section 16(3) of the IGST Act provides for refund to a registered person making zero rated supplies under bond/LUT or on payment of integrated tax, subject to such conditions, safeguards and procedure as may be prescribed. Further, as per the second proviso to rule 89(1) of the Central Goods and Services Tax Rules, 2017 (CGST Rules in short), in respect of supplies to a SEZ developer or a SEZ unit, the application for refund shall be filed by the:

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

2.2 A conjoint reading of the above legal provisions reveals that the supplies to a SEZ developer or a SEZ unit shall be zero rated and the supplier shall be eligible for refund of unutilized input tax credit or integrated tax paid, as the case may be, only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations. An endorsement to this effect shall have to be issued by the specified officer of the Zone.

2.3 Therefore, subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.

Definition of turnover of zero-rated supplies of goods amended [Rule 89(4)(C)] [Notification No.16/2020 CT dated 23.03.2020] Lower of the two shall be taken:

- Zero Rated Value of supply of goods as per GST Invoice or
- 1.5 times the value of like goods domestically supplied by the same or, similarly placed supplier

Example 1:

	GST invoice value	Value of like goods supplied Domestically	1.5 times the Value of like goods supplied domestically	Value for purposes of refund claim
Case A	1,00,000	90,000	1,35,000	1,00,000
Case B	2,00,000	60,000	90,000	90,000

Determination of refundable amount in case of refund of unutilised ITC on account of (i) exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure, clarified

[Master Circular on Refunds - Circular No. 125/44/2019 GST dated 18.11.2019]

In case of refund of unutilized input tax credit (ITC) on account of (i) exports without payment of tax, (ii) supplies made to SEZ Unit/SEZ Developer without payment of tax or (iii) accumulation due to inverted tax structure, the common portal calculates the refundable amount as the least of the following amounts:

- The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the CGST Rules, 2017 [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax];
- The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return in Form GSTR-3B for the said period has been filed; and
- The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

After calculating the least of the above 3 amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

- Integrated tax, to the extent of balance available;
- Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

DEEMED EXPORTS

As per Section 2(39) of the CGST Act, 2017 "deemed exports" means such supplies of goods as may be notified under Section 147;

As per Section 147 of the CGST Act, 2017 The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

As per Notification No. 48/2017-Central Tax, dated - 18th October, 2017, the Central Government, on the recommendations of the Council, hereby notifies the supplies of goods listed in column (2) of the Table below as deemed exports, namely:-

Sl. No.	Description of supply
1.	Supply of goods by a registered person against Advance Authorisation
2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3.	Supply of goods by a registered person to Export Oriented Unit
4.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

Explanation -

For the purposes of this notification, -

- "Advance Authorisation" means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs on pre-import basis for physical exports.
- Export Promotion Capital Goods Authorisation means an authorisation issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015- 20 for import of capital goods for physical exports.
- "Export Oriented Unit" means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20.

As per Circular No. 14/14 /2017, dated 6th November, 2017:

For supplies to EOU / EHTP / STP / BTP units in terms of Notification No. 48/2017- Central Tax dated 18.10.2017, the following procedure and safeguards are prescribed -

- The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in a prescribed proforma in "Form-A" bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to - (a) the registered supplier; (b) the jurisdictional GST officer in charge of such registered supplier; and (c) its jurisdictional GST officer.

- (ii) The registered supplier thereafter will supply goods under tax invoice to the recipient EOU / EHTP / STP / BTP unit.
- (iii) On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to - (a) the registered supplier; (b) the jurisdictional GST officer in charge of such registered supplier; and (c) its jurisdictional GST officer.
- (iv) The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.
- (v) The recipient EOU / EHTP / STP / BTP unit shall maintain records of such deemed export supplies in digital form, based upon data elements contained in "Form-B". The software for maintenance of digital records shall incorporate the feature of audit trail. While the data elements contained in the Form-B are mandatory, the recipient units will be free to add or continue with any additional data fields, as per their commercial requirements. All recipient units are required to enter data accurately and immediately upon the goods being received in, utilized by or removed from the said unit. The digital records should be kept updated, accurate, complete and available at the said unit at all times for verification by the proper officer, whenever required.

A digital copy of Form - B containing transactions for the month, shall be provided to the jurisdictional GST officer, each month (by the 10th of month) in a CD or Pen drive, as convenient to the said unit.

The above procedure and safeguards are in addition to the terms and conditions to be adhered to by a EOU / EHTP / STP / BTP unit in terms of the Foreign Trade Policy, 2015- 20 and the duty exemption notification being availed by such unit.

Deemed exports - supply of goods against advance authorisation (Notification No. 1/2019 C.T, dated 15-1-2019):

The Central Government of India has amended Notification No. 48/2017-CT, dated 18-10-2017, to provide the supply of goods by a registered person against Advance Authorisation, when exports have already been made after availing Input Tax Credit on inputs used in manufacture of such exports goods, shall be used in manufacture and supply of taxable goods (other than Nil rated or fully exempted goods) and a certificate to this effect from a Chartered Accountant is submitted to the jurisdictional Commissioner of GST or any other officer authorised by him within 6 months of such supply. However, no such certificate shall be required if Input Tax Credit has not been availed on inputs used in manufacture of export goods.

Furthermore, the words "on pre-import basis" have been omitted from the definition of Advance Authorisation.

Notification No. 08/2019-Customs Dated 25th March 2019:

The Directorate General of Foreign Trade (DGFT) has said that exemption from integrated GST and compensation cess under advance authorisation scheme, EOU, and EPCG scheme of foreign trade policy 2015-20 "is extended upto March 31, 2020".

These exemptions have been extended for exporters buying inputs domestically or importing for export purposes under export-oriented unit (EOU) scheme, Export Promotion Capital Goods (EPCG) scheme and advance authorisation.

REFUND

Circumstance in which registered person can claim refund:

The various circumstances in which refund will arise has been explained in section 54 of the CGST Act, 2017 read with Chapter X of CGST Rules, 2017 are as follows:

- (a) Refund of pre-deposit for filing appeal
- (b) Export of goods or services
- (c) Special Economic Zones (SEZ's)/Developer of SEZ units.
- (d) Deemed exports
- (e) Duty structure
- (f) Finalisation of provision assessment
- (g) Excess payment of tax due to mistake etc.

(a) Refund of pre-deposit for filing appeal:

As per section 107 (1) of the CGST Act 2017 any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within 3 months from the date on which the said decision or order is communicated to such person.

As per Section 107(6) no appeal shall be filed under sub-section (1) of Section 107, unless the appellant has paid—

- (a) In full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) A sum equal to 10% of the remaining amount of tax in dispute arising from the said order, (w.e.f. 1-2-2019 subject to a maximum of Rs. 25 crore) in relation to which the appeal has been filed.

In case the appellate authority decide the case in favor of the assessee and ordered to refund of tax.

In the above situation the amount of pre-deposit becomes refundable to the assessee. The assessee is required to file the refund claim within a period of 2 Years from the date of receipt of the order (section 54(9) of the CGST Act, 2017)

(b) Export of goods or services:

Refund on account of export of goods or services can be granted in the following two methods:

- (i) Refund of un-utilized credit when exports of goods or services are made without payment of tax (Section 54(3) of the CGST Act, 2017).
- (ii) refund of taxes paid on export of goods or services.

As per Rule 89(5) of Chapter X of the CGST Rules, 2017 the quantum of input tax credit shall be determined as per the following formula:

$$\text{Refund Amount} = \frac{\text{Turnover of zero rated supply of goods + services}}{\text{Adjusted total turnover}} \times \text{Net Input Tax Credit}$$

Where

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;
- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking;
- (D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-
Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;
- (E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;

Proper officer to issue payment order instead of payment advice for refunds

Proper officer will now issue payment order instead of payment advice for refunds under GST with effect from 24.09.2019. To give effect to this amendment, with effect from 24.09.2019, rule 91(3), rule 92(4), rule 92(5), rule 94 of the CGST Rules have been suitably amended and rule 91(4) and rule 92(4A) have been newly inserted.

[Notification No. 31/2019 CT dated 28.06.2019 and Notification No. 49/2019 CT dated 9.10.2019]

PRACTICAL THEORY:

Example 4:

How soon will refund in respect of export of goods or services be granted during the GST regime? **Answer:**

(a) In case of refund of tax on inputs used in exports:

- Refund of 90% will be granted provisionally within seven days of acknowledgement of refund application.
- Remaining 10% will be paid within a maximum period of 60 days from the date of receipt of application complete in all respects.
- Interest @ 6% is payable if full refund is not granted within 60 days.

(b) In the case of refund of IGST paid on exports:

Upon receipt of information regarding furnishing of valid return in Form GSTR-3 by the exporter from the common portal, the Customs shall process the claim for refund and an amount equal to the IGST paid in respect of each shipping bill shall be credited to the bank account of the exporter.

Example 5:

M/s X Ltd. manufacture of exempted excisable goods for export. Company availed input stage rebate (ITC on inputs) used in the manufacture of exported goods. Whether the company is eligible for refund of ITC on inputs?

Answer:

Under IGST law a person engaged in export of goods which is an exempt supply is eligible to avail input stage credit for zero rated supplies. Once goods are exported, refund of unutilized credit can be availed under Section 16(3)(a) of IGST Act, 2017 and Section 54 of the CGST Act, 2017 and the rules made there under.

Example 6:

What do you mean refund under section 54 of CGST Act, 2017?

Answer:

As per explanation to section 54 of the CGST Act 2017 refund includes refund of tax paid on zero-rated supplies of goods or services or both

OR

on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under section 54(3) of the CGST Act, 2017.

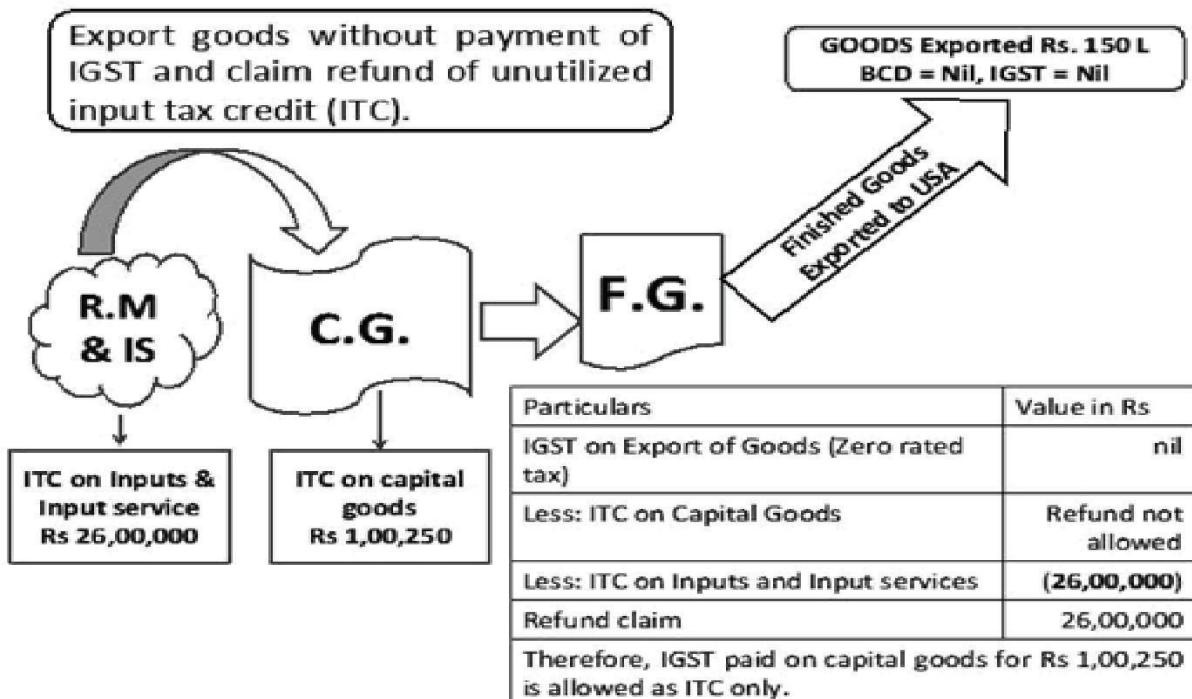
Example 7:

Under what circumstances it may be beneficial to claim refund of un-utilized credit when exports of goods or services are made without payment of tax (Section 54(3) of the CGST Act, 2017).

Answer:

If assessee has negligible balance of tax in Capital Goods Input Tax Credit Account, and more credit in inputs and input services it is advisable to claim refund of un-utilized credit when exports of goods or services are made without payment of tax (Section 54(3) of the CGST Act, 2017).

Simiplified approach: assume X Ltd purchased goods by paying GST for manufacture. After manufacture supplied goods to an importer located in USA in the following manner.



Note: In general all our exports free from Basic Customs Duty unless law specifically stated otherwise.

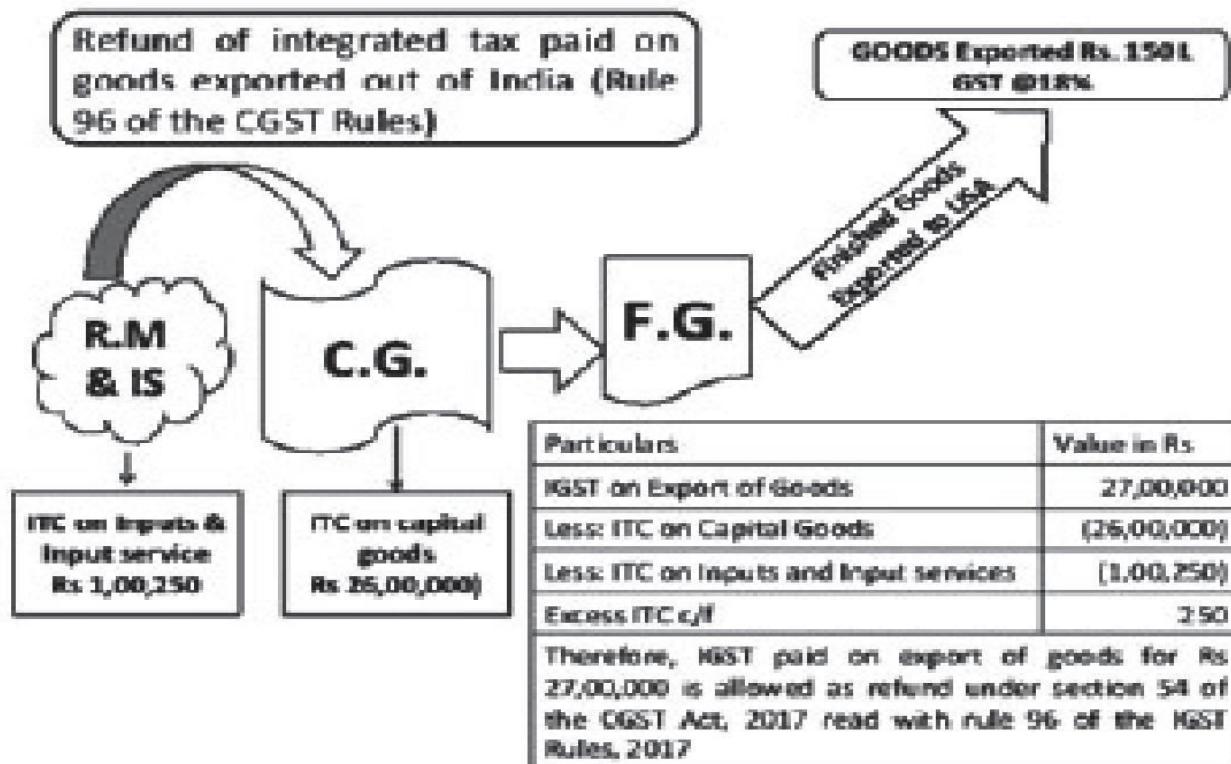
Example 8:

Under what circumstances it may be beneficial to pay IGST on export of goods and claim rebate (i.e. Refund) under rule 96 of the CGST Rules, 2017.

Answer:

If assessee has balance of tax in Capital Goods Input Tax Credit Account, it is advisable to pay duty (i.e. IGST) on export and claim refund, as balance in Capital Goods Input Tax Credit Account is never refundable.

Simiplified approach: assume X Ltd purchased goods by paying GST for manufacture. After manufacture supplied goods to an import located in USA in the following manner.



Example 9:

How to execute Bond required for exporting without payment of IGST?

Answer:

Following are the instructions on how to execute Bond required for exporting without payment of IGST.

Step 1: Bond has to be executed when your turnover in the previous year is less than ₹ 1,00,00,000/- (now please refer master circular CBEC Circular No. 8/8 /2017 - GST dated 4th October 2017 with regard to export given above).

Step 2: Bond of amount equivalent to the tax liability (usually annual liability) has to be executed on non-judicial stamp paper in the favour of President of India, through the concerned Assistant Commissioner.

Step 3: In the bond, exporter has to mention the Bank Guarantee amount which is equivalent to 15% of the bond value (or lesser if allowed by Assistant Commissioner).

Step 4: Stamp Paper for Bond can be of value ₹500/- or more (or as prescribed by concerned Assistant Commissioner). Stamp paper should be purchased from your own State (same jurisdiction) i.e. where the concerned Range Office is located. It should be purchased in the name of exporter (with address).

Bond-Language does not fit well on single page, so you have to use second page. Second page can be any blank page to print the extra content.

Step 5: Exporter has to self-sign the bond on first page as well as on second page. Second page has to be signed by two witnesses. Then, Bond has to be attested by a Notary.

Step 6: Exporter has to submit self-signed copy of own ID-Proof (Like Aadhar Card). You also have to submit the copies of ID-Proofs (Like Aadhar Card) of witnesses, which has to be self-signed by him.

Export of Services under GST - (CBIC Circular No. 78/52/2018-GST, dated 31-12-2018)

S. No.	Issue	Clarification
1.	In case an exporter of services outsources a portion of the services contract to another person located outside India, what would be the tax treatment of the said portion of the contract at the hands of the exporter? There may be instances where the full consideration for the outsourced services is not received by the exporter in India.	<p>1. Where an exporter of services located in India is supplying certain services to a recipient located outside India, either wholly or partly through any other supplier of services located outside India, the following two supplies are taking place:—</p> <p>(i) Supply of services from the exporter of services located in India to the recipient of services located outside India for the full contract value;</p> <p>(ii) Import of services by the exporter of services located in India from the supplier of services located outside India with respect to the outsourced portion of the contract.</p> <p>Thus, the total value of services as agreed to in the contract between the exporter of services located in India and the recipient of services located outside India will be considered as export of services if all the conditions laid down in section 2(6) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) read with section 13(2) of the IGST Act are satisfied.</p> <p>2. It is clarified that the supplier of services located in India would be liable to pay integrated tax on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India. Furthermore, the said supplier of services located in India would be eligible for taking input tax credit of the integrated tax so paid.</p> <p>3. Thus, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services), that portion of the consideration shall also be treated as receipt of consideration for export of services in terms of section 2(6) (iv) of the IGST Act, provided the:</p> <p>(i) integrated tax has been paid by the supplier located in India for import of services on that portion of the services which has been directly provided by the supplier located outside India to the recipient</p>

	of services located outside India; and (ii) RBI by general instruction or by specific approval has allowed that a part of the consideration for such exports can be retained outside India.
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Illustration: ABC Ltd. India has received an order for supply of services amounting to \$ 5,00,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz. ABC Ltd. India, in accordance with the Explanation 1 in Section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay integrated tax on the same under reverse charge and also be eligible to take input tax credit of the integrated tax so paid. Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided integrated tax on import of services has been paid on the part of the services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.

(c) Special Economic Zones (SEZ's)/Developer of SEZ units.

Example 10:

X Ltd., a unit in SEZ, received services from various service providers in relation to authorized operations in SEZ during the month July, 2017. The following details are furnished for the month July, 2017:

- (i) Value of Taxable services used exclusively for authorised operations within SEZ: Rs. 5,00,000 (exemption from GST availed).
- (ii) Value of Taxable Services used by SEZ units and DTA units: Rs. 8,00,000. GST paid @18%.
- (iii) Value of Taxable Service used wholly for DTA units: Rs. 3,00,000. GST paid @18%.
- (iv) Export Turnover of SEZ Unit: Rs. 1,00,00,000
- (v) Turnover of DTA Unit: Rs. 60,00,000

Compute the ITC and amount of refund if any?

Note: All input services used by SEZ for its authorized operations only.

Answer:

Statement showing ITC & refund of X Ltd. (a unit of SEZ)

S. No.	Particulars	Value of input services Rs.	ITC Rs.	Refund Amount Rs.	Remarks
1	Input services	5,00,000	Nil	Since, no tax paid on inputs no refund is allowed	Input services used exclusively for authorized operations
2	DTA as well as Zero rated supply	8,00,000	54,000	90,000	(Rs. 8Lx18%)x 100L/160L
3	Input services only for DTA	3,00,000	54,000	Nil	
	Total		1,08,000	90,000	

Deemed exports

As per Section 2(39) of the CGST Act, 2017 "deemed exports" means such supplies of goods as may be notified under Section 147;

As per Section 147 of the CGST Act, 2017 The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

Deemed exports are likely to be considered for purpose of GST to claim refund. Presently deemed supply attract GST.

As per Notification No. 48/2017-Central Tax, dated - 18th October, 2017, the Central Government, on the recommendations of the Council, hereby notifies the supplies of goods listed in column (2) of the Table below as deemed exports, namely:-

S. No.	Description of supply
1.	Supply of goods by a registered person against Advance Authorisation
2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
3.	Supply of goods by a registered person to Export Oriented Unit
4.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

Supplies against Advance Authorisation scheme not to be used in supply of nil rated/fully exempted supplies, when exports have already been made after availing ITC on inputs used in manufacture of such exports

Notification No. 48/2017-CT, dated 18.10.2017 specifies the supplies which shall be treated as deemed exports. The said notification has been amended as under:

(i) Supply of goods by a registered person against Advance Authorisation is a deemed export in terms of the said notification. The following conditions have been prescribed in this regard:

1. the goods so supplied, when exports have already been made after availing ITC on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply. 2. No such certificate shall be required if ITC has not been availed on inputs used in manufacture of export goods.
2. Thus, supplies against Advance Authorisation scheme cannot be used in manufacture and supply of nil rated or fully exempted supplies.

(ii) The definition of advance authorisation has been amended to remove the words "on pre import basis" therefrom. The amended definition reads as under:

"Advance Authorisation means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs for physical exports".

[Notification No. 01/2019-CT, dated 15.01.2019]

(e) Duty structure:

As per Section 54(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

- (i) Zero rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Question:

Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017? - Circular 48/22/2018 - GST

Solution:

Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics).

Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

Clarification on the removal of the restriction on refund of accumulated Input Tax Credit on fabrics [Circular 56/30/2018 -GST]

1. It is clarified that the restriction on refund of accumulated ITC on account of inverted duty structure will not be allowed on inputs. But there is no restriction on the refund of the ITC on input services and capital goods. It is only on the accumulated ITC on inputs.
2. The input tax credit on account of inverted duty structure lying in the balance after payment of GST for the month of July (on the purchases made on or before the 31st July, 2018) shall lapse.
3. Adding to it, the ITC on the zero rated supplies shall not lapse.

Clarification on refund amount for claim of refund of accumulated ITC on account of inverted duty structure

Circular No. 79/53/2018-GST, dated 31.12.2018 clarifies that refund of unutilized ITC in case of inverted tax structure, as provided in section 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability.

Where there are multiple inputs attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules, the term "Net ITC" covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with help of the following example:

- (i) Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).
- (ii) The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.
- (iii) Further assume that the claimant supplies the output Y having value of— Rs. 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the claimant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.
- (iv) If we assume that Input A, having value of Rs. 500/- and Input B, having value of Rs. 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to Rs. 385/- (Rs. 25/- and Rs. 360/- on Input A and Input B respectively).
- (v) Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of ? 385/-.
- (vi) From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is Rs. 25/-.

Clarification on the term "input"

On certain occasions, ITC on stores and spares, packing materials, materials purchased for machinery repairs, printing and stationery items, is not considered as part of Net ITC on the grounds that these are not directly consumed in the manufacturing process and therefore, do not qualify as input. There are also instances where stores and spares charged to revenue are considered as capital goods and therefore the ITC availed on them is not included in Net ITC, even though the value of these goods has not been capitalized in his books of account by the claimant.

Clarification: It is clarified that input tax credit of the GST paid on inputs shall be available to a registered person as long as he/she uses or intends to use such inputs for the purposes of his/her business and there is no specific restriction on the availment of such ITC anywhere else in the GST Act. The GST paid on inward supplies of stores and spares, packing materials etc. shall be available as ITC as long as these inputs are used for the purpose of the business and/or for effecting taxable supplies, including zero-rated supplies, and the ITC for such inputs is not restricted under section 17(5) of the CGST Act. Further, capital goods have been

clearly defined in section 2(19) of the CGST Act as goods whose value has been capitalized in the books of account and which are used or intended to be used in the course or furtherance of business. Stores and spares, the expenditure on which has been charged as a revenue expense in the books of account, cannot be held to be capital goods.

[Circular No. 79/53/2018-GST, dated 31.12.2018]

Clarification on refund of accumulated ITC of input services and capital goods arising on account of inverted duty structure:

Section 54(3) of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, section 2(59) of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. Accordingly, rule 89(5) of the CGST Rules defines the term 'Net ITC' [as used in the formula for calculating the maximum refund amount under said rule], to mean input tax credit availed on **inputs** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both.

In view of the above, it is clarified that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted duty structure.

[Circular No. 79/53/2018-GST, dated 31.12.2018]

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

[Circular No.135/05/2020 GST dated 31.03.2020]

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

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

Refund of ITC under section 54(3) restricted to the extent of credit reflected in Form GSTR-2A

[Circular No.135/05/2020 GST dated 31.03.2020]

In wake of insertion of sub-rule (4) to rule 36 of the CGST Rules, 2017, it has been decided that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in Form GSTR-1 and are reflected in the Form GSTR-2A of the applicant.

(f) Finalisation of provision assessment

As per section 60 of the CGST Act, 2017 makes provisions for provisional assessment of taxes paid on supply of goods or services by a taxable person.

The section further provides that the proper officer shall within a period of 6 months from the date of communication of the order shall finalize the assessment after taking into account such information as may be required for finalization.

As per 60(5) of the CGST Act, 2017, where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54, interest shall be paid on such refund as provided in section 56.

(g) Excess payment of tax due to mistake etc. then registered person is entitled to claim refund of such excess payment.

Refund GST to specialized agencies like UNO, Multiateral Financial Institutions and Organisation notified under the UN or consulate or Embassy of Foreign countries etc., are allowed.

(h) Refund of excess balance in the Electronic Cash Ledger

As per Section 49(6), the balance in the electronic cash ledger may be refunded in accordance with the provisions of Section 54. Further, as per proviso to section 54(1), a registered person, may claim refund of any balance in the electronic cash ledger through the return for the relevant tax period in Form GSTR-3, Form GSTR-4 or Form GSTR-7, as the case may be.

Form of Application and Procedure for Refund of Balance in Cash Ledger

- As per proviso to section 54(1), refund of balance in electronic cash ledger may be claimed in the return furnished under section 39 in such manner as may be prescribed.
- As per Rule 61(4), a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in Part B of the return in Form GSTR-3 and such return shall be deemed to be an application filed under section 54.
- Further as per 1st proviso to Rule 89(1), any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant tax period in Form GSTR-3 or Form GSTR-4 or Form GSTR-7.
- As per Rule 89(2)(k), a statement showing the details of the amount of claim on account of excess
- Payment of tax is required to be furnished to establish that a refund is due to the applicant.

As per section 54(1) of the CGST Act, any person claiming refund of any tax and interest, if any paid on such tax or any other amount paid by him, may make an application before the expiry of 2 Years from the relevant date in such form and manner as may be prescribed.

Explanation (2), to section 54 of the CGST Act, 2017 "relevant date" means—

- (a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—
 - (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
 - (ii) If the goods are exported by land, the date on which such goods pass the frontier; or
 - (iii) If the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
- (b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
- (c) In the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—
 - (i) Receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or
 - (ii) Issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;
- (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
- (e) In the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;
- (f) In the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
- (g) In the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- (h) In any other case, the date of payment of tax

BASICS FOR EXPORT

Drawback - "Drawback" in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods - section 2(42) of CGST Act.

In case of refund of tax on inputs used in exports:

- Refund of 90% will be granted provisionally within seven days of acknowledgement of refund application.

- Remaining 10% will be paid within a maximum period of 60 days from the date of receipt of application complete in all respects.
- Interest @ 6% is payable if full refund is not granted within 60 days.

In the case of refund of IGST paid on exports: Upon receipt of information regarding furnishing of valid return by the exporter from the common portal, the Customs shall process the claim for refund and an amount equal to the IGST paid in respect of each shipping bill shall be credited to the bank account of the exporter.

An exporter will be required to pay GST in case of goods procured from unregistered persons (including unregistered job workers under reverse charge mechanism. However the exporter can avail ITC of such GST paid and either utilise the ITC or claim refund of the same.

Letter of Undertaking (LUT)

It is a type of bank guarantee, under which a bank allows its customer to raise money from another Indian bank's foreign branch as a short-term credit.

The purpose of such undertakings is to ensure that owner of the ship or aircraft would:

- employ security on the vehicle;
- enter an appearance acknowledge ownership;
- Pay any final decree entered against the vehicle whether it is lost or not.

Bonds

It is a financial instrument in which the issuer of bond owes the holders a debt and is obliged to pay them interest or to repay the principal at a later date. It is a highly secured and highly liquid financial instrument which is mostly negotiable. This means that the ownership of the bond can be transferred. The most common types of bonds are municipal bonds and corporate bonds.

In case of furnishing bonds for exports, the general parlance is B-1 Surety / Security (General Bond) is furnished. These kinds of bonds have a surety (another person) who guarantees the performance on the part of the obligor (person furnishing the bond).

Treatment of Exports under GST

As per the provisions contained under IGST law, export of goods or services or both are to be regarded as "zero-rated supplies" and a person being a registered taxable person exporting such goods or services or both shall be allowed to claim the refund of the GST paid under one of the following two options:

- Export of goods or services or both under bond or letter of undertaking (LUT) without paying any Integrated Tax and can claim the refund of unutilized input credit.
- Export of goods and service or both on the payment of Integrated Tax and the exporter can claim the refund of the GST paid on such goods and services so exported. The above-mentioned refunds will be subject to certain rules, procedures, and safeguards as may be prescribed.

Option 1: Export of goods or services or both under bond or letter of undertaking (LUT), subject to certain rules, procedures and safeguards as may be prescribed, without payment of integrated tax, and then claim a refund of unutilized input credit.

The registered taxable person (or exporter) is required to file an application for the refund on the common portal either through the facilitation center notified by the GST commissioner or can do so directly. An export manifest is required to be filed under the existing Customs Act before filing an application for refund.

Option 2: Any exporter or Embassy or United Nations or other organisations/ bodies/ agencies as specified in section 55 who supplies goods or services, or both, after satisfying all the conditions, rules, procedures and safeguards as may be prescribed; and paying the IGST, can claim the refund of such GST paid on the supplied goods or services, or both. The applicant seeking the refund has to apply for the refund as per the provisions contained U/s 54 of the CGST Act.

An exporter needs to file a shipping bill for the goods being exported to a place outside India. Under this case, the shipping bill so filed is treated as a "deemed application" for the refund of the tax paid. The deemed application shall be deemed to have been filed only if the person in charge of the shipment files the export manifest or report, mentioning the number and date of the shipping bills.

Procedural Part of Refund:

A. Refund of integrated tax paid on goods or service exported out of India.-

Refund of integrated tax paid on goods or services exported out of India (Rule 96 of CGST Act. 2017)

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

- (a) the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; and
- (b) the applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be;

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

Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

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

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

(4) Cases where refund can be withheld: The claim for refund shall be withheld where,-

- (a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or
- (b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.

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

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

(7) Sanction of withheld refund and passing of Refund Order : Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount after passing an order in FORM GST RFD-06.

(8) Bhutan Exports: The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.

(9) Refund form in respect of Services : The application for refund of integrated tax paid on the services exported out of India shall be filed in FORM GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89".

(10) Ineligible Supplies: The persons claiming refund of integrated tax paid on exports of goods or services should not have -

- (a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or
- (b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.

Note: For period from 23.10.2017 to 08.10.2018***

The persons claiming refund of integrated tax paid on export of goods or services should not have -

(a) Received supplies by availing the following benefits :

- Notification No. 48/2017-CT, dated the 18th October, 2017: It covers domestic supplies made against advance authorization, supply of capital goods against EPCG authorization, supply of goods to EOU & supply of gold by a bank or PSU against advance authorization.
- Notification No. 40/2017-CT (Rate), dated the 23rd October or Notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017: This notification covers supplies made to merchant exporter at the rate of 0.1% in case of IGST or 0.05% each in case of CGST & SGST.

(b) Availed the benefit under following notifications:

- Notification No. 78/2017-Customs, dated the 13th October, 2017: This notification provides exemption from Customs Duty & IGST under Customs on goods imported or procured from Public or Private Warehouse or from International Exhibition by Hundred per cent EOU, STP or EHTP units.
- Notification No. 79/2017- Customs, dated the 13th October, 2017: This notification provides exemption from Customs Duty & IGST under Customs on imports under EPCG, Advance Authorization, Advance Authorization for Annual Requirements, Advance Authorization for Deemed Export, Advance Authorization for export of Prohibited Goods and Narrow Woven Fabrics, etc.

***- Further, Notification No. 54/2018 dated 9th October, 2018 has been issued effective from 09.10.2018 to restrict the refund in case he has availed the benefits as mentioned aforesaid except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.

B. Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking.- As per Rule 96A of CGST Rules, 2017 - Refund of integrated tax paid on export of goods or services under bond or Letter of Undertaking

(1) Furnishing of bond or Letter of Undertaking for Export of Goods or Services :Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of -

- (a) fifteen days after the expiry of three months, 2[or such further period as may be allowed by the Commissioner,] from the date of issue of the invoice for export, if the goods are not exported out of India; or
- (b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

(2) Details of export invoices to be transmitted electronically to Custom Portal :The details of the export invoices contained in FORM GSTR-1 furnished on the common portal shall be electronically transmitted to

the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.

Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

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

(3) Recovery of bond amount in case of failure to export goods within Specified Time Limit :Where the goods are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

(4) Restoration on payment of dues by registered person :The export as allowed under bond or Letter of Undertaking withdrawn in terms of subrule

(3) Shall be restored immediately when the registered person pays the amount due.

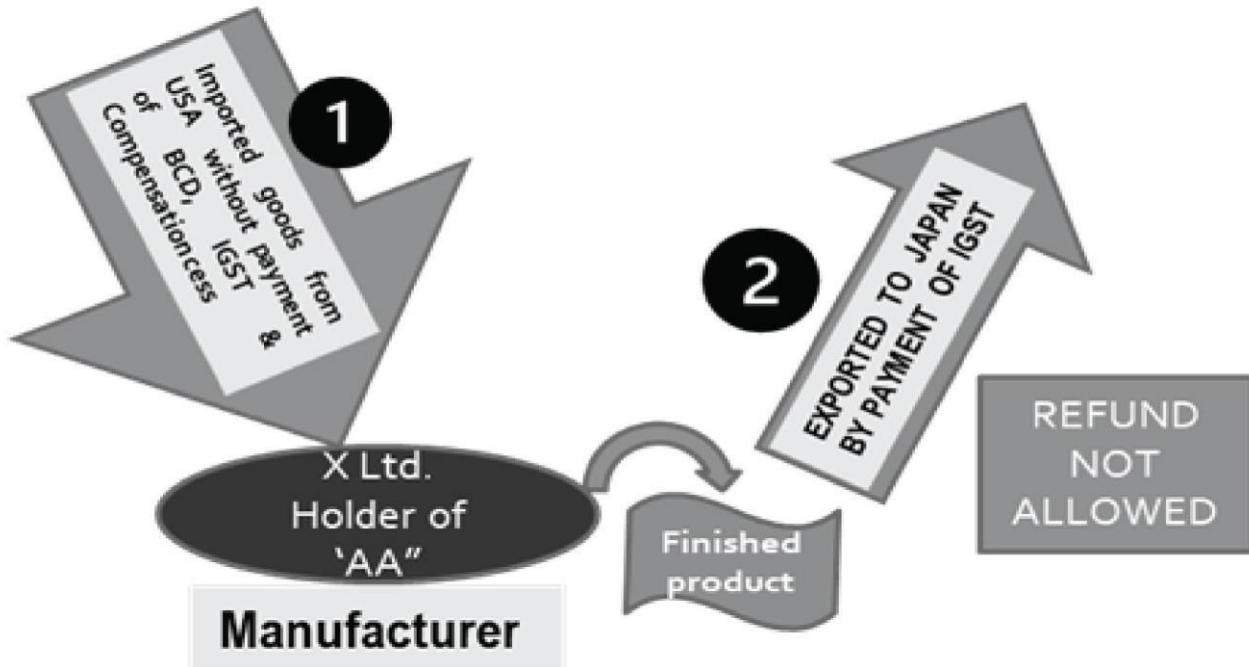
(5) Furnishing of Letter of Undertaking instead of bond :The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond.

(6) Applicability to supplies of goods or services to SEZ: The provisions of sub rule (1) shall apply, mutatis mutandis, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.

Explanation to rule 96(10)(b) inserted [Notification No.16/2020 CT dated 23.03.2020]

Rule 96(10)(b) lays down an embargo on the refund claim by a person seeking refund of IGST paid on export of goods/ services. The restriction is that such person should not have availed the benefit of exemption from IGST and Compensation Cess, for goods imported by EOU under Notification No. 78/2017 Cus dated 13.10.2017 or for goods imported under Advance Authorisation (AA)/ EPCG under Notification No. 79/2017 Cus dated 13.10.2017.

An explanation has been inserted to this clause which clarifies that the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid IGST and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications.



vide Notf no. 16/2020-CT dt. 23.03.2020:-

Rule 96B. Recovery of refund of unutilised input tax credit or integrated tax paid on export of goods where export proceeds not realised.-

(1) Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

(2) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of 3 months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India

CBEC Circular No. 8/8 /2017 - GST dated 4th October 2017:

(1) Eligibility to export under LUT:

The facility of export under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds * 250 lakh (i.e. two hundred and fifty lakh rupees) vide Circular No. 8/8/2017

➤ GST dated 4th October 2017.

(2) Validity of LUT:

The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub - rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub - rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub - rule is paid subsequently, the facility of export under LUT shall be restored.

As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.

(3) Form for bond/ LUT:

Till the time FORM GST RFD - 11 is available on the common portal, the registered person (exporters) may download the FORM GST RFD - 11 from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business. The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.

(4) Documents for LUT:

Self - declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. That is, self - declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of Notification No. 37 /2017 - Central Tax dated 4th October, 2017. Verification, if any, may be done on post - facto basis.

Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

Note: Circular No. 2/2/2017 - GST dated 5th July, 2017, Circular No. 4/4/2017 - GST dated 7th July, 2017 and Circular No. 5/5/2017 - GST dated 11th August, 2017 are hereby rescinded except as respects things already done or omitted to be done.

Notification 26/2018- Central Tax

- (i) With effect from 01st July, 2017, in rule 95, in sub-rule (3), for clause (a), the following shall be substituted, namely:-
 - a. The inward supplies of goods or services or both were received from a registered person against a tax invoice;" Refund of tax paid by the applicant was available only if the price of supply covered under a single tax invoice exceeded Rs. 5000. Now, this condition has been omitted from the said rule therefore, no condition of amount of invoice to claim refund. The above change has been given a retrospective effect from 01.07.2017.
- (ii) 50% of the amount of Cess shall also be deposited in the Consumer Welfare Fund to make the payment for the refund under GST

CBIC notifies Central Goods and Services Tax (Sixth Amendment) Rules, 2019 vide Notification No. 49/2019 -Central Tax dated 09-10-2019:—

In rule 97, - (a) after sub-rule (7), with effect from the 1st July, 2017, the following sub-rule 7A shall be inserted, namely,-

"(7A) The Committee shall make available to the Board 50 per cent. of the amount credited to the Fund each year, for publicity or consumer awareness on Goods and Services Tax, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty-five crore rupees per annum."

Manner of calculating the maximum amount of refund in case of

(1) Refund in case of Zero rated supplies [Rule 89(4)] : In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of subsection (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula -

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

Where, -

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

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

(C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

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

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

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

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

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

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

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

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

(2) Refund in case of Inverted Duty Structure[Rule 89(5)]: In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

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

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

- (a) Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- (b) Adjusted Total turnover shall have the same meaning as assigned to it in sub-rule (4).

(3) Refund of ITC on inputs and input services other than those for which benefit of Deemed Export claimed [Rule 89(4A)]: In the case of supplies received on which the supplier has availed the benefit notification No. 48/2017-Central Tax dated the 18th October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

(4) Refund of Input tax credit in Specified Situations[Rule 89(4B)]: Where the person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax has -

- (a) received supplies on which the supplier has availed the benefit of the notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, or
- (b) Availed the benefit of notification No. 78/2017-Customs, dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017,

the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.

Manual filing and processing [Rule107A]

Notwithstanding anything contained in the rules relating to refunds, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.

Manual Processing of Refund Application

Due to the non-availability of the refund module on the common portal, it has been decided by the competent authority, on the recommendations of the Council, that the applications/ documents/ forms pertaining to refund claims on account of zero-rated supplies shall be filed and processed manually till further orders. [Para 1 of Circular 17/17/2017 dated 15-11-2017]

Refund Forms

Form	Related Provision	Particulars
Form-GST-RFD-01	Rule 89(1)	Application for Refund
Form GST RFD-01A	Rules 89(1) and 97A	Application for Refund (Manual)
Form RFD-01B	Rules 91(2), 92(1), 92(3), 92(4), 92(5) and 97A	Refund Order details
GST GST-RFD-02	Rules 90(1), 90(2) and 95(2)	Acknowledgment
Form-GST-RFD-03	Rule 90(3)	Deficiency Memo
Form GST RFD-04	Rule 91(2)	Provisional Refund Order
Form-GST-RFD-05	Rules 91(3), 92(4), 92(5) & 94	Payment Advice
Form GST-RFD-06	Rule 92(1), 92(3), 92(4), 92(5) & 96(7)	Refund Sanction/Rejection Order
Form-GST-RFD-07	See rule 92(1), 92(2) & 96(6)	Part A-Order for Complete adjustment of sanctioned Refund Part B- Order for withholding the refund

Form-GST-RFD-08	Rule 92(3)	Notice for rejection of application for refund
Form-GST-RFD-09	Rule 92(3)]	Reply to show cause notice
Form GST RFD-10	Rule 95(1)	Application for Refund by any specialized agency of UN or any Multilateral Financial Institution and Organization, Consulate or Embassy of foreign countries, etc.
Form GST RFD-11	Rule 96A	Furnishing of bond or Letter of Undertaking for export of goods or services

CBEC Circular Relating to Refund:

(a) Circular No. 59/33/2018-GST dt 04.09.2018 - Clarification on refund related issues.

1. Submission of invoices for processing of claims of refund:

It was clarify that the refund claims were being filed in a semi-electronic environment and the processing was completely based on the information provided by the claimants, it becomes necessary that invoices are scrutinized. Accordingly, it was clarified that the invoices relating to inputs, input services and capital goods were to be submitted for processing of claims for refund of integrated tax where services are exported with payment of integrated tax; and invoices relating to inputs and input services were to be submitted for processing of claims for refund of input tax credit where goods or services are exported without payment of integrated tax and refund claim shall be accompanied by a print-out of FORM GSTR-2A of the claimant for the relevant period for which the refund is claimed. The proper officer shall rely upon FORM GSTR-2A as an evidence of the accountal of the supply by the corresponding supplier in relation to which the input tax credit has been availed by the claimant. It may be noted that there may be situations in which FORM GSTR-2A may not contain the details of all the invoices relating to the input tax credit availed, possibly because the supplier's FORM GSTR-1 was delayed or not filed. In such situations, the proper officer may call for the hard copies of such invoices if he deems it necessary for the examination of the claim for refund. It is emphasized that the proper officer shall not insist on the submission of an invoice (either original or duplicate) the details of which are present in FORM GSTR-2A of the relevant period submitted by the claimant.

2. System validations in calculating refund amount

The GST Council clarify the ambiguity in relation to the process through which an application in FORM GST RFD-01A is generated.

In case of refund of unutilized input tax credit (ITC for short), the common portal calculates the refundable amount as the least of the following amounts:

- The maximum refund amount as per the formula in rule 89(4) or rule 89(5) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax +Integrated tax + Cess(wherever applicable)];
- The balance in the electronic credit ledger of the claimant at the end of the tax period for which the refund claim is being filed after the return for the said period has been filed; and
- The balance in the electronic credit ledger of the claimant at the time of filing the refund application.

After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the claimant in the following order:

- Integrated tax, to the extent of balance available;
- Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of a shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

The procedure described above, however, is not presently available on the common portal, so the taxpayers are advised to follow the order as explained above for all refund applications filed. However, for applications already filed and pending with the tax authorities, where this order is not adhered to by the claimant, no adverse view may be taken by the tax authorities.

3. Re-credit of electronic credit ledger in case of rejection of refund claim:

It was clarified that in case of rejection of claim for refund of unutilized input tax credit on account of ineligibility of the said credit under sub-sections (1),(2) or (5) of section 17 of the CGST Act, or under any other provision of the Act and rules made thereunder the proper officer shall order for the rejected amount to be re-credited to the electronic credit ledger of the claimant using FORM GST RFD-01B. For recovery of this amount, a demand notice shall have to be simultaneously issued to the claimant under section 73 or 741 of the CGST Act, as the case may be. In case the demand is confirmed by an order issued under sub-section (9) of section 73, or sub-section (9) of section 74 of the CGST Act, as the case may be, the said amount shall be added to the electronic liability register of the claimant through FORM GST DRC- 07. Alternatively, the claimant can voluntarily pay this amount, along with interest and penalty, if applicable, before service of the demand notice, and intimate the same to the proper officer in FORM GST DRC-03 in accordance with sub-section (5) of section 73 or sub-section (5) of section 74 of the CGST Act, as the case may be, read with sub-rule (2) of rule 142 of the CGST Rules. In such cases, the need for serving a demand notice will be obviated. And in case of rejection of claim for refund of unutilized input tax credit, on account of any reason other than the eligibility of credit, the rejected amount shall be re-credited to the electronic credit ledger of the claimant using FORM GST RFD-01B only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal against the said rejection or in case he files an appeal, the same is finally decided against the claimant, as has been laid down in rule 93 of the CGST Rules.

Consider an example where against a refund claim of Rs. 100, only Rs. 80 is sanctioned (Rs. 15 is rejected on account of ineligible ITC and Rs. 5 is rejected on account of any other reason). As described above, Rs. 15 would be re-credited with simultaneous issue of notice under section 73 or 74 of the CGST Act for recovery of ineligible ITC. Rs. 5 would be re-credited (through FORM GST RFD-01B) only after the receipt of an undertaking from the claimant to the effect that he shall not file an appeal or in case he files an appeal, the same is finally decided against the claimant.

4. Scope of rule 96(10) of the CGST Rules:

It is clarified that the restriction under rule 96(10) of the CGST Rules, as amended retrospectively by notification No. 39/2018-Central Tax, dated 04.09.2018,- which provides registered persons, including importers, who are directly purchasing/importing supplies on which the benefit of reduced tax incidence or no tax incidence under certain specified notifications has been availed, shall not be eligible for refund of integrated tax paid on export of goods or services. It applies only to those purchasers/importers who are directly purchasing/importing supplies on which the benefit of certain notifications, as specified in the said sub-rule, has been availed.

For example, an importer (X) who is importing goods under the benefit of Advance Authorization/EPCG, is directly purchasing/importing supplies on which the benefit of reduced/Nil incidence of tax under the specified notifications has been availed. In this case, the restriction under rule 96(10) of the CGST Rules is applicable to X. However, if X supplies the said goods, after importation, to a domestic buyer (Y), on payment of full tax, then Y can rightfully export these goods under payment of integrated tax and claim refund of the integrated tax so paid. However, in the said example if Y purchases these goods from X after availing the benefit of specified notifications, then Y also will not be eligible to claim refund of integrated tax paid on export of goods or services.

5. Disbursal of refund amount after sanctioning by the proper officer:

It is clarified that the remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order and not in withholding of the disbursement of the sanctioned amount. If any discrepancy is noticed by the disbursing authority, the same should be brought to the notice of the counterpart refund sanctioning authority, the concerned counterpart reviewing authority and the nodal officer, but the disbursal of the refund should not be withheld. It is hereby clarified that neither the State nor the Central tax authorities shall refuse to disburse the amount sanctioned by the counterpart tax authority on any grounds whatsoever, except under sub-section (11) of section 54 of the CGST Act. It is further clarified that any adjustment of the amount sanctioned as refund against any outstanding demand against the claimant can be carried out by the refund disbursing authority if not already done by the refund sanctioning authority.

6. Status of refund claim after issuance of deficiency memo:

It is clarified that show-cause-notices are not required to be issued where deficiency memos have been issued. A refund application which is re-submitted after the issuance of a deficiency memo shall have to be treated as a fresh application. No order in FORM GST RFD-04/06 can be issued in respect of an application against which a deficiency memo has been issued and which has not been resubmitted subsequently.

7. Treatment of refund applications where the amount claimed is less than rupees one thousand:

It is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. The limit would not apply in cases of refund of excess balance in the electronic cash ledger. All field formations are requested to reject claims of refund from the electronic credit ledger for less than one thousand rupees and re-credit such amount by issuing an order in FORM GST RFD-01B.

(b) Circular No. 60/34/2018-GST dt 04.09.2018-Processing of refund applications filed by Canteen Stores Department (CSD).

1. It is clarified that CSD will apply for the refund with the central/ state authorities to whom CSD has been assigned. The payment of the sanctioned amount under central and state tax will be made by the central tax authority and state tax authorities respectively.
2. It is necessary to produce the refund order issued by the proper officer to the concerned authority within 7 days for the payment of the sanctioned amount.

(c) Circular No. 63/37/2018-GST dt 14.09.2018 - Clarification regarding processing of refund claims filed by UIN entities.

The delay in the refund claims filed by the UIN entities i.e Embassy/Mission/Consulate/UNO has been clarified. Refund processing officers can ask for the statement of invoices and hard copies of those in order to determine the eligibility for grant of refund in accordance with the reciprocity letter issued by MEA. Also, the following provisions are clarified :

1. UIN entities must submit the copy of the 'Prior Permission letter' and mention the same in the covering letter while applying for GST refund on purchase of vehicles to avoid delay in processing of refunds.
2. The eligibility of refund for the personnel and officials posted in the Embassy/Mission/Consulate shall be determined based on the principle of reciprocity.
3. A one-time waiver is hereby given from recording the UIN on the invoices issued by the suppliers pertaining to the refund claims filed for the quarters from April, 2018 to March, 2019, subject to the condition that the copies of such invoices which are attested by the authorized representative of the UIN entity shall be submitted to the jurisdictional officer.
4. A monthly report to be furnished to the Principal Director General of Goods and Services Tax by the 30th of the succeeding month.

Also, a checklist for processing UIN refunds is provided.

(d) Circular No. 70/44/2018 -GST dt 26.10.2018 - Clarification on certain issues related to refund.

1. Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:

This Circular No 70/44/2018- GST dated 26.10.2018 further provides clarification on Circular No 59/33/2018-GST Dated 04.09.2018 in which it was clarify that once a deficiency memo has been issued against an application for refund, the amount of Input Tax Credit debited under sub-rule (3) of rule 89 of the Central Goods and Services Tax Rules, 2017 is required to be re-credited to the electronic credit ledger of the applicant by using FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund but it was observed that the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo has been issued against an earlier refund application for the same period. Accordingly, it was clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in FORM GST RFD-03 is issued to taxpayers, re-credit in the electronic credit ledger (using FORM GST RFD-01B) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

2. Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:

It clarifies that exporters who have received capital goods under the Export Promotion Capital Goods Scheme (hereinafter referred to as "EPCG Scheme"), should be allowed to avail the facility of claiming refund of the IGST paid on exports and it shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule.

Bunching of refund claims across financial years permitted [Circular No.135/05/2020 GST dated 31.03.2020]

It has been clarified that while filing the refund claim, an applicant may, at his option, file a refund claim for a tax period or by clubbing successive tax periods. Earlier, there was a restriction on bunching of refund claims across financial years; now the said restriction has also been relaxed.

For instance, a registered person opting to file Form GSTR-1 on quarterly basis can apply for refund on a quarterly basis or clubbing successive quarters and these quarters may spread across different financial years. Thus, he can file refund claim for quarters: Jan-Mar, Apr-Jun and July-Sep, while filing the refund claim.

Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws [Circular No. 137/07/2020 GST dated 13.04.2020]:

S. No.	Issue	clarification
1	An advance is received by a supplier for a service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through Form GST RFD-01.
2	An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31(2) of the CGST Act, he is required to issue a "refund voucher" in terms of section 31(3)(e) of the CGST Act read with rule 51 of the CGST Rules. The taxpayer can apply for refund of GST paid on such advances by filing Form GST RFD-01 under the category "Refund of excess payment of tax".
3	Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through Form GST RFD-01.

Seva Bhoj Yojna:

The scheme is being implemented from 01.08.2018 with a total outlay of ₹325.00 Crores for Financial Years 2018-19 and 2019-20.

Under the Scheme of 'Seva Bhoj Yojna' Central Goods and Services Tax (CGST) and Central Government's share of Integrated Goods and Services Tax (IGST) paid on purchase of specific raw food items by Charitable Religious Institutions for distributing free food to public shall be reimbursed as Financial Assistance by the Government of India.

Type of activities supported under the scheme:

Free 'prasad' or free food or free 'langar'/'bhandara' (community kitchen) offered by charitable religious institutions like—

- Gurudwara,
- Temples,
- Dharmik Ashram,
- Mosques,
- Dargah,
- Church,
- Mutt,
- Monasteries etc.

Financial Assistance will be provided on First-cum-First Serve basis of registration linked to fund available for the purpose in a Financial Year.

Eligible Institutions:

- A Public Trust or Society or Body Corporate or Organisation or institution covered under section 10(23BBA) of the Income Tax Act, 1961 or Section 12AA of the Income Tax Act, 1961 for charitable or religious purposes.
- A company formed or registered under the provisions of section 8 of the Companies Act, 2013 or section 25 of the Companies Act, 1956 as the case may be, for charitable/religious purposes.
- A Public Trust registered as such for Charitable/Religious purposes under any law for the time being in force.
- A society registered under Societies Registration Act, 1860, for Charitable/Religious purposes.

Quantum of assistance:

Financial Assistance in the form of reimbursement shall be provided where the institution has already paid GST on all or any of the raw food items listed below:

1. Ghee
2. Edible oil
3. Sugar/Burra/Jaggery
4. Rice
5. Atta/Maida/Rava/Flour
6. Pulses

The total amount of CGST and Central Government's share of IGST that would be reimbursed on purchases in the Financial Year 2019-20 will be capped at a maximum of 10% of the current financial year i.e. 2018-19.

It means the reimbursements claims in the current quarter/year is not more than the previous year's purchases in the corresponding quarter/year plus a maximum of 10% for the current year. The same should be certify by a Chartered Accountant.

Conditions:

1. Institution does not block listed under Foreign Contribution Regulation Act (FCRA) or under any other provisions
2. Institutions be in existence for preceding 3 years before applying for assistance
3. Only institutions eligible which have been distributing free food, langar and prasad to public for at least past three years on the day of application.

4. Institutions not in receipt of any Financial Assistance from Central/State Government for the purpose of distributing free food.
5. Institutions shall serve free food to at least 5000 people in a calendar month.

Registration State-wise:

Obtain the Seva Bhaj Yojana Unique Identity Number (SBY-UIN) from Jurisdictional GST Nodal Officer of the State or UT, in which the specified activities are undertaken.
SBY-UIN consist of unique 10 digits.

Time limit:

Before expiry of 6 months from the last day of the quarter in which the purchases of the specified items made.

Documents with Application:

- Supplier's invoices
- Chartered Accountant Certificate

Application for claiming reimbursement of the said taxes:

- Refund application State wise in each State on quarter basis in Form SBY-03.
- Acknowledgement in Form SBY-04 will be generated.
- Jurisdictional GST Nodal Officer of the State/UT, in which the specified activity is undertaken will sanction order in Form SBY-05 (in 60 days of SBY-04)
- Payment advice in Form SBY-05 for eligible amount will be issued.

Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist.

As per Rule 95A of CGST Rules, 2017, w.e.f. 1-7-2019 (vide NT 31/2019-CT, dated 28/6/2019)

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

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

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

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

- (a) The inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;
- (b) The said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;
- (c) Name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and
- (d) Such other restrictions or conditions, as may be specified, are satisfied.

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

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

AS PER RULE 95A OF CGST RULES, 2017 W.E.F 1-7-2019 (VIDE NT No. 31/2019 CT DT 28/6/2019)



Refund to be granted both in cash and credit, based on original mode of payment [Rule 92(1A)]

Notification No.16/2020 CT dated 23.03.2020]

Newly inserted sub-rule (1A) to rule 92 stipulates that the refund of tax shall now be made proportionately, in cash and by recrediting the credit, based on original mode of payment. The amount refundable in cash shall be paid by issuance of order in Form GST RFD-06 and the amount attributable to credit as ITC shall be recredited in the electronic credit ledger by issuing Form GST PMT-03.

Rule 92(1A) provides as follows:

Where, upon examination of a refund application, the proper officer is satisfied that a refund under section 54(5) of the CGST Act is due and payable to the applicant:

- (i) the proper officer shall make a refund order in Form GST RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and
- (ii) for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue Form GST PMT-03 re-crediting the said amount as ITC in electronic credit ledger.

The above provision shall not apply to the refund of tax paid on zero-rated supplies or deemed export. The consequential amendments have been made in sub-rules (4) and (5) of rule 92.

ASSESSMENT, INSPECTION, SEARCH AND SEIZURE

ASSESSMENT MEANING

In terms of Section 2(11) of the Act, "assessment" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgement assessment.

TYPES OF ASSESSMENT

The CGST Act contemplates several types of assessments as under:

1. Self-assessment (Section 59)
2. Provisional Assessment (Section 60)
3. Summary Assessment in certain special cases (Section 64) Additionally, the CGST Act also provides for determination of the tax liability by:
 1. Scrutiny of tax returns filed by registered taxable persons (Section 61)
 2. Assessment of registered taxable person who have failed to file the tax returns (Section 62)
 3. Assessment of unregistered persons (Section 63)

Section 59 refers to the assessment made by the taxable person himself while all other assessments are undertaken by tax authorities.

Provisional assessment under Section 60 is an Assessment undertaken at the instance of the assessee. It is later followed by a final assessment. Section 61 which deals with scrutiny of returns is basically a pre-assessment procedure for the purpose of determination of tax liability and passing of an order under Section 73 of the Act. Assessments under Sections 62 and 63 are assessments undertaken by tax authorities on the principles governing best judgment assessment. Assessment under Section 64 refers to a protective assessment based on information gathered from intelligence wing of the tax authorities in a particular case.

Self-assessment means an assessment by the tax payer himself and not an assessment by the Proper Officer. The GST regime continues to promote the scheme of self-assessment. Hence, every registered taxable person would be required to assess his tax dues in accordance with the provisions of GST Act and report the basis of calculation of tax dues to the tax administrators, by filing periodic tax returns.

Although the definition includes 'reassessment' there is no provision permitting 're- examination' of an assessment (of any kind) conducted earlier by the same or any other officer. This drafting anomaly is yet to be corrected. Power to reassess cannot be inherent in the power to assess (of any kind) permitted in the Act.

SELF ASSESSMENT

Self-assessment (Section 59 of the CGST Act, 2017)

"Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39".

The registered person is required to compute his output, take the available input credit and pay the balance amount and file the returns in the prescribed forms. *Prima- Facie* the department shall accept such self-assessed returns and declarations, subject to scrutiny and other modes of assessment in the selected cases and in the prescribed manner.

Self-assessment means an assessment by the registered person himself and not an assessment conducted or carried out by the Proper Officer. The GST regime continues to promote the scheme of self-assessment. Hence, every registered person would be required to assess his tax dues in accordance with the provisions of GST Act and report the basis of calculation of tax dues to the tax administrators, by filing periodic tax returns. The provisions of the law permit a registered person to rectify any incorrect particulars furnished in the returns. In terms of Section 39(9), if a registered person discovers any omission or incorrect particulars furnished in a return, he is required to rectify such omission or incorrect particulars in the return to be furnished for the tax period during which such omission or incorrect particulars are noticed (on payment of due interest), unless the same is as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, or such rectification is time barred(i.e., after the due date for furnishing of return for

the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier).

FINAL ASSESSMENT

If the department accepts the self-assessment it will become final assessment.

RE ASSESSMENT

If department noticed any discrepancies it will become re-assessment.

PROVISIONAL ASSESSMENT

Provisional assessment (Section 60 of the CGST Act, 2017 read with Rule 98 of CGST Rules, 2017):

As per section 60(1) of the CGST Act, 2017 where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis.

The proper officer (i.e. The Asst. Commissioner/Dy. Commissioner of Central Tax) shall pass an order, within a period not later than 90 days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

The Asst. Commissioner/Dy. Commissioner of Central Tax provisionally determines the amount of tax payable by the supplier and is subject to final determination.

On provisional assessment, the supplier can pay tax on provisional basis but only after he executes a bond with security, binding them for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed (Section 60(2) of the CGST Act, 2017).

Time limit to finalise provisional assessment [section 60(3) of the CGST Act, 2017]:

The proper officer shall, within a period not exceeding 6 months from the date of the communication of the order issued under section 60(1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment.

Extention of time limit:

Proviso to section 60(3) of the CGST Act, 2017 on sufficient cause being shown and fro reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding 6 months and by the Commissioner for such further period not exceeding 4 years.

On finalization of the provisional assessment, any amount that has been paid on the basis of such assessment is to be adjusted against the amount that has been finally determined as payable. In case of short payment, the same has to be paid with interest and incase of excess payment, the same will be refunded with interest (section 60(4)/ (5) of the CGST Act, 2017).

Interest liability:

In case any tax amount becomes payable subsequent to finalization of the provisional assessment, then interest at the specified rate will also be payable by the supplier from the first day after the due date of payment of the tax till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.

In case any tax amount becomes refundable subsequent to finalization of the provisional assessment, then interest (subject to the eligibility of refund and absence of unjust enrichment) at the specified rate will be payable to the supplier.

Example 1:

M/s Ram Ltd. manufacture and cleared goods under provisional assessment, in the month of July, 2017, by paying tax of Rs. 50,000 on the 20th August, 2017 [i.e. due date of filing GSTR-3], a further tax of ? 90,000 is paid on the 15th November, 2017, and on the same day the documents for final assessment are submitted by the assessee. Final assessment order is issued on the 18th November, 2017, assessing the tax payable on goods as Rs. 1,50,000, and consequently the assessee paid a tax of Rs. 10,000 on the 30th November, 2017. Find the total interest payable by the assesseeRs.

Answer:

No interest shall be payable on Rs. 50,000.

Interest shall be payable on Rs. 90,000 from the 21st August 2017 to 15th November 2017. Therefore No. of days delay = 87 days.

Interest shall be payable on Rs. 10,000 from the 21st August 2017 to 30th November 2017 as due date for payment of duty of Rs. 1,50,000 is the 20th August 2017.

Therefore, No. of days delay = 102 days.

Rs. 90,000 x 18/100 x 87/365 = Rs. 3,861

Rs. 10,000 x 18/100 x 102/365 = Rs. 503

Total interest payable = Rs. 4,364

PROCEDURE

- (i) In terms of Rule 98(1), the process of provisional assessment commences on furnishing of an application by the registered person along with the necessary supporting documents in FORM GST ASMT-01, electronically through the common portal. The provisional assessment cannot be resorted to by the proper officer on a suo-motu basis.
- (ii) The proper officer will thereafter issue a notice in FORM GST ASMT-02. As per ASMT2, reply is required to be given within 15 days to the registered person and if required seek additional information or documents. At this stage the proceedings are deemed to have commenced and the applicant is required to file his objections/ make submissions in FORM GST ASMT - 03. The registered person can also appear in person and be heard provided he makes a specific request for a personal hearing.
- (iii) On due consideration of the reply so filed, and after providing a reasonable opportunity of being heard the proper officer must issue an order in FORM GST ASMT-04, by allowing payment of tax on provisional basis, indicating the value or rate or both on the basis of which assessment is allowed on a provisional basis. The proper officer, in the normal course, cannot pass an order rejecting the application of provisional assessment. Since section 60(1) employs the term 'shall' pass order 'allowing' payment of tax provisionally. The word "shall" in this circumstance cannot be construed as "may".
- (iv) The order so passed should also indicate the amount for which bond has to be executed in Form GSMT - 05 by the applicant. The security has to be furnished in the form of bank guarantee not exceeding 25% of the bond 'amount' which shall include IGST, CGST, SGST or UTGST and cess (if any) payable in respect of the transaction. A bond furnished to the proper officer under State Goods and Services Tax Act or Integrated Goods and Services Tax Act shall be deemed to be a bond furnished under the provisions of Central Goods and Service Tax Act and the rules made thereunder.

As per ASMT-5, if the bond and security is not provided with in period specified in notice, the provisional assessment shall lapse

Finalization of provisional assessment

Once the above process is complete the proper officer by issue of a notice in FORM GST ASMT-06, will call for information and records required for finalization of assessment. On conclusion of the due process of hearing, a final assessment order shall be passed by the proper officer in FORM GST ASMT-07, specifying the amount payable or refundable to the registered person within a period of 6 months from the date of communication of provisional assessment order. However, on sufficient cause being shown and for reasons to be recorded in writing, this period can be extended by Joint / Additional Commissioner or by the Commissioner for such further period as mentioned

below:	
Additional / Joint Commissioner	Maximum of 6 months
Commissioner	Maximum of 4 years

It may be noted that, in the statement of outward supply to be furnished by a registered person under section 37(1) i.e. in Form GSTR-1, the invoices in respect of which tax is paid under provisional assessment is required to be mentioned.

SCRUNITY OF TAX RETURNS FILED BY REGISTERED TAXABLE PERSONS (Section 61 read with Rule 99 of CGST Rule, 2017)

When a return furnished by a registered person is selected for scrutiny, the proper officer scrutinizes the same with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in FORM GST ASMT-10, under Rule 99(1), informing him of such discrepancy and seeking his explanation thereto. The proper officer shall quantify the amount of tax, interest and any other amount payable in relation to such discrepancy, wherever possible. An explanation shall be furnished by the registered person, in reply to the aforesaid notice, within a maximum period of thirty days from the date of service of the notice or such further period as may be permitted by the proper officer. The registered person may accept the discrepancy mentioned in the notice issued under Rule 99(1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same OR furnish an explanation for the discrepancy in FORM GST ASMT- 11 to the proper officer. Where the explanation furnished by the registered person or the information submitted under Rule 99(2) is found to be acceptable, the proper officer shall inform the registered period in FORM GST ASMT-12.

In case, explanation is not furnished OR explanation furnished is not satisfactory, OR after accepting discrepancies, the registered person fails to take corrective measures, in his return for the month in which the discrepancy is accepted by him, the proper officer, may, take recourse to any of the following provisions:

- Initiate departmental audit as per section 65 of the Act; or
- Initiate Special Audit as per section 66
- Initiate inspection, search and seizure as per section 67 of the Act
- Issue show cause notice u/s 73 & 74 of the CGST Act.

The first stage in return scrutiny denotes a *prima facie* scrutiny, in order to ascertain whether the information furnished by the assessee in returns is *prima facie* valid and not inadequate or internally inconsistent. The second stage appears to be a detailed assessment calling for records and determination of tax liability under sections 73 to 75. While doing so, the proper officer, is entitled to exercise the powers vested in him under section 67 of the Act, which deals with power of inspection, search and seizure. From the language employed in section 67, it appears that, these powers are required to be exercised not in routine manner, but only under circumstances when there is reasonable belief regarding probable suppression or intention to evade tax. It's important to note that, section 61(3) empathetically provides that, in case the explanation given by the tax payer in response to discrepancies informed by the proper officer, if found acceptable, the registered person shall be informed accordingly in FORM GST ASMT-12 and no further action shall be taken in this regard.

BEST JUDGEMENT ASSESSMENT

As per Section 62 of the CGST Act, 2017 (i.e. assessment of non-filers of return) provides for best judgment assessment where a registered person fails to furnish the return even after the service of a notice and pass order taking into account all the relevant material which is available or which he has gathered within a period of five years from the due date of filing annual return. Similar provision exist for unregistered persons under Section 63 of the CGST Act, 2017.

1. Section 62 of the Act can be invoked only in case of registered taxable persons who have failed to file returns, as required, under section 39 or as the case may be, or final return on cancellation of registration under section 45 of the Act. Issuing notice under section 46 appears to be a precondition for initiating proceedings under Section 62 of the Act.
2. Non-compliance with the notice under Section 46 paves the way for intimating the proceedings under this section. If the assessee fails to furnish the return, the Proper Officer may after serving him notice under section 46 proceed to assess the tax liability in accordance with the provision of Rule 100 to the best of his judgment, taking into account all the relevant material available on record, and issue an assessment order. This is also known as 'best judgment assessment'. It can be completed without giving notice of hearing to the assessee.
3. It may be noted that a return filed under Section 39 can be revised not later than the due date of furnishing of return for the month of September following the end of the financial year or actual date of filing annual return under Section 44, whichever is earlier.
4. Therefore, issuance of notice under Section 46 is a necessity for commencing proceedings under Section 62. Non-issuance of notice under Section 46 closes the door on invoking Section 62 although other provisions are available to recover the tax dues.

5. If, however, a registered person furnishes a 'valid return' within 30 days of the service of assessment order, the said assessment order shall be deemed to be withdrawn. 'Valid return' is defined in Section 2(117) to mean a return filed under Section 39(1) of the Act on which self-assessed tax has been paid in full. In order to avail the facility of withdrawal of the assessment order passed, filing of a valid return is required, including payment of taxes declared therein.
6. Time limit of 5 years (extended period for cases covered under Section 73), is also applicable for issuing order under section 62.
7. Consequence of late fee under Section 47 and interest under Section 50 will both be applicable in cases of conclusion of best judgement assessment made under this Section.
8. An order passed under this section shall be communicated to the registered person in FORM GST ASMT 13.

ASSESSMENT OF UNREGISTERED PERSONS

Section 63 is applicable to unregistered persons i.e., persons who are liable to obtain registration under Section 22 and have failed to obtain registration will come within scope of operation of this Section. This provision also covers the cases whose registration was cancelled as per section 29 (2) claiming of the GST Act. section 29(2) of the Act covers 5 instances as follows:

1. A person who contravenes the provisions of this Act or Rules made thereunder;
2. A composition person who fails to furnish returns for 3 consecutive tax periods.
3. A person other than composition person who fails to furnish returns for 6 consecutive months.
4. A person who has sought voluntary registration but has failed to commence business within 6 months.
5. Where registration has been obtained by way of fraud, wilful misstatement or suppression of facts.

This Section is applicable to unregistered taxable persons. In such cases, the proper officer is required to give a reasonable opportunity of being heard to such persons before proceeding to assess such person. The section begins with the phrase "Notwithstanding anything to the contrary contained in section 73 or section 74". It therefore appears that, assessment under section 63 can be completed independent of section 73 and Section 74, however, procedures contained in section 73 or 74 to the extent they are not inconsistent with section 63 need to be followed, while completing the assessment on principles governing best judgment assessment. Even though no return would have actually been filed in such cases, the authority to pass such assessment order is extinguished on the expiry of 5 years from due date applicable for filing annual return for the year to which tax not paid relates.

SUMMARY ASSESSMENT IN CERTAIN SPECIAL CASES

As per Section 64, the summary assessment can be undertaken in case all of the following conditions are satisfied:

1. The Proper Officer must have evidence that there may be a tax liability.
2. The Proper Officer has obtained prior permission of Additional/Joint Commissioner to assess the tax liability summarily. The proper officer must have sufficient ground to believe that any delay in passing assessment order would result in loss of revenue.

Mere possibility of non-payment cannot be a grounds for resorting to summary assessment, unless there are factors indicating that such non-payment pertains to admitted or undisputed tax liability. However, it is important to note that upon grant of permission by the Additional/Joint Commissioner, it appears that the evidence available with the proper officer or his apprehension of possible loss of revenue, cannot be called into question. As per the provision of Rule 100(3) The summary assessment order should be in FORM GST ASMT-16.

MEANING OF INSPECTION, SEARCH AND SEIZURE

Inspection: "Inspection" is a new provision under the Act. It is a softer provision than search to enable officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner or an operator of a warehouse or godown.

Search: The term "search", in simple language, denotes an action of a government machinery to go, look through or examine carefully a place, area, person, object etc. in order to finding something concealed or for

the purpose of discovering evidence of a crime. The search of a person or vehicle or premises etc. can only be done under proper and valid authority of law.

Seizure: The term 'seizure' has not been specifically defined in GST. In legal parlance, seizure is the act of taking over something or someone by force through legal process, such as the seizure of evidence found at the scene of a crime. It generally implies taking possession forcibly against the wishes of the owner.

Difference between Search and Inspection

'Search' involves an attempt to find something. Search, in tax/legal parlance, is an action of a government official (a tax officer or a police officer, depending on the case) to go and look through or examine carefully a place,

person, object etc. in order to find something concealed or to discover evidence of a crime. The search can only be done under the proper and valid authority of law.

'Inspection' is the act of examining something, often closely. In tax/legal language, it is a softer provision than search. It enables officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner/operator of a warehouse or godown.

ORDER FOR INSPECTION, SEARCH, SEIZURE UNDER GST LAW [Sec 67 under CGST ACT]

1. A Joint Commissioner (or an officer of higher rank) may have "reasons to believe" that in order to evade tax, any person has done the following-

- Suppressed any transaction of supply
- Suppressed stock in hand
- Claimed input tax credit in excess
- Violated of any of the provisions
- Any transporter or owner/operator of a warehouse has kept goods which have escaped tax payment or has kept accounts and/or goods in such a way as to evade tax

Then he can authorize any officer in FORM GST INS-01 to inspect places of businesses of:

- The taxable person or
- The transporter or
- Owner/operator of warehouse

He can also examine any other place if he sees fit.

2. The power can also be exercised when there is a reason to believe that any person engaged in the business of transportation of goods or an owner or operator of a warehouse or godown or any other place is storing goods, which have escaped tax payment or has kept his accounts or goods in a manner likely to cause tax evasion.

3. "Reason to believe" means having knowledge of facts (although does not mean having direct knowledge), that would make any reasonable person, knowing the same facts, to reasonably conclude the same thing.

As per the Indian Penal Code, 1860, "A person is said to have 'reason to believe' a thing, if he has sufficient cause to believe that thing but not otherwise."

Reason to believe is a determination based on intelligent examination and evaluation. It is different from a purely subjective consideration, i.e., an opinion. It is based on facts rather than an interpretation of facts

4. Under such circumstances, he may authorize another officer in writing to:

- (a) Inspect any place of business of the taxable person who has evaded tax or of the transporter who transported such tax evading goods or godown/warehouse in which such tax evaded goods or accounts relating thereto have been stored.
- (b) Search and seize the goods or any documents or books or things which are liable for confiscation including anything concealed and which will be useful or relevant in the proceedings under this Act.
- (c) Seal or break open the door of any premises, storage, box, electronic device or receptacle where goods, books of accounts etc. are suspected to be concealed and when access to the same is denied to the officer.
- (d) If it is not practicable to seize the goods, then the Officer may serve an order on owner or custodian of the goods for not removing, part or deal with the goods without his prior permission.
- (e) The said officer shall return the documents, books or things seized or produced by a taxable or any other person on which no reliance has been placed for issuing notice, within a period of 30 days from the issue of notice. However, the documents books or things relied upon while issuing the notice will be retained.

- (f) The person from whose custody documents are seized is entitled to take photocopy or extract of such documents in the presence of an authorized GST officer at the place and time as predetermined. Copies or extracts may be denied if he is of the opinion that such an act will prejudicially affect the investigation.
- (g) The goods so seized can be released on a provisional basis, upon execution of Bond in Form GST INS -04 and furnish security in form of Bank Guarantee equal to amount of tax, interest and penalty
- (h) If no notice has been issued within 6 months or an extended period of another 6 months, the seized goods/ exhibits ought to be returned.
- (i) The officer can dispose of certain notified goods immediately after the seizure, if those goods are of perishable or hazardous nature, or would depreciate in value by passage of time or there are constraints of storage space or any other relevant considerations as may be prescribed.
- (j) The officer who seizes the goods is liable to maintain the inventory of the said goods.
- (k) The provisions of Code of Criminal Procedure, 1973 relating to search and seizure shall be applicable to the GST Laws and in section 165(2) thereof, the word 'Magistrate' should be read as 'Commissioner'.
- (l) The officer can even seize accounts, registers or documents of any person; in case he has a reason to believe that the said person has evaded or is attempting to evade the taxes. However, he has to record the reasons in writing and also shall grant receipt of such seizure. There is no time limit prescribed for such retention by the officer. Further, where any goods, documents, book or things are liable for seizure then proper officer shall make an order of seizure in Form GST INS-02 or where it is not practically possible to seize goods then an order of prohibition in Form GST -03 shall be issued with a condition that goods shall not be removed without permission of such officer.
- (m) The Commissioner or officer authorized by him can authorize any person for purchase of any goods/ services to check issue of tax invoices/bills of supply. The goods so purchased by such person through appointed person, if returned, the taxable person from whom the goods were purchased shall refund the amount so paid and cancel the tax invoice. There is no time limit prescribed for return of the goods. It should be noted that this provision deals only with return of goods so purchased and there is no provision of return of services so purchased.
- (n) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.

As per Notification No. 27/2018 central Tax, dated 13.06.2018 - After the seizure, the specified goods shall be disposed off by the proper officer due to the considerations of being perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space

The goods or the class of goods which can be disposed of after seizure by the proper officer, having regard to the perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space or any other relevant considerations of the said goods are:

- (1) Salt and hygroscopic substances
- (2) Raw (wet and salted) hides and skins
- (3) Newspapers and periodicals
- (4) Menthol, Camphor, Saffron
- (5) Re-fills for ball-point pens
- (6) Lighter fuel, including lighters with gas, not having arrangement for refilling
- (7) Cells, batteries and rechargeable batteries
- (8) Petroleum Products
- (9) Dangerous drugs and psychotropic substances
- (10) Bulk drugs and chemicals (read notification)
- (11) Pharmaceutical products (read notification)
- (12) Fireworks
- (13) Red Sander
- (14) Sandalwood
- (17) All unclaimed/abandoned goods which are liable to rapid depreciation in value on account of fast change in technology or new models etc. and few more.

5. Section 68 enables prescription of documents and devices to be carried by the transporter and production for verification thereof.

6. Section 69 deals with power of arrest when one commits any of the following offences which is punishable under clause (i) or (ii) of sub-section (1), or under sub-section (2) of sec 132 of CGST Act which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said Section..

- (a) Supplies any goods or services or both without issue of invoice with the intention to evade tax
- (b) Issues any invoice or bill without supplies leading to wrongful availment or utilisation of input tax credit or refund of tax
- (c) Avails input tax credit using invoice or bill referred to in b) above
- (d) Collects any amount as tax but fails to pay the same beyond the period of 3 months from the due date

7. The Commissioner is vested with the power to authorise, by an order, any Officer to arrest a person, where there is a reason to believe that such person has committed the specified offences. The person committing any offence under clauses (a) or (b) or (c) or (d) u/s 132(1) cited supra and punishable under Section 132(1)(i) or 132(1)(ii) or 132(2) can be arrested by the authorised officer.

8. Section 132(1) clause (i) tax evasion above Rs. 500 Lakhs attracting imprisonment for a term upto 5 years and fine, or clause (ii) tax evasion above Rs. 200 Lakhs attracting imprisonment upto 3 years and fine or offence or section 132(2) [repeated offence - second and subsequent offence attracting imprisonment upto 5 years with fine]

9. Such person is required to be informed about the grounds of arrest and be produced before the Magistrate within 24 hours in case of cognizable offences and in case of non-cognizable and bailable offences the Assistant/Deputy Commissioner can grant the bail and is conferred powers of an officer-in-charge of a police station subject to the provisions of Code Of Criminal Procedure, 1973.

10. All arrests should be made as per the provisions of Code of Criminal Procedure, 1973.

11. Section 70 deals with exercise of powers to issue summons for giving evidence and for production of documents

12. In any inquiry which such officer is making for any of the purposes of this Act, the Proper officer shall have power to summon any person, whose attendance is considered necessary, either to give evidence or to produce a document or any other thing.

13. Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code.

14. Section 71 empowers any officer authorised by the officer not below the rank of Joint Commissioner to have access to any place of business of a registered person to inspect books of account, documents, computers, computer programmes, computer software and such other things as may be required and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

15. Such an authorized officer shall have access to any place of business of registered person to inspect books of account, documents, computers, computer programs, computer software (whether installed in a computer or otherwise) and such other things as he may require as available at such premises.

16. The object is to carry out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

17. The person in charge of the premises should make available the following:

1. Records maintained by the registered person and declared to proper officer;
2. Trial balance;
3. Audited financial statements wherever required;
4. Cost audit report, if any;
5. Income Tax audit report, if any;
6. Other relevant records.

The documents/records should be made available within 15 working days or such extended period as may be allowed.

The documents/records can be called for by the Audit officer or Chartered Accountant or Cost Accountant nominated by the department.

18. Section 72 requires all officers of Police, Railways, Customs and those officers engaged in the collection of land revenue including village officers, officers of state and union territory tax to assist the proper officers in the implementation of this Act.

Below officers are empowered and required when called upon, to assist the proper officer in execution of this act:

1. All officers of Police,
 2. Railway Officer,
 3. Customs Officer
 4. Officer of State & Union Territory tax.
 5. Officers engaged in the collection of land revenue including village officers,
19. Even the Government may issue notification empowering and requiring any other class of officer to assist the proper officers, if required by the Commissioner.

CLARIFICATION

Circular No. 49/23/2018-GST dt 21.06.2018:- Clarification on issues related to INSPECTION, SEARCH, SEIZURE AND ARREST- under GST Law

Issue 1: Modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances

The GST Council issued Circular No 49/23/2018 dated 21.06.2018 in order to amend Circular No - 41/15/2018 dated 13.04.2018 so as to ensure uniform implementation of the provision of the CGST Act, 2017 across all the field formations.

Accordingly, it clarifies that in regard of E- Way bill thatwhere the physical verification of goods being transported on any conveyance has been done during transit at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and vice-versa, doubts have been raised as to the procedure to be followed in such situations and that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required. Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

Synopsis

1. The hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.
2. Only such goods or conveyances will be confiscated or detained where there will be violation of the GST laws.

Issue 2:

Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular Nos. 41/15/2018-GST dated 13.04.2018 and 49/23/2018-GST dated 21.06.2018

The above mentioned issue has been clarified vide Circular No. 64/38/2018-GST dt 14.09.2018:

The GST Council clarifies issues regarding the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

It has been clarified that if a consignment of goods is accompanied with an invoice or any other specified document and an e-way bill then the proceedings may not be initiated in the following situations :

1. Spelling mistakes in the name of the consignor or the consignee but the GSTINwhichever is applicable, is correct.
2. Error in the address of the consignee to the extent that the locality and other details of the consignee are correct.
3. Error in one or two digits of the document number mentioned in the e-way bill.
4. Error in one or two digits of the vehicle number.
5. Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct.
6. Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way billA penalty of Rs. 1000 under IGST act will be levied in Form GST

DRC -07 for every consignment which is incomplete or erroneous in above terms. Also, a record of all these consignments will have to be sent to the proper officer to his controlling officer on a weekly basis

Circular No. 64/38/2018-GST dt 14.09.2018 - Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in Circular Nos. 41/15/2018-GST dated 13.04.2018 and 49/23/2018-GST dated 21.06.2018-

The GST Council clarifies issues regarding the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances. It has been clarified that if a consignment of goods is accompanied with an invoice or any other specified document and an e-way bill then the proceedings may not be initiated in the following situations:

1. Spelling mistakes in the name of the consignor or the consignee but the GSTIN, whichever is applicable, is correct.
2. Error in the address of the consignee to the extent that the locality and other details of the consignee are correct.
3. Error in one or two digits of the document number mentioned in the e-way bill.
4. Error in one or two digits of the vehicle number.
5. Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct.
6. Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill. A penalty of Rs. 1000 under IGST act will be levied in Form GST DRC -07 for every consignment which is incomplete or erroneous in above terms. Also, a record of all these consignments will have to be sent to the proper officer to his controlling officer on a weekly basis.

AUDIT

AUDIT BY TAX AUTHORITIES [SECTION 65]

Who conduct audit?	<ul style="list-style-type: none"> ✓ Audit of any registered person may be undertaken by: <ul style="list-style-type: none"> a. the Commissioner; or b. any officer authorised by him, by way of a general or a specific order, ✓ Audit may be carried out at the place of business of the registered person or in their office. ✓ The period of audit could be for a financial year or part thereof or multiples thereof. ✓ Thus, the Commissioner or any officer authorized by him, by way of a general or special order, may undertake audit of any registered person even for a part of financial year or for multiple financial years. ✓ Where it is decided to undertake the audit of a registered person, the proper officer shall issue a notice not less than 15 working days prior to the conduct of audit.
What is meant by commencement of audit?	<p>The term 'commencement of audit' is important because audit has to be completed within a given time frame in reference to this date of commencement.</p> <p>Commencement of audit means the later of the following:</p> <ul style="list-style-type: none"> a) the date on which the records/accounts called for by the audit authorities are made available to them, or b) the actual institution of audit at the place of business of the taxpayer.
Time limit for completion of audit	<p>The audit is required to be completed within 3 months from the date of commencement of audit.</p> <p>The period is extendable for a further period of a maximum of 6 months by the Commissioner.</p>
How to conduct audit	<p>The proper officer authorised to conduct audit of the records and books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him may verify the following and record the observations in his audit notes:</p> <ul style="list-style-type: none"> - documents on the basis of which the books of account are maintained and the returns and statements furnished under the Act and the rules made thereunder; - the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of supply of goods or services or both, the

	<p>input tax credit availed and utilized, refund claimed, and other relevant issues.</p> <p>During the course of audit, the authorised officer may require the registered person,—</p> <ol style="list-style-type: none"> <li data-bbox="430 399 1406 460">a) to facilitate the verification of accounts/records available or requisitioned by the authorities, <li data-bbox="430 460 1406 521">b) to provide such information as the authorities may require for the conduct of the audit, and <li data-bbox="430 521 1406 581">c) to render assistance for timely completion of the audit.
Finalisation of Audit	<p>The proper officer may inform the registered person of the discrepancies noticed, if any, as observations of the audit and the said person may file his reply.</p> <p>The proper officer shall finalize the findings of the audit after due consideration of the reply furnished by registered person to the audit observations.</p> <p>On conclusion of audit, the proper officer shall within 30 days inform the registered person whose records are audited, about the audit findings and the reasons for such findings.</p> <p>The proper officer shall also inform the said person his rights and obligations against such observations. Where the audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.</p>

SPECIAL AUDIT [SECTION 66]

When Special Audit may be directed and from whom?	<p>If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that –</p> <ol style="list-style-type: none"> <li data-bbox="493 1596 1406 1664">1. the value (of goods and/or services) has not been correctly declared; or <li data-bbox="493 1664 1406 1702">2. the credit availed is not within the normal limits, <p>He may, with the prior approval of the Commissioner, issue a direction to the registered person to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner and specified in the said direction.</p> <p>The provisions of special audit shall have effect even if the accounts of the registered person have been audited under any other provisions of the</p>
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	GST Act or any other law for the time being in force.
Time limit within which audit to be completed	<p>The Chartered Accountant or cost accountant as nominated by Commissioner shall submit a report of such audit duly signed and certified by him within the period of 90 days to the said Assistant Commissioner mentioning there in such other particulars as may be specified:</p> <p>The Assistant Commissioner may extend the said period of 90 days by a further period of 90 days</p> <ol style="list-style-type: none"> 1. On an application made to him in this behalf by the registered person or the chartered accountant or cost accountant; or 2. For any material and sufficient reason.
Who will bear the expenses of audit?	The expenses of the examination and audit of records including the remuneration of such Chartered Accountant or Cost Accountant, shall be determined and paid by the Commissioner and such determination shall be final.
How Special Audit Report to be dealt with?	The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit which is proposed to be used in any proceedings against him under this Act or the rules made thereunder. On conclusion of special audit, the registered person shall be informed of the findings of special audit. Where the special audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the process of demand and recovery will be initiated against the registered person under section 73 or section 74.

AUDIT OF ACCOUNTS [SECTION 35(5) READ ALONGWITH SECTION 44(2) AND RULE 80]

Audit of accounts [Section 35(5) read alongwith section 44(2) and rule 80]	<p>A. Every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds ` 2 crores.</p> <p>However, the books of accounts of the Central/ State Government or local authority would not be subject to audit by a Chartered Accountant/ Cost Accountant if the same are subject to audit by CAG of India or any statutory auditor appointed for auditing the accounts of local authorities. Consequently, they are not required to submit the copy of the audited annual accounts and the reconciliation statement.</p> <p>B. Such registered person is required to furnish electronically through the common portal alongwith Annual Return a copy of:</p> <ul style="list-style-type: none"> ✓ Audited annual accounts ✓ A Reconciliation Statement, duly certified, in prescribed form.
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QUESTIONS AND ANSWERS

Q. 1

Write a short note on “Types of Audit under GST”.

Answer:

Types of Audit under GST: GST envisages three types of audit, such as —

- (i) **Mandatory audit by Cost Accountant/ Chartered Accountant:** The first audit is by a Cost Accountant/ Chartered Accountant. Every registered person whose aggregate turnover during a financial year exceeds Rs. 2 crore has to get his accounts audited by a Cost Accountant/ Chartered Accountant and furnish a copy of audited annual accounts and a reconciliation statement duly certified, in form GSTR-9C.
- (ii) **Departmental audit:** The Commissioner or any officer authorised by him, can undertake audit of any registered person for such period, at such frequency and in such manner, as may be prescribed.
- (iii) **Special audit:** The registered person can be directed to get his records including books of accounts examined and audited by a Cost Accountant/ Chartered Accountant during any stage of scrutiny, inquiry, investigation or any other proceedings, depending upon the complexity of the case.

Q. 2

Write a short note on “Compulsorily Audit”

Answer:

Compulsorily Audit - Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a Chartered Accountant or a Cost Accountant.

As per Rule 80(3) of the CGST rules, 2017 every registered person whose aggregate turnover during a financial year exceeds 2 crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified in FORM GSTR-9C, electronically through the common portal either directly or through a facilitation centre notified by the Commissioner.

Any department of the Central or State Government/ Local authority which is subject to audit by CAG need not get their books of accounts audited by a CA/ CMA.

GOODS AND SERVICES TAX (COMPENSATION TO STATE) ACT, 2017

GST COMPENSATION CESS

Cess under GST is a compensation cess that will be levied on certain goods and services under section 8 of the GST (Compensation to States) Act, 2017. It is levied on inter-State and intra-State transactions of goods and services to compensate the revenue losses occurred to the States because of the implementation of GST in the country. It means Under GST, in addition to tax on supply (which are CGST + SGST/UTGST on intrastate supplies and IGST on interstate supplies), a GST Cess is to be levied on supply of certain goods.

NEEDS OF GST COMPENSATION CESS

It is levied to compensate states who may suffer any loss of revenue due to the implementation of GST. As GST is a consumption based tax, the state in which consumption of goods or services happens will be eligible for the revenue on supplies. As a result, manufacturing states like Maharashtra, Tamil Nadu, Gujarat, Haryana and Karnataka are expected to face a decrease in revenue from indirect taxes. In order to compensate these states for this loss of revenue, GST Cess will be levied on supply of certain goods, which will be distributed to these states. This Cess will be levied for 5 years from the date of implementation of GST.

According to the GST cess (Compensation to State) Act, 2017, a compensation cess would be levied on specific items and services for compensation to the States for the loss of revenue on account of implementation of the goods and services tax in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

GST cess levied this way would be credited to the GST compensation fund, from where it will be used to compensate the tax revenue losses of the States caused by GST implementation. The unutilized funds, if any, would be distributed among the Centre and the States equally. The state governments would receive cess in the ratio of the indirect tax revenues generated by them in the last year before the implementation of GST.

GOODS COVERED UNDER GST COMPENSATION CESS

- Pan Masala
- Tobacco and tobacco products
- Cigarettes
- Coal, briquettes, ovoids and similar solid fuels manufactured from coal, lignite excluding jet and peat.
- Aerated waters
- Motor vehicles

RATE OF GST COMPENSATION CESS

Items	GST Rate Applicable	GST Cess Range	GST Cess Ceiling
Coal	5%	INR 400 / tonne	INR 400 / tonne
Pan Masala	28%	60%	135%
Tobacco	28%	61% - 204%	INR 4170 / thousand
Aerated Drinks	28%	12%	15%
Motor Vehicles	28%	1% - 22%	22%

HOW TO CALCULATE GST COMPENSATION CESS

The GST cess on an eligible product will be calculated according to the rate specified in the GST cess rate schedule and on the actual taxable value (transaction value) of the supply, not on the GST tax.

For cess applicable imports, the GST cess amount will be calculated on the taxable value + customs duty, i.e. the same value on which IGST is levied.

Example 1:

M/s X Ltd. being a dealer in new cars sold a Petrol Car on which applicable GST rate is 28% and GST Cess rate is 1%. Transaction value is Rs. 5,00,000/. Find the GST liability Rs.

Answer:

Transaction value	= 5,00,000
CGST 14%	= 70,000 (i.e. Rs. 5,00,000 x 14%)
SGST 14%	= 70,000 (i.e. Rs. 5,00,000 x 14%)
Cess 1%	= 5,000 (i.e. Rs. 5,00,000 x 1%)
Invoice price of the car	= 6,45,000

Example 2:

Can input credit be availed on Cess paid on inward supply of these goods?

Answer:

Yes, input credit can be availed on Cess paid on inward supplies. However, credit of Cess paid can be utilized only towards payment of Cess liability.

CLARIFICATION

Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017 has been clarified vide Circular No. 68/42/2018-GST dt 05.10.2018

The GST Council has provided a clarification regarding the entitlement of UN and specified international organizations, foreign diplomatic mission or consular posts, diplomatic agents and consular offices post therein to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them.

Accordingly, it is clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having been specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017 which specify UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein for the purposes of the said section.

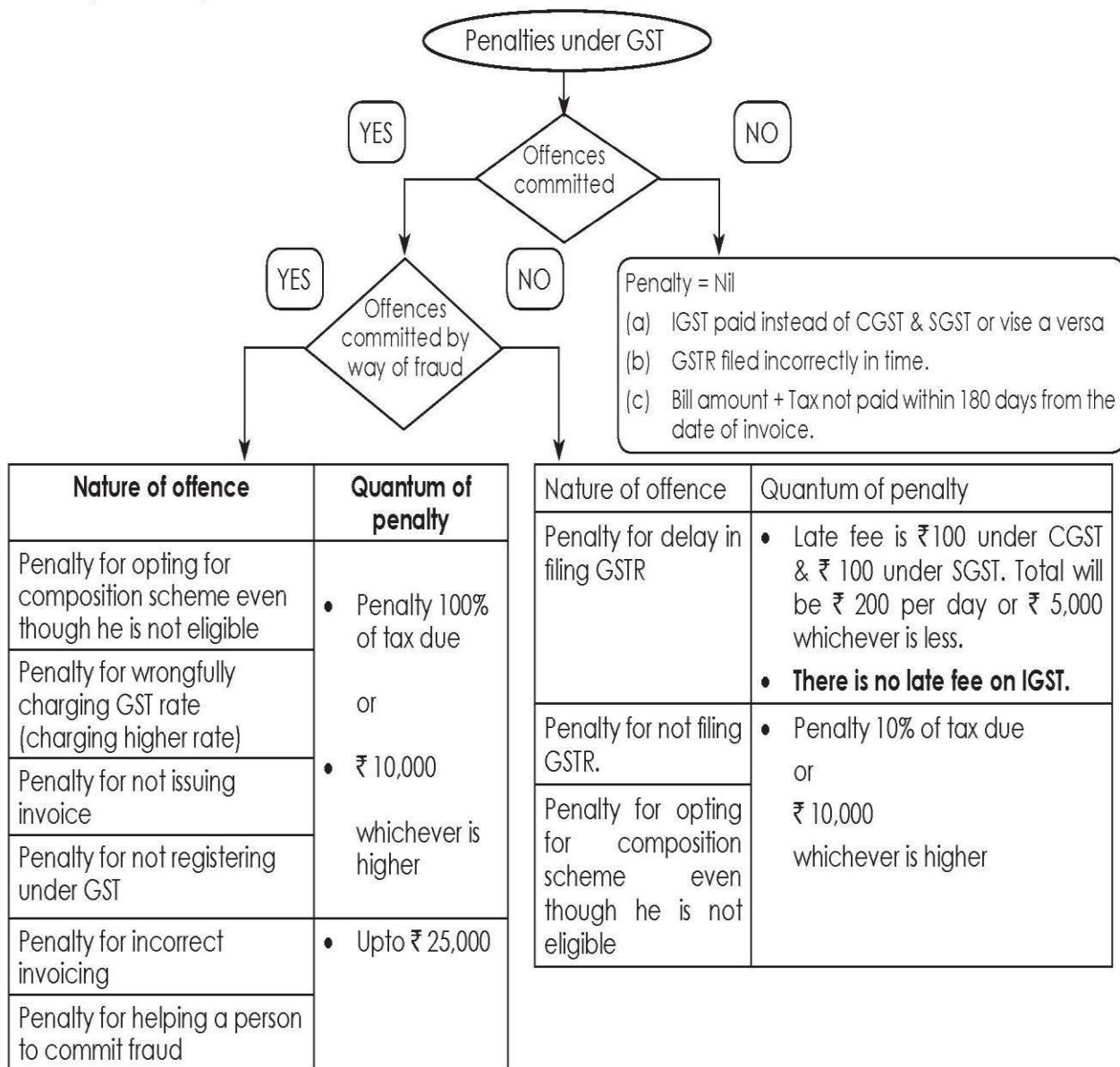
ADVANCE CONCEPTS UNDER GST

OFFENCES AND PENALTIES

An offence under GST is a breach of the provisions of GST Act and GST Rules and hence penalty can be imposed.

A penalty is a punishment imposed by law for committing an offence or failing to do something that was the duty of a registered person to do.

Section 122 to 131 contained in Chapter XIX of CGST Act, 2017 makes provisions relating to offence and penalties. Summary of these provisions are as follows:



Note: From October 2017 onwards, the amount of late fee payable by a taxpayer whose tax liability for that month was 'NIL' will be Rs. 20/- per day (Rs. 10/- per day each under CGST & SGST Acts) instead of Rs. 200/- per day (Rs. 100/- per day each under CGST & SGST Acts).

Example: M/s R Pvt Ltd. supplied goods worth Rs. 10,00,000 to M/s Y Ltd in the month of October 2017 plus GST 12%. M/s R Pvt Ltd. paid the GST on 5th January 2019. ITC of Rs. 70,000 is available in the books in September 2017. Calculate interest and penalty for delay in filing of October 2017 return if any.

Rework if dues paid against order under section 74 (dated 1st July, 2018) of the CGST Act, 2017 (i.e. recovery of dues in case of fraud).

Answer:

Interest = Rs. 10,134

[i.e. (1,20,000 - 70,000) * 18% * 411/365]

Total Penalty is Rs. 10,000.

[i.e. Rs. 5,000 (CGST) plus Rs. 5,000 (SGST)].

(411 days x Rs. 50 = Rs. 20,550 CGST and SGST of Rs. 20,550 or Rs. 10,000 whichever is less)

Rework:

Interest = Rs. 32,430/-

[i.e. 1,20,000*24%*411/365]

Total penalty is Rs. 1,20,000

100% x Rs. 1,20,000 = Rs. 1,20,000 (CGST + SGST)

or

Rs. 20,000 (i.e. Rs. 10,000 each Act.) whichever is higher.

As per the Finance Act, 2020, sub-section (1A) inserted in Section 122 of CGST Act, 2017:

namely,

Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of subsection (1) of Section 122 and at whose instance such transaction is conducted, shall be liable to pay penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.

Note:

Section 122(1)(i): supplies any goods or services or both without issuance of any invoices or issues an incorrect or false invoice with regard to any such supply;

Section 122(1)(ii): issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

Section 122(1)(vii): takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

Section 122(1)(ix): takes or distributes ITC in contravention of section 20 of the CGST Act, 2017 or the rules made thereunder.

ARREST, PROSECUTION AND COMPOUNDING OF OFFENCE

The person committing the offence will be punishable depending on the amount involved which is as follows;

Prosecution is the conducting of legal proceedings against someone in respect of a criminal charge.

Any person committing the following offences (i.e., deliberate intention of fraud) becomes liable to prosecution, i.e., face criminal charges Section 132(1) of the CGST Act, 2017:

The following are cognizable offences if the tax evaded > Rs 500 lakh (section 132(5) of the CGST Act, 2017):

Whoever commits any of the following offences (from the Finance Act, 2020 dt. 27-3-2020 read as Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences), namely (Section 132(1) of the CGST Act, 2017):—

(a) Supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(c) avails input tax credit using such invoice or bill referred to in clause (b), this clause shall be substituted from the Finance Act, 2020 dated 27-3-2020 namely- avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;

(d) Collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

Note: all the above offences shall be non-cognizable and bailable where tax evaded < Rs. 500 lakh (Section 132(4) of the CGST Act, 2017).

The following are non-cognizable and bailable offences irrespective of the tax amount evaded (Section 132(4) of the CGST Act, 2017):

Whoever commits any of the following offences, namely (Section 132(1) of the CGST Act, 2017):—

- (e) Evades tax, (fraudulently omitted from the Finance Act, 2020 dated 27-3-2020) avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
- (f) Falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
- (g) Obstructs or prevents any officer in the discharge of his duties under this Act;
- (h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
- (i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
- (j) tampers with or destroys any material evidence or documents;
- (k) Fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or
- (l) Attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,

Congnizable or non-congnizable:

Section	Tax amount involved	Quantum of punishment by imprisonment	Congnizable Or non-congnizable	Bailable or non-bailable
132(1)(i)	> Rs. 500 lakhs	Upto 5 years with fine	Congnizable	Non-bailable
132(1)(ii)	> Rs. 200 lakhs < Rs. 500 lakhs	Upto 3 years with fine	Non-congnisable	Bailable
132(1)(iii)	> Rs. 100 lakhs < Rs. 200 lakhs	Upto 1 years with fine	Non-congnisable	Bailable
132(1)(iv)	Offence specified in clauses (f),(g) or (j) of Section 132(1) of the CGST Act, 2017	Upto 6 months or with fine or with both	Non-congnisable	Bailable

Second and subsequent offence:

Section 132(2) of the CGST Act, 2017 where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with **imprisonment for a term which may extend to five years and with fine**.

Minimum imprisonment is 6 months:

Section 132(3) of the CGST Act, 2017 the imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

Prior permission from the Commissioner:

Section 132(6) of the CGST Act, 2017 a person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Explanation.— For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

Example 1:

Discuss the prosecution, arrest and bail implications, if any, in respect of the following cases pertaining to the period November 2017:

- (i) 'Ram' avails input tax credit of Rs. 162 lakh without actual receipt of excisable goods. However, he is yet to utilize the same (i.e. Yet to confirm this credit in his GSTR-2A return).
- (ii) 'Rahim' willfully evades payment of tax of Rs. 275 lakh.

- (iii) 'Robert' fails to supply information sought by the Central Tax Officer. The amount of GST involved is Rs. 8 lakh.
- (iv) 'Lakshman' collects Rs. 585 lakh as tax from its clients but deposits only Rs. 25 lakh with the Central Government.
- (v) 'Karthik' collects Rs. 265 lakh as IGST from its clients and deposits Rs. 261 lakh with the Central Government by falsifies or substitutes financial records or produces fake accounts or documents.

What will be the prosecution implications, if Rahim, Robert, Lakshman and Karthik are convicted for subsequent offences?

Answer.

Person	Offence	Prosecution	Arrest	Bail
'Ram'	No offence. Because utilization of ITC not confirmed in his return GSTR-2A	Not applicable	Not applicable	Not applicable
'Rahim'	Non-cognizable offence [Section 132(1)(e)]	Upto 3 years with fine [Section 132(1)(ii)]	Arrest can be ordered by Commissioner of Central Tax.	Bailable offence [Section 132(4)]
'Robert'	Non-cognizable offence [Section 132(1)(k)]	Not applicable [since, tax evasion not exceeds Rs. 100 lakh]	No Arrest can be ordered by Commissioner of Central Tax.	Not applicable
'Lakshman'	Cognizable offence [Section 132(1)(a)]	Upto 5 years with fine [Section 132(1)(i)]	Arrest can be ordered by Commissioner of Central Tax without arrest warrant	Non-Bailable Offence [Section 132(5)]
'Karthik'	Non-cognizable offence [Section 132(1)(f)]	Upto 6 months or with fine or with both [section 132(1)(iv)]	Arrest can be ordered by Commissioner of Central Tax.	Bailable Offence [Section 132(4)]

If Rahim, Robert, Lakshman and Karthik are convicted for subsequent offences:

Person	Prosecution for subsequent offences [Section 132(2) of the CGST Act, 2017]
'Rahim'	Imprisonment upto 5 years with fine
'Robert'	Imprisonment upto 5 years with fine
'Lakshman'	Imprisonment upto 5 years with fine
'Karthik'	Imprisonment upto 5 years with fine

DEMAND AND ADJUDICATION

Adjudicating Authority:

As per Section 2(4) of the CGST Act, 2017 "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include

- The Central Board of Excise and Customs,
- The Revisional Authority,
- The Authority for Advance Ruling,
- The Appellate Authority for Advance Ruling,
- The Appellate Authority and
- The Appellate Tribunal;

Officers under Section 3 of the CGST Act, 2017:

- (a) • Principal Chief Commissioners of Central Tax or
• Principal Directors General of Central Tax,
- (b) • Chief Commissioners of Central Tax or
• Directors General of Central Tax,
- (c) • Principal Commissioners of Central Tax or
• Principal Additional Directors General of Central Tax,
- (d) • Commissioners of Central Tax or
• Additional Directors General of Central Tax,
- (e) • Additional Commissioners of Central Tax or
• Additional Directors of Central Tax,
- (f) • Joint Commissioners of Central Tax or
• Deputy Directors of Central Tax,
- (g) • Assistant Commissioners of Central Tax or
• Assistant Directors General of Central Tax,
- (h) • Principal Chief Commissioners of Central Tax or
• Principal Directors of Central Tax,
- (i) • any other class of officers as it may deem fit:

Monetary limits to issue notices and orders are notified:

Monetary limit of the amount of central tax (including cess)/IGST not paid or short paid or erroneously refunded or input tax credit of central tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act

No.	Officer of Central Tax	CGST (including cess)	IGST (including cess)	CGST & IGST (including cess)
1.	Superintendent of Central Tax	< Rs.10 lakhs	< Rs.20 lakhs	< Rs.20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	> Rs.10 lakhs < Rs.1 crore	> Rs.20 lakhs < Rs.2 crore	> Rs.20 lakhs < Rs.2 crore
3.	Additional or Joint Commissioner of Central Tax	> Rs.1 crore without any limit	> Rs.2 crore without any limit	> Rs.2 crore without any limit

The central tax officers of Audit Commissionerate's and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as "DGGSTI") shall exercise the powers **only** to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent central tax officer of the Executive Commissionereate in whose jurisdiction the noticee is registered. In case there are more than one noticees mentioned in the show cause notice having their principal places of business falling in multiple Commissionereate's, the show cause notice shall be adjudicated by the competent central tax officer in whose jurisdiction, the principal place of business of the noticee from whom the highest demand of central tax and/or integrated tax (including cess) has been made falls.

Notwithstanding anything contained in above, a show cause notice issued by DGGSTI in which the principal places of business of the noticees fall in multiple Commissionereate's and where the central tax and/or integrated tax (including cess) involved is more than **Rs. 5 crores** shall be adjudicated by an officer

of the rank of Additional Director/Additional Commissioner (as assigned by the Board), who shall not be on the strength of DGGSTI and working there at the time of adjudication. Cases of similar nature may also be assigned to such an officer.

In case show cause notices have been issued on similar issues to a noticee(s) and made answerable to different levels of adjudicating authorities within a Commissionerate, such show cause notices should be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of central tax and/or integrated tax (including cess).

Demand and Adjudication:

Show Cause Notice can be issued by proper officer to a registered person where it appears to him that tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, asking him to show cause as to why the said tax be not demanded and recovered from him.

Where it appears to the proper officer that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for reason, other than of fraud or any willfull misstatement or suppression of facts to evade tax, he can issue show cause notice upto 3 months prior to normal period of demand within 3 years from the due date for furnishing of annual return for the financial year to which said demand pertains (i.e. show cause notice to be issued within 2 years and 9 months) as per section 73(1) and (2) read with section 73(10) of the CGST Act, 2017.

Where it appears to the proper officer that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for reason, by reason of fraud or any willfull misstatement or suppression of facts to evade tax, he can issue show cause notice upto 6 months prior to extended period of demand within 5 years from the due date for furnishing of annual return for the financial year to which said demand pertains (i.e. show cause notice to be issued within 4 years and 6 months) as per section 74(1) and (2) read with section 74(10) of the CGST Act, 2017.

Time limit for Show Cause Notice (SCN) and Adjudication (Order):

Nature of transaction	Time for issuance of SCN	Time of issuance of order
Other than fraud	Within 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund. Section 73(2) of the CGST Act, 2017	Within 3 years from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund. Section 73(10) of the CGST Act, 2017
Fraud case	Within 4 years and 6 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund. Section 74(2) of the CGST Act, 2017	Within 5 years from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund. Section 74(10) of the CGST Act, 2017
Any amount collected as tax but not paid Section 76(1) and (2) of the CGST Act, 2017.	No time limit	Within 1 Year from the date of issue of notice. Section 76(6) of the CGST Act, 2017
Non-payment of self-assessed tax	No need to issue a show cause notice	Recovery proceedings can be started directly.

Dispensation of SCN (i.e. SCN not required to issue):

- Once a SCN has been issued, where for normal period or extended period, for subsequent demand period, a statement showing details demand can be served if grounds of demand are same. It means for subsequent period no separate show cause notice is required to issue as per section 73(6) or 74(6) of the CGST Act, 2017.
- In a normal demand case (other than fraud), where assessee on the basis of his own ascertainment or ascertainment of the proper officer pays the tax short levied or short paid etc. along with interest and informs the proper officer in writing, then no SCN will be issued.

(c) In an extended period demand case (i.e. fraud case), where assessee on the basis of his own ascertainment or ascertainment of the proper officer pays the tax short levied or short paid etc., along with interest with 15% of the amount as penalty and informs the proper officer in writing, then no SCN will be issued.

Clarification on levy of penalty under section 73 of the CGST Act in case of delayed filing of return:

Issue: Whether penalty in accordance with section 73(11) of the CGST Act should be levied in cases where the return in Form GSTR-3B has been filed after the due date of filing such return?

Clarification: As per the provisions of section 73(11) of the CGST Act, penalty is payable in case self-assessed tax or any amount collected as tax has not been paid within a period of 30 days from the due date of payment of such tax.

The provisions of section 73(11) of the CGST Act can be invoked only when the provisions of section 73 are invoked and the provisions of section 73 of the CGST Act are generally not invoked in case of delayed filing of the return in FORM GSTR-3B because tax along with applicable interest has already been paid.

It is accordingly clarified that penalty under the provisions of section 73(11) of the CGST Act is not payable in such cases. It is further clarified that since the tax has been paid late in contravention of the provisions of the CGST Act a general penalty under section 125 of the CGST Act may be imposed after following the due process of law.

[Circular No. 76/50/2018-GST, dated 31.12.2018]

Waiver or reduction of Penalties and Dispensation of Adjudication:

Nature of offence	Time limit	Quantum of penalty
Person liable to pay Tax if the same: • not paid, or • short paid, or • erroneously refunded, or • input tax wrongly availed, or utilized for any reason other than fraud or wilful misstatement or suppression of facts to evade tax.	Time Limit for issue of Show Cause Notice (sec 73(2)): • 3 months prior to the time limit for issuance of order as per section 73(10) Time Limit for issuance of Order (sec 73(10)): • 3 years from the due date of furnishing of Annual return for the relevant FY, or • 3 years from the date of erroneous refund	(1) Nil (Zero) if amount due is paid with interest prior to or within 30 days of issuance of SCN (Section 73(8) of the CGST Act, 2017). Hence, the case would be concluded without resorting to adjudication proceedings and without imposing penalty. For this purpose, the assessee shall intimate the proper officer of such payment in Form GST DRC-03 and the proper officer shall issue an order in Form GST DRC-05 concluding the proceedings in respect of the said notice. (2) 10% of tax amount due or ₹ 10,000/- whichever is higher as per the adjudication order (section 73(9) of the CGST Act, 2017). (3) 10% of tax amount due or ₹ 10,000/- whichever is higher if self assessed tax or amount collected as tax has not been paid within period of 30 days from the due dates of payment of such tax (section 73(11) of the CGST Act, 2017).
Person liable to pay Tax if the same: • not paid, or • short paid, or • erroneously refunded, or • input tax wrongly availed, or utilized by reason of fraud or any wilful misstatement or suppression of facts to evade tax.	Time Limit for issue of Notice (sec 74(2)): • 6 months prior to the time limit for issuance of order as per section 74(10)). Time Limit for issuance of Order (sec 74(10)): • 5 years from the due date of furnishing of Annual return for the relevant FY, or • 5 years from the date of erroneous refund	(1) 15% if tax amount due is paid with interest prior to issuance of SCN (section 74(5) of the CGST Act, 2017). (2) 25% of tax amount if the same is paid with interest within 30 days of issuance of SCN (section 74(8) of the CGST Act, 2017). Hence, the case would be concluded without resorting to adjudication proceedings. For this purpose, the assessee shall intimate the proper officer of such payment in Form GST DRC-03 and the proper officer shall issue an order in Form GST DRC-05 concluding the proceedings in respect of the said notice. The proper officer shall issue an acknowledgement, accepting the payment made by

		<p>the said person in Form GST DRC-04.</p> <p>(3) 50 % of tax amount if the same is paid with interest within 30 days of issuance of adjudication order (section 74(11) of the CGST Act, 2017). Adjudicating proceedings will be concluded as stated above.</p> <p>(4) 100% of tax amount due (section 74(1) of the CGST Act, 2017)</p>
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Intimation before show cause notice under section 73 or 74 of CGST Act, 2017 [Notification No. 49/2019 CT dated 09.10.2019]:

With effect from 09.10.2019, the proper officer shall, before serving of such a notice, communicate the details of any tax, interest and penalty as ascertained by him, in the prescribed form, to the person chargeable with tax, interest and penalty under section 73 or section 74. Further, where such person has made partial payment of amount communicated to him or desires to file any submission against the proposed liability, he may make such submission in the prescribed form. Taxpayer will be able to take advantage of nil or reduced penalty under sections 73(5) and 74(5) of the CGST Act.

Where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the proper officer as mentioned above, he shall inform the proper officer of such payment and the proper officer shall issue an acknowledgement, accepting the payment made by the said person.

General provisions relating to determination of tax [Section 75 of the CGST Act, 2017]:

(1) **Period of Stay:** Period of stay on issuance of SCN ordered by Court or Tribunal to be excluded for determining limitation (i.e. 3 years or 5 years).

(2) **Deemed Notice:** Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.

(3) **Order issued in pursuance of the Court:** Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within **two years** from the date of communication of the said direction.

(4) **Opportunity of hearing:** An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(5) **Ajournment not more than 3 times:** The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted for more than **three times** to a person during the proceedings.

(6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(7) **Order should not be passed more than the demand mentioned in SCN:** The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

(8) **Court findings final:** Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.

(9) **Interest mandatory:** The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.

(10) **Time barred Orders:** The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.

- (11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in sub-section (10) of section 73 or sub-section (10) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.
- (12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79 (i.e. recovery of tax from various modes).
- (13) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

Important points:

- (a) A summary of demand has to be furnished electronically in Form GST DRC-01 along with SCN simultaneously. In case of extended period a summary of demand has to be furnished electronically in Form GST DRC-02.
- (b) The assessee will reply/make representation against SCN in Form GST DRC-06 within the prescribed time or time as extended.
- (c) A summary of the order issued shall be uploaded electronically in Form GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax. This order shall be treated as Recovery Notice.
- (d) Cross empowerment between CGST and SGST/UTGST officers has been done so as to ensure that if a proper officer of one Act (say CGST Act, 2017) passes an order with respect to a transaction, he will also act as the proper officer of SGST for the same transaction and issue the order with respect to the CGST as well as the SGST/UTGST component of the same transaction.

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

- (1) The proper officer shall serve, along with the
 - (a) Notice under sub-section (1) of section 73 or sub-section (1) of section 74 or sub-section (2) of section 76, a summary thereof electronically in FORM GST DRC-01,
 - (b) Statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.
- (2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.
- (3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.
- (4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in FORM GST DRC-06.
- (5) A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.
- (6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in FORM GST DRC-08.

1. Amendment Vide Notification No. 28/2018 - Central Tax, dt 19.6.2018

- The following Rule 142 sub-rule (5) has been amended so as to provide an order in Form DRC-07 shall be issued under section 125 for general penalty or under section 129 - Detention, seizure and release of goods and conveyances in transit or section 130 - Confiscation of goods or conveyances and levy of penalty, also

2. Following Insertion was made in Rule 142 sub rule (5) vide Notification No. 48 /2018 - Central Tax, dt 10.09.2018 namely

Rule 142 relates to notice and order for demand of amounts payable under the Act, the following sub-rule (5) has been amended so as to provide a summary of order issued under section 125- General penalty, also.

Communication before issue of SCN

- Rule 142 (1A) inserted w.e.f 09.10.2019
- The proper officer shall, before service of notice to the person chargeable with tax, interest and penalty, under Section 73(1) or 74(1), communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC- 01A.
- The taxpayer after receiving DRC-01A, may file any submissions against the proposed liability in Part B of FORM GST DRC-01A.
- Taxpayer will be able to take advantage of nil or reduced penalty under section 73(5) and 74(5)

AMENDMENT VIDE Notification No. 60/2018 - Central Tax, dt 30.11.2018

A summary order of demand of tax, interest, penalty, or any other dues which became recoverable under existing laws after the proceedings will be uploaded in FORM GST DRC-07A and also demand of the order will be posted in part 2 of electronic liability register in FORM GST PMT-01.

If the demand uploaded in FORM GST PMT-01 is rectified, modified or quashed in any proceedings, then the summary of the same will be uploaded in FORM GST DRC-08A and part 2 of electronic liability register in FORM GST PMT-01.

Tax collected but not paid to Government (Section 76 of the CGST Act, 2017):

Every person who has collected any amount as representing the GST and has not paid same to the Government, is required to pay said amount with interest, irrespective of whether the supplies in respect of which such amount was collected are taxable or not (as per section 76(1) of the CGST Act, 2017).

In case of failure, proper officer can issue a SCN to him proposing recovery and imposition of penalty equivalent to the amount specified in the notice (as per section 76(2) of the CGST Act, 2017)

As per section 76(3) of the CGST Act, 2017, the proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.

As per section 76(4) of the CGST Act, 2017, the person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be liable to pay **interest** thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

As per section 76(5) of the CGST Act, 2017, an opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.

As per section 76(6) of the CGST Act, 2017, the proper officer shall issue an order within **one year** from the date of issue of the notice and such order issued in Form GST DRC-07. This order shall be treated as Recovery Notice.

As per section 76(7) of the CGST Act, 2017, where the issuance of order is stayed by an order of the court or

Appellate Tribunal, the period of such stay shall be excluded in computing the period of **one year**.

As per section 76(8) of the CGST Act, 2017, the proper officer, in his order, shall set out the relevant facts and the basis of his decision.

As per section 76(9) of the CGST Act, 2017, the amount paid to the Government under sub-section (1) or subsection (3) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (1).

As per section 76(10) of the CGST Act, 2017, where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.

As per section 76(11) of the CGST Act, 2017, the person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

Tax wrongly collected and paid to Central Government or State Government (Section 77 of the CGST Act, 2017):

(1) In case of wrong charging and deposit of tax considering it to be intra-State supply which is later found to be inter-State supply, the tax paid shall be refunded.

(2) However, in case of payment of tax considering the supply as inter-State which is later found to be intra-State supply, no interest shall be payable on the amount of Central and State/UT tax paid.

Initiation of recovery proceedings (Section 78 of the CGST Act, 2017):

The adjudication order passed by proper officer in pursuant to demand SCN is to be treated as recovery notice.

Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of **three months** from the date of service of such order failing which recovery proceedings shall be initiated:

Provided that where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified by him.

RECOVERY OF TAX

Recovery of Tax (Section 79 of the CGST Act, 2017):

(1) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:—

(a) Recovery by deducting from any money owed:

The proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer. For this purpose, the proper officer shall issue Form GST DRC-09.

(b) Recovery by sale of goods under the control of proper officer:

The proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer. The sale will be by auction including e-auction by issuing a notice in Form GST DRC-10.

Perishable or hazardous goods can be auctioned immediately, but in other cases a 15 days notice is required. The successful bidder will be informed in Form GST DRC-11 requiring him to make the payment within a period of 15 days from the date of auction. On payment of full bid amount, the proper officer shall transfer the possession of the said goods by issuing a certificate in Form GST DRC-12.

(c) Recovery from a third person:

(i) The proper officer may, by a notice in writing, require any other person

- From whom money is due or may become due to such person or
- Who holds or may subsequently hold money for or
- On account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being

made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be **deemed to be a defaulter** in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;

(iv) The officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;

Recovery of defaulted money can be undertaken from such third person by issuing him a notice in Form GST DRC-13 directing him to deposit the amount specified in the notice. On payment by such person, the proper officer shall issue a certificate in Form GST DRC-14 indicating the details of the liability so discharged.

(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

(d) Recovery by sale of movable or immovable property:

The proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of **30 days** next after any such distress, may cause

the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person. The Proper Officer shall issue an order of attachment or distraint and a notice for sale in Form GST DRC-16.

(e) Recovery through land revenue authority:

The proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

(f) Recovery through court:

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(3) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.

(4) Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

Note - Following explanation has been inserted of the above mentioned Section 79(4) of CGST Act vide CGST (Amendment) Act, 2018 namely:

For the purposes of this section, the word person shall include "distinct persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25

Recovery in installments (Section 80 of the CGST Act, 2017):

- Commissioner can allow payment with interest by defaulter in monthly installments not exceeding 24 installments.
- In case of default in payment of any one installment on its due date, the whole outstanding balance payable on such date shall become due.
- For seeking installment facility, taxable person can file application electronically in Form GST DRC-20. The installment facility will not be allowed if:
 - The taxable person has already defaulted on the payment of any amount under GST law and recovery process is already undergoing;
 - The taxable person has not been allowed to make payment in installments in the preceding financial year under GST law; and
- The amount for which instalment facility is sought is **less than Rs. 25,000/-**.

Transfer of property to be void in certain cases (Section 81 of the CGST Act, 2017):

Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Creation of any charge on any property belonging to defaulter, after tax has become due from him, shall be void.

Provided that, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

Tax to be first charge on property (Section 82 of the CGST Act, 2017)

Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.

Provisional attachment to protect revenue in certain cases (Section 83 of the CGST Act, 2017)

(1) Where assessment or adjudication are pending under Section 62 Assessment of non-filers of returns; Section 63 assessment of unregistered persons; Section 64 summary assessment in certain special cases; Section 73 determination of tax not paid other than fraud; Section 74 determination of tax not paid by reason of fraud;

The Commissioner for protecting the interest of the Government revenue, by order in writing in Form GST DRC-22 can attach provisionally any property, including bank account, belonging to the taxable person.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

Continuation and validation of certain recovery proceedings (Section 84 of the CGST Act, 2017):

If adjudicated dues are enhanced or reduced in appeal, revision or other proceedings in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal etc. will continue. The order for the reduction or enhancement of any demand under Section 84 shall be issued in Form GST DRC-25.

Standard operating procedure to be followed in case of non-filers of returns

[Circular No. 129/48/2019 GST dated 24.12.2019]

Section 46 of the CGST Act read with rule 68 of the CGST Rules requires issuance of a notice to a registered person who fails to furnish return under section 39 or section 44 or section 45 of the CGST Act requiring him to furnish such return within 15 days. Further, section 62 of the CGST Act provides for assessment of non-filers who fail to file return under section 39 or section 45 even after service of notice under section 46. No separate notice is required to be issued for best judgment assessment under section 62 if the return is not filed within 15 days of issuance of notice under section 46.

CBIC has issued the following guidelines to ensure uniformity in the implementation of the provisions of law in relation to non-filers of returns:

- (i) System generated message would be sent to all the registered persons 3 days before the due date to nudge them about the filing of return by the due date.
- (ii) Once the due date for furnishing return under section 39 is over, a system generated mail/ message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/ message is to be sent to the authorized signatory as well as the proprietor/ partner/ director/ karta, etc.
- (iii) After 5 days of due date of furnishing the return, notice under section 46 shall be issued electronically to the defaulters requiring then to furnish return within 15 days.
- (iv) If the return is not filed within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said defaulter under section 62, to the best of his judgment taking into account all the relevant material which is available or which he has gathered and would issue assessment order. The proper officer would upload the summary of such order in the prescribed form.
- (v) For the purpose of assessment of tax liability under section 62, the proper officer may take into account the following:
 - a. Details of outward supplies available in GSTR-1
 - b. Details of inward supplies auto-populated in GSTR-2A
 - c. Information available from e-way bills
 - d. Any other information available from any other source including inspection under section 71 of the CGST Act
- (vi) If the defaulter furnishes a valid return within 30 days of the service of assessment order under section 62, the said assessment will be deemed to have been withdrawn.
- (vii) If the said return remains unfurnished within the statutory period of 30 days from the service of assessment order under section 62, the proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act.

Based on facts available, in some cases, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of assessment order under section 62. Further, proper officer would initiate action under section 29(2) of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

LIABILITY TO PAY IN CERTAIN CASES

Liability to pay in certain cases

GST Law has provisions for special cases like transfer of business, where the transferee and transferor are both held liable to pay unpaid GST. These provisions come into force when there is an amount due under GST (tax, interest, penalty) which cannot be recovered from the taxpayer directly. Sections 85 to 94 of the CGST Act, 2017 deals with the liability to pay in certain cases.

Section	Case	Person liable to pay GST	Remarks
85(1) &(2)	Liability in case of transfer of business	<p>The taxable person (transferor) and the person to whom the business is transferred (transferee) will be liable, jointly and severally, wholly or to the extent of such transfer, to pay the GST due. Note: The transferee will be liable to pay GST from the date of transfer.</p> <p>As per section 85(1) of the CGST Act, the transferor and the transferee/successor shall jointly and severally be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business "in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever".</p>	<ul style="list-style-type: none"> It is immaterial if such tax, interest, or penalty has been determined before or after the transfer, as long it is unpaid. If the transferee carries on the business in a new name (which is different from original) then he must apply for amendment of his registration certificate.
86	Liability of agent and principal	If an agent supplies or receives any taxable goods on behalf of his principal, then both the agent and the principal will be liable to pay GST, jointly and severally.	Supply of goods to agent by principal covered under Schedule II of CGST Act, 2017 and the same treated supply of goods even without consideration.
87	Liability case in of amalgamation or merger of companies	The two or more companies are individually responsible for their taxes.	<p>If two or more companies merge/ amalgamate:</p> <ul style="list-style-type: none"> due to the order of a court/ tribunal the order is to take effect from a date earlier to the date of the order (i.e. retrospective effect) the companies have supplied goods/services to each other during that period (from order date to order effect date) <p>Such companies shall be treated as distinct companies under GST till the date of the order (and not order effect date). Their registrations will get cancelled on the date of order.</p> <p>Example: X Ltd and Y Ltd has received a court order on 15th December 2017 to merge with effect from 1st October 2017. Under GST they will be treated as distinct companies till 15th December 2017 and each one will be responsible for its own dues until 15th December 2017.</p>
88	Liability in case	• Company	Section 88(1) when any

	of company in liquidation	<ul style="list-style-type: none"> Where dues cannot be recovered from private company then same are to be recovered from its directors who were in office during the period when the tax was due will be held liable for payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company [Section 88(3)] 	<p>company is being wound up person appointed as receiver of any assets of such company, is required to inform to the Commissioner, of such appointment within 30 days after his appointment.</p> <p>Section 88(2) the Commissioner is required to notify within 3 months from the date of receipt of intimation, the amount which would be sufficient to provide for any tax and other dues of the company.</p>
89	Liability of directors of private company	<p>Notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company cannot be recovered, then, every person who was a director of the private company during such period shall be liable for the payment of such dues unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company [Section 89(1)].</p>	<p>As per Section 89(2), if the company has been converted from a private to a public limited company, then the provisions under Section 89(1) will not apply. Provided that nothing contained in section 89(2) shall apply to any personal penalty imposed on such director. It means penalty leviable on directors of a company will be continue to apply.</p> <p>Important note: Nothing has been mentioned in the GST Act regarding conversion/ transfer of a private company to public company.</p> <p>As a result section 89 provisions does not apply when a private company is converted to a public company, it can be interpreted to mean that this provision does not apply to public companies.</p>
90	Liability of partners of firm to pay tax (firm includes limited liability partnership firm)	<p>where any firm (including LLP) is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.</p> <p>Important note: Normally, partners have limited liabilities in LLPs. But the GST Act overrides all other laws and the partners become jointly and severally liable for the entire GST dues.</p>	<p>Commissioner must be informed by the firm or the retiring partner in case of retirement of a partner. The retiring partner could be held liable for dues under GST until the date of his retirement.</p> <p>If any intimation regarding the retirement is not given within 1 month, the retiring</p>

			<p>partner will be continued to be held liable till such intimation is received by the Commissioner.</p> <p>Example: Nambiar & Co. is a partnership firm with 4 partners. Mr. C retires on 20th August. Nambiar & Co. has GST due amount X20,000 till 20th August and Mr. C informs the Commissioner on 30th August about the same, then C is liable for the due amount X20,000.</p> <p>Now if neither C nor the firm informs the Commissioner regarding his retirement, and Nambiar & Co. does not pay the dues until it stands at X35,000 on 30th September (when they finally inform the Commissioner), then Mr. C would be liable for X35,000 even though X15,000 was incurred after he had retired.</p>
91	Liability of guardians, trustees, etc.	<p>Tax, interest or penalty shall be levied upon and recoverable from both the guardian/trustee/agent AND the beneficiary (minor/incapacitated person) will be liable under GST Act.</p> <p>The due amount can be recovered from both parties.</p>	<p>The business owes tax, interest and/ or penalty under GST.</p> <p>This becomes applicable when any business is conducted by a guardian/trustee/agent on behalf AND for the benefit of a minor / incapacitated person.</p>
92	Liability of Court of Wards, etc.	If the business owes any amount under GST then the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager will be held liable along with the taxable person.	This is applicable to the estate of a taxable person, which owns a business, is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager appointed by a court.
93(1)	Liability after the Death of the Taxpayer	<p>Section 93(1)(a): If the business is carried on by the legal heir/ representative then the heir/ representative will be held liable for the unpaid dues under GST.</p> <p>Section 93(1)(b): If the business is discontinued, whether before or after death, the legal heir will be liable to pay the due amount out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained</p>	<p>The legal heir/representative will NOT be personally liable for the pending dues.</p> <p>Example: Mr. F being a dealer of laptops. He owes Rs. 2,25,000 as GST. But he passes away and his daughter Ms. D takes over the shop.</p> <p>Then, Ms. D is liable to pay the pending amount of Rs. 2,25,000.</p> <p>However, if Ms. D inherits</p>

		unpaid or is determined after his death.	Rs. 40,000 and closes down the shop after her father's death, then she would be liable to pay only Rs. 40,000 as the tax. She cannot be held liable for the balance Rs. 1,85,000. Since, it is beyond the inherited amount. Furthermore, section 93(1) of the CGST Act provides that where a person, liable to pay tax, interest or penalty under the CGST Act, dies, then the person who continues business after his death, shall be liable to pay tax, interest or penalty due from such person under this Act. It is therefore clarified that the transferee/successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.
94	Liability of Partnership Firm on Dissolution	Each partner will be liable jointly and severally for any GST amount due upto the date of dissolution.	
	Liability of HUF/AOP on Partition	When the property of the HUF/ AOP is divided amongst the various members, then each member or group of members will be liable for all GST dues upto the time of partition, jointly and severally.	
	Liability when a Trust is Terminated	If the guardianship or trust looks after the business for a beneficiary and pays tax under GST, is terminated then the beneficiary will be held liable for all unpaid GST dues.	
	Liability in cases of Reconstitution of Firm/AOP	In cases of reconstitutions, all the partners/members who were there before the reconstitution will be held liable jointly and severally for all dues before the date of reconstitution.	

Example: M/s X Pvt Ltd. (with 3 directors A, B & C) decided to wind up its affairs on 1st August after suffering losses. It appoints Mr. CA as liquidator on 15th August.

You are required to answer the following:

- Liquidator is required to inform to the Commissioner about his appointment if so, within which period?
- Commissioner is required to specify the liability of the company if so, within which period and to whom he has to inform?
- Who is liable to pay GST dues and what is the time limit?
- If A & B unable to pay GST liability, then who is liable to pay?

Answer:

- Mr. CA must then inform the Commissioner regarding his appointment within 30 days, i.e., on or before 14th September.

- (b) The Commissioner informs the liquidator within 3 months from the date of receipt of intimation from liquidator, that M/s X Pvt Ltd. owes taxes for tax period. Let us assume the Commissioner intimated tax dues on 20th November.
- (c) M/s X Pvt Ltd. has 3 months to pay, i.e., till 20th February 2018. However, the company fails to pay. In this case, the 3 directors A, B & C will be held liable to pay the full amount.
- (d) If A & B fail to pay, then C alone will have to pay entire due. However, if C proves that the non-payment of taxes was not due to his personal negligence, then he will be exempt from the liability of paying the company's taxes.

Special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 [Notification No. 11/2020 CT dated 21.03.2020]:

As per Insolvency Bankruptcy Code (IBC), 2016 once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process (CIRP) gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (IRP) or resolution professional (RP). The IRP/RP continues to run the business and operations of the said entity as a going concern and is responsible for compliance with all the laws till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal (NCLT). The definitions of the terms, corporate debtor, CIRP, IRP and RP can be referred from IBC, 2016.

The Government has prescribed special procedure under section 148 of the CGST Act for the corporate debtors who are undergoing CIRP under the provisions of IBC and the management of whose affairs are being undertaken by IRP/RP.

The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period.

CBIC Circular No.134/04/2020-GST, dated 23-3-2020:

S. No.	Issue	Clarification
1	How are dues under GST for pre-CIRP period be dealt?	In accordance with the provisions of the IBC and various legal pronouncements on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC. The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT. Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.
2	Should the GST registration of corporate debtor be cancelled?	It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if need be, suspend the registration. In case the registration of an entity undergoing CIRP has already been cancelled and it is within the period of revocation of cancellation of registration, it is advised that such cancellation may be revoked by taking appropriate steps in this regard.
3	Is IRP/RP liable to file returns of pre-CIRP period?	No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it is clarified that IRP/ RP are not under an obligation to file returns of pre-CIRP period.

During CIRP period

4	Should a new registration be taken by the corporate debtor during the CIRP period?	The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020- Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.
5	How to file First Return after obtaining new registration?	The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.
6	How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020- Central Tax, dated 21.03.2020 and no return has been filed by the IRP during the CIRP ?	The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40. The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules. In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020-Central Tax, dated 21.03.2020. This exception is made only for the first return filed under section 40 of the CGST Act.
7	How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification No.11/2020-Central Tax, dated 21.03.2020?	Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules.
8	Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?	Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period. The instructions contained in Circular No. 125/44/2019-GST dt. 18.11.2019 stands modified to this extent.

Case Law: Mansi Oils and Grains (P) Ltd. (2020) 117 taxmann.com 446 (AAR-WB):

It was held that sale of assets of a corporate debtor by NCLT appointed liquidator is a supply of goods by said liquidator, who is required to take registration under Section 24 of CGST Act.

Facility for registration of IRP/RPs made available on the GST Portal:

1. Insolvency Resolution Professionals/ Resolution Professionals (IRPs/RPs), appointed to undertake corporate insolvency resolution proceedings for Corporate Debtors, in terms of Notification No 11/2020-CT, dated 21st March, 2020 can apply for new registration on GST Portal, on behalf of the Corporate Debtors, in each of the States or Union Territories, on the PAN and CIN

of the Corporate Debtor, where the corporate debtor was registered earlier, within thirty days of their appointment as IRP/RP.

2. They should select the Reason for Registration as "Corporate Debtor undergoing the Corporate Insolvency Resolution Process with IRP/RP" from the drop down menu.
3. The date of commencement of business for IRP/RPs will be the date of their appointment. Their compliance liabilities will also come into effect from the date of their appointment.
4. The person appointed as IRP/RP shall be the Primary Authorized Signatory for the newly registered Company.
5. In the Principal Place of business/ Additional place of business, the details as specified in original registration of the Corporate Debtors, is required to be entered.
6. The new registration application shall be submitted electronically on GST Portal under DSC of the IRP/RP
7. The new registration by IRP/RP will be required only once. In case of a change in IRP/RP, after initial appointment, it would be deemed to be change of authorized signatory and not an appointment of a distinct person requiring a fresh registration.
8. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by a non-core amendment in the registration form.
9. The change in Primary Authorized Signatory details on the portal can be done either by the authorised signatory of the Company or by the concerned jurisdictional officer (if the previous authorized signatory does not share the credentials with his successor) on request of IRP/RP.

Issues relating to Insolvency and Bankruptcy Code, 2016 - CBIC Circular No. 138/08/2020 GST, dated 6-5-2020:

S. No.	Issue	Clarification
1	Notification No. 11/2020 - Central Tax dated 21.03.2020, issued under section 148 of the CGST Act provided that an IRP / CIRP is required to take a separate registration within 30 days of the issuance of the notification. It has been represented that the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.	Vide notification No. 39/2020- Central Tax, dated 05.05.2020, the time limit required for obtaining registration by the IRP/RP in terms of special procedure prescribed vide notification No. 11/2020 - Central Tax dated 21.03.2020 has been extended. Accordingly, IRP/RP shall now be required to obtain registration within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.
2	The notification No. 11/2020- Central Tax dated 21.03.2020 specifies that the IRP/RP, in respect of a corporate debtor, has to take a new registration with effect from the date of appointment. Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.	<p>i. The notification No. 11/2020- Central Tax dated 21.03.2020 was issued to devise a special procedure to overcome the requirement of sequential filing of FORM GSTR-3B under GST and to align it with the provisions of the IBC Act, 2016. The said notification has been amended vide notification No. 39/2020 - Central Tax, dated 05.05.2020 so as to specifically provide that corporate debtors who have not defaulted in furnishing the return under GST would not be required to obtain a separate registration with effect from the date of appointment of IRP/RP.</p> <p>ii. Accordingly, it is clarified that IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor</p>

		(earlier GSTIN).
	<p>Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration.</p>	<p>i. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by an amendment in the registration form.</p> <p>Changing the authorized signatory is a non-core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the Jurisdictional authority as Primary authorized signatory.</p> <p>ii. The new registration by IRP/RP shall be required only once, and in case of any change in IRP/ RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.</p>

Summary:

Case	GST is liable to pay by
Business transferred	Both transferor and transferee
Agent and principal	Both agent and principal
Merger	Each company liable for own dues
Liquidation	Company and then directors
Private company	Company and then Directors
Partnership firm (including LLP)	Partners
Guardianship/Trust	Both guardian/trustee And minor
Court of wards	Tax payer AND Court of wards
Death of tax payer	Legal heir
Dissolution of HUF/AOP/Firm	All members/partners

APPEALS & REVISIONS

A person who is aggrieved by a decision or order passed against him by an adjudicating authority, can file an appeal to the Appellate Authority (i.e. Commissioner (Appeals) also in short called as AA). It is important to note that it is only the aggrieved person who can file the appeal. Also, the appeal must be against a decision or order passed under the Act.

It is to be noted that no appeals whatsoever can be filed against the following orders:-

- Board can fix monetary limits below which no departmental appeal would be filed with respective authorities.
- An order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;
- An order pertaining to the seizure or retention of books of account, register and other documents; or
- An order sanctioning prosecution under the Act; or
- An order passed under section 80 (payment of tax in instalments).

Important definitions:

As per Section 2(4) of the CGST Act, 2017 "**adjudicating authority**" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include

- The Central Board of Excise and Customs,
- The Revisional Authority,
- The Authority for Advance Ruling,
- The Appellate Authority for Advance Ruling,
- The Appellate Authority and
- The Appellate Tribunal;

Amendments made by the CGST (Amendment) Act, 2018 - Effective from 01.02.2019 Definition of "Adjudicating Authority" amended [Section 2(4) of the CGST Act]

Anti profiteering authority has been excluded from the definition of Adjudicating authority and the term CBEC used therein has been changed to CBIC. The CGST (Amendment) Act, 2018 has amended section 2(4) of the CGST Act, which defines adjudicating authority, as under:

"Adjudicating authority means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the **Central Board of Indirect Taxes and Customs**, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and the **Authority referred to in sub-section (2) of section 171**.

Section 2(8) of the CGST Act, 2017 "**Appellate Authority**" means an authority appointed or authorised to hear appeals as referred to in section 107;

Section 2(9) of the CGST Act, 2017 "**Appellate Tribunal**" means the Goods and Services Tax Appellate Tribunal constituted under section 109;

Section (24) of the CGST Act, 2017 "**Commissioner**" means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act;

Section 2(99) of the CGST Act, 2017 "**Revisional Authority**" means an authority appointed or authorised for revision of decision or orders as referred to in section 108;

Right to appeal against an adverse decision or order is a statutory right available with all assessee under any law and GST law also. However, this right is not an absolute right and is conditioned by frettors of timely filing of appeal and mandatory payment of part dues as pre-deposit. Under GST regime the taxable supplies of goods or services are attracting the levy which is being leviable by both Central Tax and State Tax.

Person aggrieved should approach both the authorities of Central and State for exercising the right of appeal?

Answer: As per CBEC clarification the answer to this question is NO.

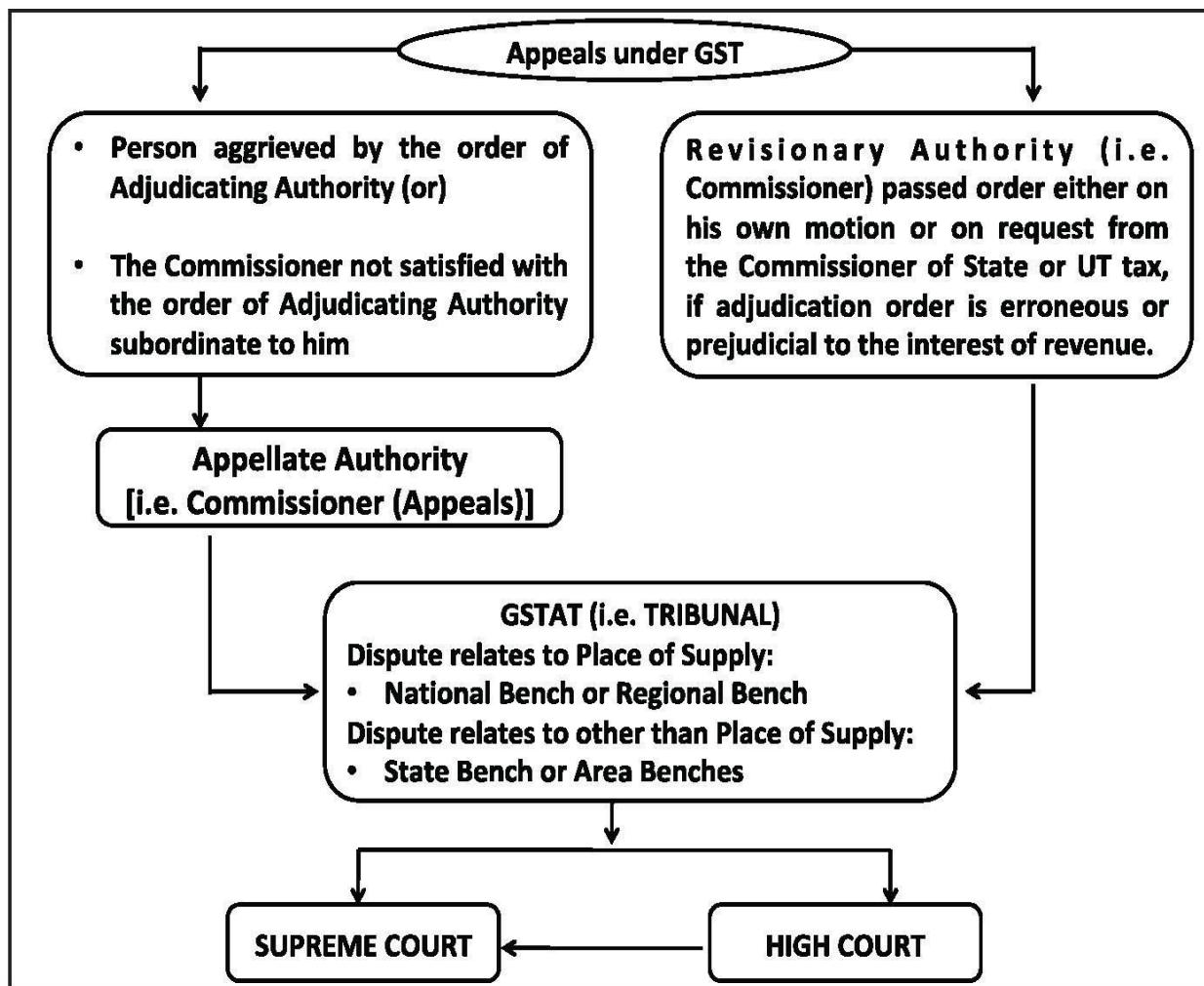
The Act makes provisions for cross empowerment between CGST and SGST/UTGST officers so as to ensure that if a proper officer of one Act (say CGST) passes an order with respect to a transaction, he will also act as the proper officer of SGST for the same transaction and issue the order with respect to the CGST as well as the SGST/UTGST component of the same transaction. The Act also provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/revision/rectification against the said order will lie only with the proper officers of that Act only (CGST Act).

So also if any order is passed by the proper officer of SGST, any appeal/review/revision/rectification will lie with the proper officer of SGST only.

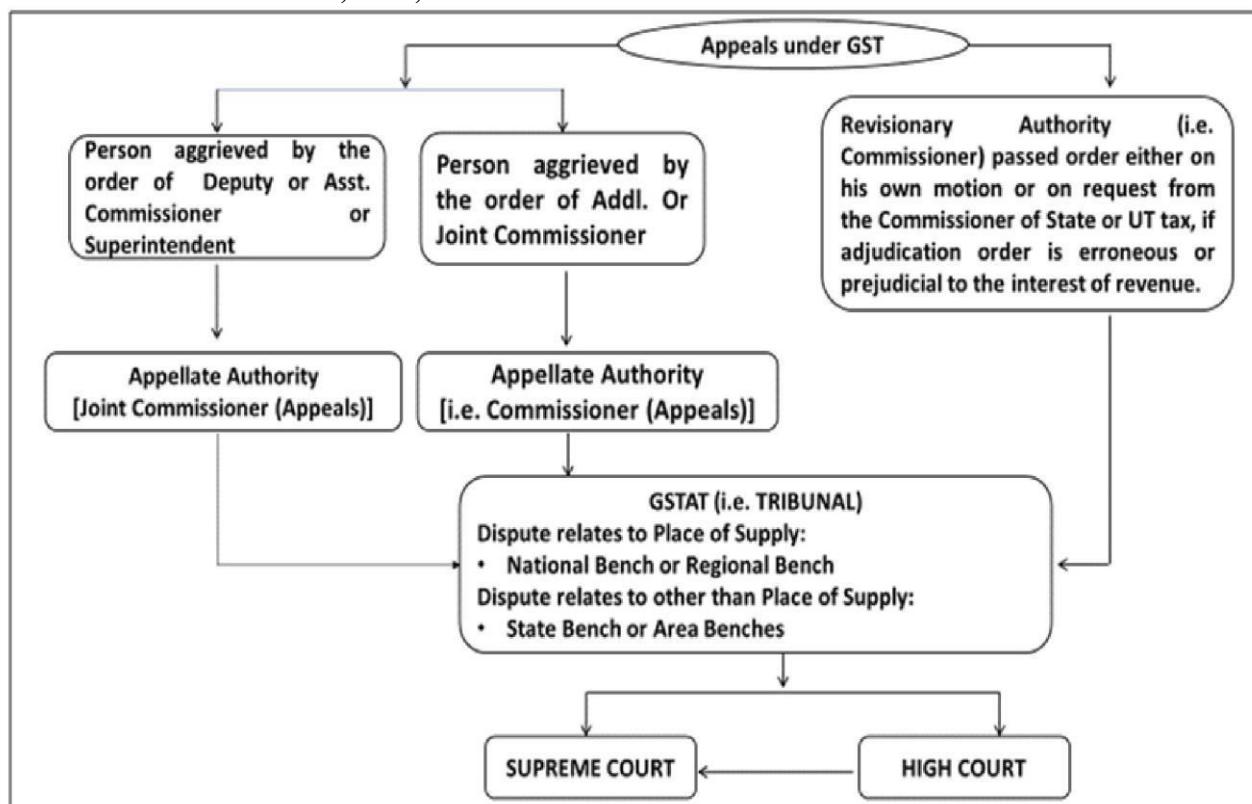
Hierarchy of appeals under GST:

Appointment of Appellate Authority [Notification No. 60/2018-CT, dated 30.10.2018]

A new rule 109A has been inserted in CGST Rules to appoint Appellate Authority as under:



in rule 109A of CGST Rules, 2017,



Mandatory pre-deposit for entertaining appeal:

As per section 107(6) of the CGST Act, 2017 No appeal shall be filed under sub-section (1) of Section 107 i.e. Appeals to Appellate Authority ('AA'), unless the appellant has paid—

- (a) In full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) A sum equal to **10%** of the remaining amount of tax in dispute arising from the said order, (w.e.f. 1-2-2019 subject to a maximum of ? 25 crore) in relation to which the appeal has been filed.

Amendment:

Section 107(6) of CGST Act has been amended vide CGST Amendment Act, 2018, that

No appeal shall be filed under sub-section (1), unless the appellant has paid—

- (a) In full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) A sum equal to ten percent of the remaining amount of tax in dispute arising from the said order **subject to a maximum of twenty-five crore rupees**, in relation to which the appeal has been filed.

As per Section 112(8) of the CGST Act, 2017 No appeal shall be filed under sub-section (1), unless the appellant has paid—

- (a) In full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
- (b) a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid under subsection (6) of section 107, arising from the said order, **subject to a maximum of fifty crore rupees** in relation to which the appeal has been filed.

With effect from 01.02.2019, section 20 of the IGST Act has also been amended vide the IGST (Amendment) Act, 2018 to provide that where the appeal is to be filed before the Appellate Authority or the Appellate Tribunal, the maximum amount payable shall be Rs. 50 crore and Rs. 100 crore rupees respectively. Section 20 of the IGST Act specifies the provisions of the CGST Act which are applicable in case of IGST Act as well.

Note: Pre-deposit will be **refunded with Interest @ 6%** where said amount becomes refundable on account of order in favor of assessee.

Example 2:

X Ltd. received a protective demand notice from the department Assistant Commissioner of Central Tax on 1.9.2019 under Section 73 of the CGST Act, 2017 where

	Amount Rs.
CGST & SGST due	= 5,00,000

Interest = @15% p.a. for no. of days delay.

Penalty = 10% of tax due or Rs. 10,000 whichever is higher

The assessee went for appeal and filed the case in the Appellate Authority on 25.9.2019. This appeal has been taken up for hearing on 06-10-2019.

Case 1: How much has to pay as pre-deposit of duty under section 107(6) of the CGST Act, 2017 and date of pre-deposit of duty by X Ltd. to entertain appeal by the Appellate Authority (i.e. Commissioner (Appeals)).

Case 2: Whether your answer is different if the assessee appeals only part of the amount say Rs. 3,00,000 is in dispute arising from the said order.

Answer:

Case 1: Pre-deposit is Rs. 50,000 ($5,00,000 \times 10\%$) is to deposit on or before 6th October 2019.

Case 2: Disputed amount Rs. 3,00,000:

Pre-deposit is Rs. 2,00,000 plus Rs. 30,000 ($3,00,000 \times 10\%$) together is Rs. 2,30,000. It should be deposited on or before 6th October 2019.

Example 3:

Considered the example 1 where Appellate Authority passed the order against the assessee, if so how much has to pay as pre-deposit of duty under section 112(8) of the CGST Act, 2017 to entertain appeal by the Goods and Services Tax Appellate Tribunal (GSTAT).

Answer

Pre-deposit is Rs. 1,00,000 ($5,00,000 \times 20\%$) it is in addition to pre-deposit of Rs. 50,000.

Case 2: Disputed amount Rs. 3,00,000:

Pre-deposit is Rs. 2,00,000 plus Rs. 60,000 ($3,00,000 \times 20\%$) together is Rs. 2,30,000, it is in addition to pre-deposit of Rs. 30,000.

Appeals to Appellate Authority [i.e. Commissioner (Appeals)] [Section 107 of the CGST Act, 2017]:**Step by step approach:**

1. Any person aggrieved by any decision or order passed by an adjudicating authority may appeal to Appellate Authority (AA).
2. Time limit for filing appeal is 3 months from the date on which the decision or order is communicated. However, the Commissioner (Appeals) namely Appellate Authority is empowered to condone delay of 30 days if sufficient cause is shown.
3. Appeal has to be filed in Form GST APL-01. A provisional acknowledgement shall be issued to the appellant immediately on filing appeal.
4. A hard copy of the appeal then shall be submitted in triplicate and shall be accompanied by a certified copy of the decision or order appealed against along with the supporting documents within 7 days of filing electronic appeal. Acknowledgment shall be issued by the Department in Form GST APL-02.
5. The date of filing will be issuance of provisional acknowledgement if the hard copy is submitted after 7 days, then relevant date would this date of submission.
6. As per section 107(2) of the CGST Act, 2017 the Commissioner of Central Tax or State Tax or UT Tax may call for and examine the records of any proceedings in which the authority subordinate to him has passed any decision or order under this Act, or SGST or UTGST Act. In case he is not satisfied about the legality or propriety of the said decision or order, then he shall direct any GST Officer subordinate to him to apply to the Appellate Authority (AA) for determination of points arising out of the said decision or order as may be specified by the Commissioner.
7. In case of Department appeal has to be filed within 6 months from the date of communication of the said decision or order by the Commissioner. The authorised officer can file an appeal in Form GST APL-03 electronically and also submit hard copies thereof accompanied by a certified copy of the decision or order appealed against along with the supporting documents within 7 days.

8. The Appellate Authority will grant an opportunity of hearing to appellant. The hearing can be adjourned for maximum 3 occasions by recording reasons in writing.
9. The Appellate Authority can also allow to add/include grounds of appeal if satisfied that their omission was not willful or unreasonable.
10. The Appellate Authority as far as possible within ONE year of appeal, shall pass such order in writing, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed.
11. The Appellate Authority shall not remanded the matter back to the adjudicating authority. Accordingly AA shall also issue a summary of the order in Form GST APL-04 clearly indicating the final amount of demand confirmed.

Revisionary proceedings by Commissioner against Adjudication Orders:

As per section 108 of the CGST Act, 2017 provides revisionary powers to the Commissioner. It provides that the Commissioner shall examine the records of any proceeding passed under the Act by officers subordinate to him. If he considers that any decision or order passed under the Act is not proper or legal and it is prejudicial to the interest of the revenue, the Commissioner can stay the operation of such decision or order for such period as it is deemed fit. It is further provided that the Commissioner can after giving the person an opportunity of being heard and after making such further inquiry, he can pass such order as it thinks just and proper.

As per Section 108(2) of the CGSt Act, 2017, the Revisional Authority shall not exercise any power under sub-section (1) of Section 108, if—

- (a) The order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or
- (b) the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or
- (c) The order has already been taken for revision under this section at an earlier stage; or
- (d) The order has been passed in exercise of the powers under sub-section (1):

Provided that the Revisional Authority may pass an order under sub-section (1) of Section 108 on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.

In the following cases Appellate Authority has no power to enhance or modify or annul the decision or order of adjudicating authority subordinate to him:

- (a) If the assessee has filed the appeal to the AA, the Commissioner GST (i.e. Revisionary Authority) cannot make the review of such order u/s 108 of the CGST Act, 2017.
- (b) If the appeal against any Order is pending before the appellate Tribunal u/s 112 of the CGST Act or before the High Court u/s 117 of the CGST Act, or before the Supreme Court u/s 118 of the CGST Act, 2017, the Commissioner GST (i.e. Revisionary Authority) cannot make the review of such order u/s 108 of the CGST Act, 2017.
- (c) The Commissioner cannot exercise the powers u/s 108(1) of the CGST Act, 2017 if the appeal period (i.e. 3 months for filing the appeal has not expired or more than 3 years have expired after passing the decision or Order sought to be reviewed).
- (d) If the Order has already been taken up for revision earlier and certain decision has been taken, the order cannot be again taken up for revision by the Commissioner.
- (e) The order has already been passed u/s 108 of the CGST Act, 2017. Therefore, the Commissioner cannot take the order again for revision.

Exceptions:

- (i) proviso to Sec 108(2) provides revisionary powers to the Commissioner to pass the order on any point which has not been raised and decided in any appeal filed either before the Appellate Authority u/s 107 or Appellate Tribunal u/s 112 or High Court u/s 117 or Supreme Court u/s 118, before the expiry of the period of ONE year from the date of order in such appeal or before the expiry period of 3 years after the passing of the decision or order whichever is later.

Prior notice to person in case of adverse order by Revisional Authority

If the Revisional Authority decides to pass an order in revision under section 108 of the CGST Act which is likely to affect the person adversely, an obligation has been cast on the Revisional Authority to serve a notice on such person and give him a reasonable opportunity of being heard.

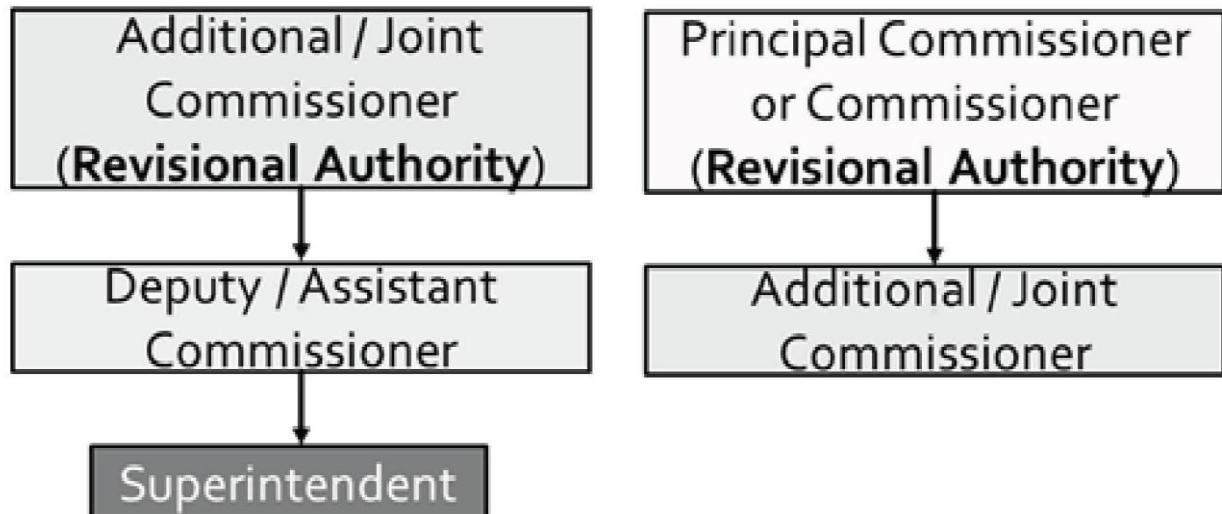
Along with the order under section 108(1), the Revisional Authority will also issue a summary of the order clearly indicating the final amount of demand confirmed.

[Notification No. 74/2018-CT, dated 31.12.2018]

Revisional Authority under section 108[Notification No. 05/2020 CT dated 13.01.2020]:

The following officers have been authorised as the Revisional Authority under section 108 of the CGST Act:

- (a) Principal Commissioner or Commissioner for decisions or orders passed by the Additional or Joint Commissioner; and.
- (b) Additional or Joint Commissioner for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent.



Conduct of personal hearing in virtual mode under CGST Act, 2017, IGST Act, 2017, Customs Act, 1962 Revised guidelines (vide CBIC Instruction F.No. 390/Misc./3/2019-JC dated 21-8-2020):

1. In any proceedings before the Commissioner (Appeals)/Additional/Joint Commissioner (Appeals), the authority shall mandatorily indicate that the personal hearing would take place through video conferencing facility. For this purpose he/she shall also indicate the email address for correspondence etc.
2. The date and time of hearing along with a link for the video conference shall be informed to the appellant/respondent or their authorized representative and the concerned Commissioner representing revenue through the official email, giving the details of officer in-charge who would provide assistance to the party, for conducting the virtual hearing. This link should not be shared with any other person without the approval of the Appellate Authority.
3. The appellant/respondent or authorized representative, appearing in virtual hearing, should file his vakalatnama or authorization letter along with a copy of his photo ID card and contact details to the appellate authority through official e-mail address of the concerned authority after scanning the same.
4. All persons participating in the video conference should be appropriately dressed and maintain the decorum required for such an occasion.
5. Virtual hearing through video conference shall be held from the office of the Appellate authority or any official video conference facility set up in the office of the Commissioner (Appeals).
6. The virtual hearing through video conference will be conducted through available applications like VIDYO, or other secured computer network. The appellant/respondent should download such application in their computer system/laptop/mobile phone beforehand for ready connectivity during virtual hearing, and join the video conference at the time allotted to them, as given in point (2) above
7. In case where the appellant/respondent wishes to participate in the virtual hearing proceeding along with their advocate, they should do so under proper intimation to this office as mentioned at point (2) above. They may participate in virtual hearing along with their advocate/ authorized representative or join the proceedings from their own office.

8. The submissions made by the appellant or their representative through the video conference will be reduced in writing and a statement of the same will be prepared, which shall be known as "record of personal hearing". A soft copy of such record of personal hearing in PDF format will be sent to the appellant through email ID provided by appellant/ respondent/authorized representative, within one day of such hearing.

9. If the, appellant/their representative wants to modify the contents of emailed record of personal hearing, they can do so and sign the modified record, scan and send back the signed record of personal hearing to the Appellate Authority within 3 days of receipt of such e-mail or else it will be presumed that they agree with the contents of e-mailed record of personal hearing. No modification in e-mailed record of personal hearing will be entertained after 3 days of its receipt by appellant/their authorized representative. The date or receipt of the email by the appellate authority will not be counted for this purpose.

10. The record of personal hearing submitted in this manner shall be deemed to be a document for the purpose of the relevant statue read with Section 4 of the Information Technology Act, 2000.

11. If the appellant/their authorized representative prefers to submit any document including additional submissions during the virtual hearing, he may do so by self-attesting such document and scanned copy of the same may be emailed to the appellate authority immediately after virtual hearing and in no case after 3 days of virtual hearing. The date of the hearing will be excluded for this purpose.

12. Any official representing the Department's side can also participate in the virtual hearing through video conferencing. The Commissionerate concerned shall inform the details in advance regarding such participation, on receipt of intimation as mentioned at point (2) above.

13. While the conduct of personal hearing through video conferencing is being made mandatory, there may yet be rare and accentuating circumstances on the part of the assessee or his authorized representative on account of which this cannot be done. Each such request shall be approved by the appellate authority and the reasons for the same recorded in writing.

Appeal to Appellate Tribunal [Section 112 of the CGST Act, 2017]

The Tribunal is the second level of appeal, where appeals can be filed against the orders-in-appeal passed by the AA or order in revision passed by revisional authority, by any person aggrieved by such an Order-in-Appeal/ Order-in-Revision.

The law envisages constitution of a two tier Tribunal namely

- (1) The National Bench/Regional Benches and
- (2) The State Bench/ Area Benches.

Jurisdiction of the two constituents of the GST Tribunal is also defined. If place of supply is one of the issues in dispute, then the National Bench/ Regional benches of the Tribunal will have jurisdiction.

Step by step approach:

- The National bench or regional Benches shall have jurisdiction to hear appeals against the orders passed by the appellate authority i.e., Commissioner (Appeals) or the Revisional Authority in the cases where one of the issues involved relates to the place of supply
- Other matters will fall in jurisdiction of State bench or Area Bench
- Appellate Tribunal can refuse to admit any appeal where the amount involved does not exceed fifty thousand rupees
- Time limit of three months from the date of communication is available to aggrieved person for filing appeal. Tribunal can condone delay for another three months.
- The appeal has to be filed electronically, in FORM GST AL-05, on the common portal and a provisional acknowledgement shall be issued to the appellant immediately.
- A hard copy of the appeal then shall be submitted in triplicate and shall be accompanied by a certified copy of the decision or order appealed along with the supporting documents within seven days of filing electronic appeal.
- A final acknowledgement, indicating appeal number shall be issued FORM GST APL-02 to appellant.
- The date of filing will be issuance of provisional acknowledgement if the hard copy as above is submitted within time. If hard copy is submitted after 7 days, then relevant date would be the date of submission.

- Department can also file appeal to Tribunal against order passed by an Appellate or Revisionary Authority.
- For this purpose, the Commissioner can call for and examine the records for the purpose of satisfying himself as to the legality or propriety of the said decision or order.
- If not satisfied he may pass an order directing any officer subordinate to him to apply to the appellate tribunal.
- The appeal has to be filed within six months from the date of communication of the said decision or order. Delay in filing can be condoned by Tribunal by another three months.
- Authorized officer will file appeal in FORM GST AP-07 electronically and also submit hard copies thereof accompanied by a certified copy of the decision or order appealed against along with the supporting documents within seven days.
- Cross-objection can be filed in prescribed Memorandum by the opposite party to the appeal within forty five days of the receipt of notice of appeal. Such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal.

Procedure before Appellate Tribunal

- Appellate Tribunal will grant an opportunity of hearing to appellant.
- The hearing can be adjourned for maximum three occasions by recording reasons in writing.
- Appellate Tribunal can also allow to add/Include grounds of appeal if satisfied that their omission was not willful or unreasonable.
- The Appellate Tribunal, as far as possible within one year of appeal, shall pass such order in writing, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against.
- The Appellate Tribunal can also remand the case back to the Appellate or Provisional Authority.
- The Appellate Tribunal has the power to rectify any error apparent on the face of records, if such error is noticed by it on its own accord, or is brought to its notice by the appellant or department within a period of three months from the date of the order.
- Rectification which has the effect of enhancing an assessment or reducing a refund or Input tax credit or otherwise increasing the liability of the other party can only be done after the party has been given an opportunity of being heard.
- The Appellant Tribunal shall have power to regulate its own procedures.
- It shall be guided by the principles of natural justice.
- The Tribunal has same powers as are vested in a Civil court for summoning or seeking the attendance of any person and examining him on oath or requiring the discovery and production of documents or receiving evidence on affidavits or setting aside any order of dismissal of any representation for default or any order passed by it ex parte etc.

Fee for filing Appeal

Fee for filing Appeal to Appellate tribunal is one thousand rupees for every lakh rupees of tax or input credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to maximum of twenty five thousand rupees.

Appeal to High Court [Section 117 of the CGST Act, 2017]

Appeal against orders passed by the State Bench or Area Bench of the Appellate Tribunal shall lie to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law and doesn't not involve any issue relating to place of supply.

This appeal in FORM GST APL-08 shall be filed within a period of one hundred and eighty days(180 days) from the date on which the order appealed against is received by aggrieved party.

High court can condone delay in filing appeal without any limit.

The Appeal shall be heard by a bench of not less than two judges.

Appeal to Supreme Court [Section 118 of the CGST Act, 2017]

An Appeal shall lie to the supreme court from any order passed by the National Bench or Regional Benches of the Appellate Tribunal where on the issues involved relates to place of supply.

Appeal would also lie to supreme court from any judgment or order passed by the High Court in an appeal in any case which the High Court certifies to be a fit case for appeal to the supreme court.

ADVANCE RULING

It means **knowing the law in advance**.

Section 95 of CGST Act, 2017 deals with the provisions of Advance ruling. In this Chapter, unless the context otherwise requires,—

- (a) "advance ruling" means a decision provided by the Authority or the Appellate Authority (or the National Appellate Authority w.e.f. 1-8-2019) to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;
- (b) "Appellate Authority" means the Appellate Authority for Advance Ruling referred to in section 99;
- (c) "Applicant" means any person registered or desirous of obtaining registration under this Act;
- (d) "Application" means an application made to the Authority under sub-section (1) of section 97;
- (e) "Authority" means the Authority for Advance Ruling referred to in section 96.
- (f) W.e.f. 1-8-2019 "National Appellate Authority" means the National Appellate Authority for Advance Ruling referred to in section 101A.'

Authority in respect of State and Union Territory

As per Section 96 of CGST Act, 2017 Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Application to Authority [Section 97 of CGST Act, 2017]

(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought under this Act, shall be in respect of,-

- Classification of any goods or services or both;
- Applicability of a notification issued under the provisions of this Act;
- Determination of time and value of supply of goods or services or both;
- Admissibility of input tax credit of tax paid or deemed to have been paid;
- Determination of the liability to pay tax on any goods or services or both;
- Whether applicant is required to be registered;
- whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Advance ruling can be sought only on the above mentioned aspects Procedure of Authority with respect to Application

Section-98 of CGST Act, 2017-

(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant.

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.

(4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application

(7) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

Appellate Authority for Advance ruling

As per Section 99 of CGST Act, 2017 -Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

Appeal to Appellate Tribunal [Section 100 of CGST Act, 2017]

(1) The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Constitution of National Appellate Authority for Advance Ruling w.e.f. 1-8-2019:

"Section 101A of the CGST Act, 2017, —

(1) The Government shall, on the recommendations of the Council, by notification, constitute, with effect from such date as may be specified therein, an Authority known as the National Appellate Authority for Advance Ruling for hearing appeals made under section 101B.

(2) The National Appellate Authority shall consist of—

- (i) The President, who has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;
- (ii) A Technical Member (Centre) who is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
- (iii) A Technical Member (State) who is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the Additional Commissioner of State tax with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.

(3) The President of the National Appellate Authority shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:

Provided that in the event of the occurrence of any vacancy in the office of the President by the reason of his death, resignation or otherwise, the senior most Member of the National Appellate Authority shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Appellate Authority shall discharge the functions of the President until the date on which the President resumes his duties.

(4) The Technical Member (Centre) and Technical Member (State) of the National Appellate Authority shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

(5) No appointment of the Members of the National Appellate Authority shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.

(6) Before appointing any person as the President or Members of the National Appellate Authority, the Government shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.

(7) The salary, allowances and other terms and conditions of service of the President and the Members of the National Appellate Authority shall be such as may be prescribed:

Provided that neither salary and allowances nor other terms and conditions of service of the President or Members of the National Appellate Authority shall be varied to their disadvantage after their appointment.

(8) The President of the National Appellate Authority shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall also be eligible for reappointment.

(9) The Technical Member (Centre) or Technical Member (State) of the National Appellate Authority shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall also be eligible for reappointment.

(10) The President or any Member may, by notice in writing under his hand addressed to the Government, resign from his office:

Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Government, or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(11) The Government may, after consultation with the Chief Justice of India, remove from the office such President or Member, who— (a) has been adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or (c) has become physically or mentally incapable of acting as such President or Member; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

(12) Without prejudice to the provisions of sub-section (11), the President and Technical Members of the National Appellate Authority shall not be removed from their office except by an order made by the Government on the ground of proven misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Government and such President or Member had been given an opportunity of being heard.

(13) The Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or Technical Members of the National Appellate Authority in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (12)

(14) Subject to the provisions of article 220 of the Constitution, the President or Members of the National Appellate Authority, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Appellate Authority where he was the President or, as the case may be, a Member.

Appeal to National Appellate Authority.

Section 101B. (1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting Advance Rulings are given by the Appellate Authorities of two or more States or Union territories or both under sub-section (1) or sub-section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such Advance Ruling, may prefer an appeal to National Appellate Authority:

Provided that the officer shall be from the States in which such Advance Rulings have been given.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.—For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Order of National Appellate Authority

Section 101C. (1) The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.

(2) If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.

(3) The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.

(4) A copy of the Advance Ruling pronounced by the National Appellate Authority shall be duly signed by the Members and certified in such manner as may be prescribed and shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement."

Orders of Appellate Authority-

Section 101 of CGST Act, 2017-

(1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.

(2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.

(3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

(4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

Rectification of Advance Ruling

Section 102 of CGST Act, 2017-

The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

w.e.f. 1-8-2019: after the words "Appellate Authority", at both the places where they occur, the words "or the National Appellate Authority" shall be inserted under sec 102 of CGST Act, 2017;

Ruling Applicability

Section-103 of CGST Act, 2017

(1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—

- (a) On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling
- (b) On the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

w.e.f 1-8-2019:

"(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

- (a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961;
- (b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.";

Advance ruling to be void

Section 104 of CGST Act, 2017

(1) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by

- fraud or
- suppression of material facts or
- misrepresentation of facts,

it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made there under shall apply to the applicant or the appellant as if such advance ruling had never been made

Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

Powers of Authority or Appellate Authority

Section 105 of CGST Act, 2017

(1) The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding—

- (a) Discovery and inspection;
- (b) Enforcing the attendance of any person and examining him on oath
- (c) Issuing commissions and compelling production of books of account and other records have all the powers of a civil court under the Code of Civil Procedure, 1908.

(2) The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

Section-106 of CGST Act, 2017, The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure.

w.e.f.1-8-2019:

"Powers of Authority, Appellate Authority and National Appellate Authority.";

- in sub-section (1), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

- In sub-section (2), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

Case law:

Global Reach Education Services Pvt. Ltd. (2018) 96 taxmann.com 107 (AAAR-West Bengal)

Recently, in the case of Global Reach Education Services Pvt Ltd, (2018) 96 taxmann.com 107 (AAAR-West Bengal), the Appellant Authority for Advance Rulings (AAAR), West Bengal has confirmed the decision of Authority for Advance Ruling (AAR), that the services of-

Promoting courses of Foreign university in India, considered to be intermediary services

- promoting the courses of the foreign university in India;
- finding suitable prospective students to undertake the course;
- recruiting and
- assisting in recruiting the suitable students

shall be treated as intermediary services in terms of Section 2(13) of the IGST Act, 2017, and not 'Export of Services'.

Here, the assessee appealed against the ruling of the AAR, that they are 'intermediary' of the Foreign Universities. The appellant contended that they are providing 'business auxiliary services' to the Foreign Universities rather than intermediary services, as they provide services of promoting and marketing of Foreign Universities courses in India on their own account which does not include the function of an intermediary as to facilitation and arrangement of supply of goods or services between two or more persons.

The AAAR here observed that in the instant case, the appellant was free to refer students to various foreign universities of its choice. Further, the fee paid to the Appellant was not tied to the promotional activities or expenses incurred to promote the courses of foreign universities but as a percentage of fee paid by the students who got admitted to the universities. Thus, no consideration was paid in spite of incurring expenses by the Appellant for promoting activities of universities, if no student joined the university.

Whereas, in the case of M/s Sunrise Immigration Consultants Private Ltd. v CCE & ST, Chandigarh, cited by the appellant, the AAAR observed that the order passed there by the Tribunal was completely different from this case. As in that case, the tribunal considered the 'intermediary' under Rule 2(f) of the Place of Provision of Service Rules, 2012 (POPS), in relation to 'main service'. Further, the definition of 'intermediary' under Section 2(13) of the IGST Act, is not same as that under Rule 2(f) of the POPS Rules, 2012, in as much as under GST an intermediary is an entity who arranges/facilitates for the supply of services of another entity, which may include the ancillary services, whereas under POPS Rules, the intermediary arranges/ facilitates for the provisions of services of the main service provider.

Therefore, the services provided carried out by the appellant would be considered as an intermediary in terms of Section 2(13) of the IGST Act.

Power of Government to extend time limit in special circumstances [Section 168A]

The Central Government has issued Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 on 31.03.2020 which empowers it to extend the due dates for compliances under various tax laws.

The Ordinance has inserted a new section 168A in the CGST Act which enables the Government to extend the time limits provided under the said Act in respect of actions which cannot be completed or complied with due to force majeure. Here, force majeure means war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the implementations of provisions of the CGST Act. This power can also be exercised retrospectively. The new section has become effective from 31.03.2020.

GST PRACTITIONER

1. Who can be a GST Practitioner?

- a. He is a retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower in rank than that of a Group-B Gazetted officer for a period of not less than two years; OR
- b. He has enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years;

c. He has passed,

- He is a Graduate or Post-graduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher auditing, or business administration from any Indian University established by any law for the time being in force; OR
- A degree examination of any Foreign University recognized by any Indian University as equivalent to the degree examination mentioned in sub-clause (i) OR
- Any other examination notified by the Government for this purpose OR
- Any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination and has also passed any of the following examinations, namely:-
 - (i) Final examination of the Institute of Chartered Accountants of India; OR
 - (ii) Final examination of the Institute of Cost Accountants of India; OR
 - (iii) Final examination of the Institute of Company Secretaries of India.

2. Roles and Responsibilities of a GST Practitioner

- The government by virtue of section 48 of CGST Act, 2017 permits GST practitioners, upon authorization from taxpayers, to:
- Filing GSTR-1 and GSTR-2 with the details of outward and inward supplies
- Filing of GST monthly, quarterly or annual returns on behalf of his clients
- Representing the clients before GST authorities
- Filing refund claims, upon confirmation from clients
- Making deposits for credit in the electronic ledger
- Filing applications in case of any for changes (amendment) or cancellation the registration

GST practitioners are entrusted by the government to help common people with the work/ activity related to compliance of GST laws. With this provision of the Act, it becomes the responsibility of the GST practitioner to ensure that returns are filed correctly and on timely basis.

Further, provisions of CGST Act, 2017 requires CGST Practitioners to follow the principle of due diligence while preparing the statements of return and verify such statements.

Verification can be done:

- Electronically by Electronic Verification Code (EVC); or
- By way of affixing Digital Signature Certificate.

3. GST Practitioner Exam Date

The National Academy of Customs, Indirect Taxes and Narcotics (NACIN) has been authorized for conducting the examination for the enrollment of GST Practitioners (GSTP), vide Notification No. 24/2018-Central Tax dated 28.5.2018.

As per the Ministry of Finance, a person can be enrolled as GST Practitioner only after passing the examination. A person seeking registration as a GST Practitioner have to clear the GST Practitioner examination.

w.e.f. 1st February 2019, [Notification No. 03/2019-CT, dated 29th January 2019]:

Substitution in heading of Chapter-II	Composition Rules	"Composition Levy"	
Substitution in 2 nd proviso to Rule 83 (3)	Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of [eighteen months] from the appointed date	Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of [thirty months] from the appointed date	Allows time to complete the exam after enrolment.

CBIC notifies Central Goods and Services Tax (Sixth Amendment) Rules, 2019 vide Notification No. 49/2019 - Central Tax dated 09-10-2019 and made some important changes as given below-

In rule 83A, in sub-rule (6), for clause (i), the following clause shall be substituted, namely:-

"(i) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule is required to pass the examination within the period as specified in the second proviso of sub-rule (3) of the said rule.".

In rule 83A, in sub-rule (6), for clause (i), the following clause shall be substituted, namely:-

"(i) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule is required to pass the examination within the period as specified in the second proviso of sub-rule (3) of the said rule.".

4. Conditions for becoming a GST practitioner

As per Rule 83, an application in FORM GST PCT-01 may be made electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner for enrolment as goods and services tax practitioner by any person who is:

1. The applicant must be an Indian Citizen
2. The applicant should be a person of sound mind
3. The applicant should be not be adjudged as an insolvent
4. The applicant should be not be convicted by a court for an offence with imprisonment of a period exceeding 2 years
5. Validity of GST Practitioner License

The GST practitioner license would be valid until it's cancelled by the relevant authority.

A person seeking for GST practitioner license through tax return preparer or the sales tax practitioner route are required to pass the examination conducted by the GST Authority within one year from the implementation of GST.

6. Documents required for registration as a GST practitioner

- Enrolment type (Central or State application),
- Bar Council Membership Proof - For Advocates
- Date of enrolment,
- Photograph(jPEG-100kb),
- date of enrolment,
- Valid e-mail id,
- Valid Phone number,
- Membership number and valid up to
- Name of university/institute and
- Office address proof,
- A digital signature, and
- Year of passing
- Qualification proof:

Certificate of Practice - For Chartered Accountant, Company Secretary, Cost and Management Accountant, Bar Council Membership Proof - For Advocates

7. Difference between taxpayer and GST practitioner

A taxpayer is a person registered under GST law for the purpose of filing returns, payment of tax, availing input tax credit and other compliances. Such a person is defined as a 'taxable person' under GST law.

On the contrary, a GST practitioner is a person registered as a GST professional under GST Law. A taxpayer may authorise a GST practitioner to furnish monthly/quarterly/ annual returns and information, on his behalf, to the government. The manner of approval of GST practitioners, the manner of removal, eligibility and qualification, roles and responsibilities and other conditions relevant for the functioning of a

GST Practitioner have been prescribed in Rule 24 and 25 of the Return Rules. A taxable person can add a GST Practitioner to his GST Portal, to allow such a person to make compliance under GST on his behalf.

8. Disqualifications and cancellation of GST Practitioner's certificate:

If a GST Practitioner is found guilty of misconduct in connection with any proceedings under the GST Act, he is disqualified to act as GST Practitioner. The process of disqualification from practicing as a GST Practitioner is as follows:

- A Show cause notice is served upon the GST Practitioner by the authorized officer in FORM GST PCT- 03 to call for an explanation for carrying out the misconduct.
- Reasonable opportunity of being heard is provided to GST practitioner to seek justifications from his/ her side.
- After hearing the GST Practitioner, if he is found guilty of misconduct, the authorized officer passes order in FORM GST PCT -04 directing that the GST practitioner cannot function as GST practitioner under the GST Act, 2017 and is disqualified.
- However, the person (i.e. the GST practitioner) can make an appeal against the order in FORM GST PCT -04 to the commissioner within thirty days.

9. Documents required for Enrolment of a GST Practitioner

Purpose	Acceptable Documents	Max Size for Upload
Photo of Applicant in JPG Format	Photo	100 KB
	Any other certificate/document issued by Government	120 KB
	Any other Certificate or record from Govt department	100 KB
	Consent Lever	100 KB
	Electricity Bill	100 KB
	Legal ownership document	1 MB
	Municipal Khata Copy	100 KB
	Property Tax Receipt	100 KB
	Rent/ Lease agreement	2 MB
	Rent receipt with NOC (In case of no / expired agreement)	1 MB
Proof of qualifying degree in JPG/PDF format	Degree	100 KB
Proof of designation of post held at time of retirement in JPG/PDF format (Applicable for Retired Govt Officials only)	Pension Certificate used by AG Office or LPG	1 MB

AMENDMENT

Notification No. 60/2018 - Central Tax, dt 30.11.2018 After Rule 83 of the CGST Rule, 2017 the following rule shall be inserted, namely:-

"Rule 83A. Examination of Goods and Services Tax Practitioners.-

(1) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule, shall pass an examination as per sub-rule (3) of the said rule.

(2) The National Academy of Customs, Indirect Taxes and Narcotics (hereinafter referred to as "NACIN") shall conduct the examination.

(3) Frequency of examination.- The examination shall be conducted twice in a year as per the schedule of the examination published by NACIN every year on the official websites of the Board, NACIN, common portal, GST Council Secretariat and in the leading English and regional newspapers.

(4) Registration for the examination and payment of fee.-

(i) A person who is required to pass the examination shall register online on a website specified by NACIN.

(ii) A person who registers for the examination shall pay examination fee as specified by NACIN, and the amount for the same and the manner of its payment shall be specified by NACIN on the official websites of the Board, NACIN and common portal.

(5) Examination centers.- The examination shall be held across India at the designated centers. The candidate shall be given an option to choose from the list of centers as provided by NACIN at the time of registration.

(6) Period for passing the examination and number of attempts allowed.-

(i) A person enrolled as a goods and services tax practitioner in terms of sub-rule (2) of rule 83 is required to pass the examination within two years of enrolment:

Provided that if a person is enrolled as a goods and services tax practitioner before 1st of July 2018, he shall get one more year to pass the examination:

Provided further that for a goods and services tax practitioner to whom the provisions of clause (b) of sub-rule (1) of rule 83 apply, the period to pass the examination will be as specified in the second proviso of sub-rule (3) of said rule.

(ii) A person required to pass the examination may avail of any number of attempts but these attempts shall be within the period as specified in clause (i).

(iii) A person shall register and pay the requisite fee every time he intends to appear at the examination.

(iv) In case the goods and services tax practitioner having applied for appearing in the examination is prevented from availing one or more attempts due to unforeseen circumstances such as critical illness, accident or natural calamity, he may make a request in writing to the jurisdictional Commissioner for granting him one additional attempt to pass the examination, within thirty days of conduct of the said examination. NACIN may consider such requests on merits based on recommendations of the jurisdictional Commissioner.

(7) Nature of examination.-The examination shall be a Computer Based Test. It shall have one question paper consisting of Multiple Choice Questions. The pattern and syllabus are specified in Annexure-A.

(8) Qualifying marks. - A person shall be required to secure fifty per cent. of the total marks.

(9) Guidelines for the candidates.-

(i) NACIN shall issue examination guidelines covering issues such as procedure of registration, payment of fee, nature of identity documents, provision of admit card, manner of reporting at the examination center, prohibition on possession of certain items in the examination center, procedure of making representation and the manner of its disposal.

(ii) Any person who is or has been found to be indulging in unfair means or practices shall be dealt in accordance with the provisions of sub-rule (10). An illustrative list of use of unfair means or practices by a person is as under: -

(a) Obtaining support for his candidature by any means;

(b) Impersonating;

(c) Submitting fabricated documents;

(d) Resorting to any unfair means or practices in connection with the examination or in connection with the result of the examination;

(e) Found in possession of any paper, book, note or any other material, the use of which is not permitted in the examination center;

(f) Communicating with others or exchanging calculators, chits, papers etc. (on which something is written);

(g) Misbehaving in the examination center in any manner;

(h) Tampering with the hardware and/or software deployed; and

(i) Attempting to commit or, as the case may be, to abet in the commission of all or any of the acts specified in the foregoing clauses.

(10) Disqualification of person using unfair means or practice.- If any person is or has been found to be indulging in use of unfair means or practices, NACIN may, after considering his representation, if any, declare him disqualified for the examination.

(11) Declaration of result.- NACIN shall declare the results within one month of the conduct of examination on the official websites of the Board, NACIN, GST Council Secretariat, common portal and State Tax Department of the respective States or Union territories, if any. The results shall also be communicated to the applicants by e-mail and/or by post.

(12) Handling representations.- A person not satisfied with his result may represent in writing, clearly specifying the reasons therein to NACIN or the jurisdictional Commissioner as per the procedure established by NACIN on the official websites of the Board, NACIN and common portal.

(13) Power to relax.- Where the Board or State Tax Commissioner is of the opinion that it is necessary or expedient to do so, it may, on the recommendations of the Council, relax any of the provisions of this rule with respect to any class or category of persons.

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

(a) "Jurisdictional Commissioner" means the Commissioner having jurisdiction over the place declared as address in the application for enrolment as the GST Practitioner in FORM GST PCT-1. It shall refer to the Commissioner of Central Tax if the enrolling authority in FORM GST PCT-1 has been selected as Centre, or the Commissioner of State Tax if the enrolling authority in FORM GST PCT-1 has been selected as State;

(b) NACIN means as notified by notification No. 24/2018-Central Tax, dated 28.05.2018.

JOB WORK UNDER GST

JOB WORK MEANING

Meaning of job work and job worker: Section 2(68) of CGST Act, 2017 gives the meaning of the term 'job work'. As per the said provision, it means a person undertaking any treatment or processing of goods belonging to another registered person. Any person who does such job work will be considered as "Job worker".

As per the Section 2(68) the Job worker may or may not be registered but the principal should be registered.

PROVISIONS RELATING TO JOB WORK UNDER CGST ACT, 2017

Section 143 provides for a special procedure to exempt supplies from payment of GST by principal to job worker and return from job worker to principal subject to certain conditions and procedure.

It enables registered person to send inputs/capital goods under intimation and subject to such conditions as may be prescribed to a job worker without payment of tax.

It also provides that the inputs or capital goods can be sent from one job worker to another job worker as well without payment of any tax on such goods being sent.

ACCOMPANYING DOCUMENTS

Rule 55 of CGST Rules,2017 provides that transaction of goods for job work can be without invoice, but a proper delivery challan containing specific details must be issued while sending goods to the job worker serial number of such delivery challan shall also be provided in GSTR -1.

Notification No. 39/2018 - Central Tax, dt 04.09.2018 amends Rule 55 of CGST Act,2017

With regards to transport of goods without the tax invoice as laid down in Rule 55, the same procedure of transport of goods through delivery challans as applicable on Transportation of goods in a semi knocked down or completely knocked down condition, shall also apply to the transportation of goods in batches or lots, i.e. -

- (a) The supplier shall issue the complete invoice before dispatch of the first consignment;
- (b) The supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
- (c) Each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
- (d) The original copy of the invoice shall be sent along with the last consignment.

Accounts & records:-

The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.
Delivery Challan:-

- All goods sent for job work must be accompanied by a challan.
- The challan will be issued by the principal.
- It will be issued even for the inputs or capital goods sent directly to the job-worker.
- The details of challans must be shown in FORM GSTR-1.
- Details of challans must also be filed through Form GST ITC - 04.

Delivery challan to be treated as invoice if input/capital goods not returned within 1/3 years respectively.

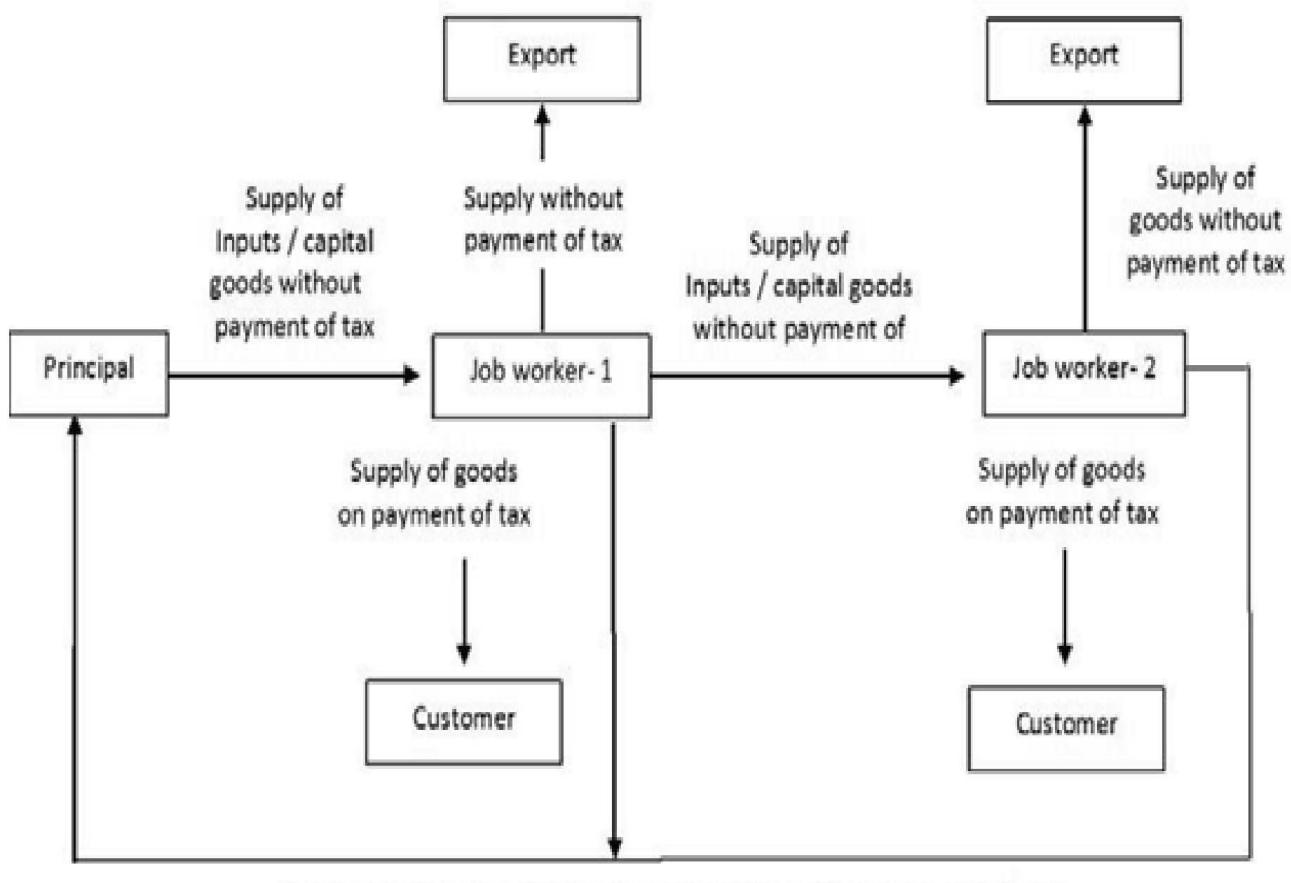
After the processing of goods or otherwise, the goods may be dealt with in any of the following manner by the principal within One year/Three Year- Brought back to any place of business without payment of tax and thereafter supplied, Within India on payment of tax, For export with or without payment of tax, Supply from the place of business of job worker.

The goods can be supplied directly from the place of business of job worker by the principal only when the principal declares the place of business of the job worker as his additional place of business. However, the exceptions are -

- (i) If job worker is registered under Section 25;
- (ii) The principal is engaged in the supply of notified goods.
- (iii) Responsibility for accountability of Inputs/ Capital Goods

The principal is responsible and accountable for keeping proper accounts of the inputs or capital goods and for all the transactions between him and the job worker.

The above chain can be represented as under:



Principal must receive back inputs and capital goods (except moulds & dies, jigs & fixtures or tools) within 1 year and 3 years respectively.

Inputs sent to Job Worker not received back within one year-As per section 143(3), where the inputs sent for job-work are not received back by the "principal" after completion of job-work or otherwise or are not supplied from the place of business of the job worker as aforesaid within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out. Hence, the Principal would be liable to pay GST along with interest from the date inputs were sent out.

Capital Goods Sent to Job Worker not received back within three years- As per section 143(4), where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job-work are not received back by the "principal" or are not supplied from the place of business of the job worker as aforesaid within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job-worker on the day when the said capital goods were sent out. Hence, the Principal would be liable to pay GST along with interest from the date capital goods were sent out.

As per CGST (Amendment) Act, 2017 - Commissioner to be empowered to extend the time limit on sufficient cause being shown, for return of inputs and capital sent on job work, upto a period of one year and two years, respectively.

Waste and Scrap generated at Job worker-As per section 143(5), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax if such job worker is registered, or by the principal, if the job worker is not registered.

FORM GST ITC - 04

FORM GST ITC-04 must be submitted by the principal every quarter. He must include the details of challans in respect of the following-

- Goods dispatched to a job worker or
- Received from a job worker or
- Sent from one job worker to another.

ILLUSTRATIONS

1) A ltd sends the goods to B & co. for making finished goods on 30/07/2017. What are the tax implications, in the following cases if GST @ 18% is levied.

- a) B & co. sends the goods back to A ltd within one year of being sent.
- b) B & co. sells the goods directly to the customer in behalf of A Ltd.

Solution:

As per Sec 143 of the Act, supply of goods to a job worker without payment of tax is permissible upon intimation. In the given example, the implications are as follows:

- On supply of goods to B & co. - As per the sec 143 of Act, no tax shall be payable on supply of goods to B & co. However, the tax will be payable if finished goods is not returned before one year from 30/07/2017.
- B & co. sends the finished goods back to A ltd - As per the Act, there is no tax liability on returning of goods back to the principal i.e A ltd within a period of one year. Hence post completion of Job Work, no tax is liveable on finished goods returned to A ltd.
- B & co. sells the finished goods on behalf of A ltd- Sec 143, also allows the job worker to directly sell the goods on behalf of principal, wherein the liability to pay tax is of the principal and not the job worker. A Ltd is liable to pay GST on sale of Finished gods to customer by B & co.

However, A ltd must declare the premises of B & co. as an 'Additional Place of Business' and the sale of finished goods will form part of aggregate turnover of A ltd. Such a declaration is not required in case where:

- Job worker is registered under Sec 25 or
- Principal is engaged in supply of notified goods.

2) A ltd sends the goods/inputs to B & co. for further processing on 30/08/2017. The value of goods sent for job work is Rs. 100,000. What are the tax implications, in the following cases, if GST @ 18% is levied.

- A) B & co. sends the processed good back to A Ltd on 30/10/2017.
- B) B & co. send the processed good back to A Ltd on 30/10/2018.

Solution:

B & co. sends the processed goods back to B ltd on 30/10/2017 - As per Sec 143, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from Principal to Job-worker as on 30/08/2017 and subject to tax along with interest.

In the present case, as the inputs are received back on 30/10/2017 i.e before completion of one year, and hence no tax is payable.

B & co. sends the processed goods back to B ltd on 30/10/2018 - As per Sec 143, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from Principal to Job-worker as on 30/08/2017 and subject to tax along with interest.

In the present case, as the inputs are received back on 30/10/2018 and hence A Ltd needs to pay tax @ 18% i.e Rs. 9000 CGST and Rs. 9000 SGST along with the specified interest on completion of one year.

3) P ltd send the machinery to R & co. for fixing of some technical issue and maintenance on 15/08/2017. The value of goods sent to R & co. is Rs. 100,000. What are the tax implications, in the following cases.

- A) R & co. sends the machinery back to 30/12/2018
- B) R & co. sends the machinery back to 30/12/2020

Solution:

R & co. sends the machinery back to 30/12/2018 - As per Sec 143, Principal can remove the goods without payment of tax and take input tax credit provided capital goods sent for job work are returned within 3 years of removal. Otherwise, it shall be treated as supply from principal to Job worker as on 15/08/2017 and subject to interest along with.

In the present case, as the machinery is received back on 30/12/2018 i.e before completion of 3 years, and hence no tax is payable.

R & co. sends the machinery back to 30/12/2020 - In the present case, as the machinery is received back on 30/12/2020 i.e after completion of 3 years, and hence tax is payable @ 18% i.e SGST and CGST Rs. 9000 each along with specified interest on completion of 3 years.

4) A Pvt Ltd., a registered manufacturer, sent steel cabinets worth Rs. 50 Lakh under a delivery challan to M/s B tools, a registered job worker, for work on 28/01/2018. The scope of job work included mounting the steel cabinets on a metal frame and spending the mounted panels back to A Pvt Ltd., The metal frame is to be supplied by M/s B Tools has agreed to a consideration of Rs. 5 Lakhs for the entire mounting activity including the supply of metal frame. During the course of mounting activity, metal waste is generated which is should be M/s B tools for Rs. 45,000. M/s B Tools sent the steel cabinets mounted on the metal frame of A Pvt Ltd., on 31/12/2018.

Assuming GSTT Rate for metal frame is 28% for metal waste as 12% and standard rate for services as 18%, you are requires to compute the GST liability of M/s B Tools. Also, give reasons for inclusion or exclusion of the value of cabinets in the job charges for the purpose of payment of GST By M/s B Tools.

Solution:

As per para 3 of Schedule II to the CGST Act, any treatment or process which is applied to another person's goods is a supply of services and accordingly is subject to GST rate applicable for services.

In the given case, M/s B Tools(job work) undertakes the process of mounting the steel cabinets of A Pvt Ltd (principal) on metal frames. In view of para 3 of Schedule II to the CGST Act, the mounting activity classifies as services even though metal frames are also supplied as a part of the mounting activity. Accordingly, the job-charges will be chargeable to rate of 18%, which is the applicable rate for services. Further, The value of steel cabinets will not be included in the value if taxable supply made by M/s B Tools as the supply of cabinets does not fall within the scope of supply to be made by M/s B Tools . It is only required to mount the steel cabinets, which are to be supplied by A ltd. On metal frames, which are to be supplied by it.

As regards to sale of waste generated during the job work, since M/s B Tools is registered, the tax leivable on the supply will have to be paid by it in terms of Sec 143(5) of the CGST Act, Such Supply will be treated as supply of goods and subject to GST rate applicable for metal waste.

Accordingly, the GST liability of M/s B Tools will be computed as under:

Job Charges	Rs. 5,00,000
GST @ 18%	Rs. 90,0000
Sale of metal waste	Rs. 45,000
GST @ 12%	Rs. 5,400
Total GST payable	Rs. 95,400

Case Laws

As per Advance Ruling: M/S JSW ENERGY LIMITED it was held thatthe activity undertaken by M/s JEL to convert Coal, to be supplied by M/s JSL, in electricity is not covered under the definition of Job work in terms of the CGST Act. Since goods supplied by M/s JSL will be utilized by M/s JEL in manufacture of new commodity i.e. electricity (though attracting NIL rate of duty), the process is manufacture and the same will be considered as supply of goods and not service.

As per Advance Ruling: M/S RARA UDHYOG it was held that the activity (removing of various impurities from various products such as saunf (fennel), dhaniya(coriander) jeera (cumin seeds) etc. or like goods brought to them for cleaning process) of mechanized cleaning does not fall under intermediate production process as job work in relation to cultivation of plants. Intermediate production process as job work in relation to cultivation of plants usually relates to agricultural operations directly related to production of any agricultural produce such as cultivation, harvesting, threshing, plant protection, testing, and supply of farm labour etc., carried out at agricultural farm - the activity of mechanized cleaning at an installed plant is not covered under the above clause too and does not attract NIL rate of Tax.

As per Advance Ruling: M/S. INOX AIR PRODUCTS PVT. LTD it was held thatthe activity(Activity of manufacturing industrial gases viz. Oxygen, Nitrogen and Argon) undertaken by the applicant falls under the 'Job Work' as defined under Section 2(68) of the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 - The applicant is liable to pay Goods and Services Tax on the value of supply determined under Section 15(1) of the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017.

CLARIFICATION

Clarification on issues related to Job Work - Under GST Law

Issue: Whether independent fabric processors (job workers) in the textile sector supplying job work services are eligible for refund of unutilized input tax credit on account of inverted duty structure under section 54(3) of the CGST Act, 2017, even if the goods (fabrics) supplied are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017?

The above mentioned issue was clarified vide Circular No. 48/22/2018-GST dt 14.06.2018 are as below:

Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account of inverted duty structure under section 54(3) of the CGST Act shall not be allowed. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics).

Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017

E WAY BILL

ELECTRONIC WAY BILL

Statutory requirement	Section 68 stipulates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed. Rule 138 prescribes e-way bill as the document to be carried for the consignment of goods in certain prescribed cases.
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What is E Way Bill ?

Way Bill	A way bill is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route.
E Way Bill	Electronic Way Bill (E-Way Bill) is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. In other words, E-way bill is an electronic document generated on the GST portal evidencing movement of goods.

Benefits of E Way Bill

Benefits	<ul style="list-style-type: none"> (i) Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts (ii) It will facilitate faster movement of goods (iii) It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.
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How to generate E Way Bill ?

Procedural Requirements	E-way Bill is generated electronically in Form GST EWB 01 on the common portal (www.ewaybillgst.gov.in). The facility of generation, cancellation, updation and assignment of e-way bill is available to the supplier, recipient and the transporter, as the
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	<p>case may be.</p> <p>E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (Application Program Interface) based site to site integration etc.</p> <p>The pre-requisite for generation of e-way bill is that the person who generates e-way bill should be a registered person on GST portal and he should register on the e-way bill portal.</p> <p>If the transporter is not registered person under GST, it is mandatory for him to get enrolled on e-waybill portal (https://ewaybillgst.gov.in) before generation of the e-way bill.</p>
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When E Way is required ?

Meaning of Consideration	<p>Whenever there is a movement of goods of consignment value exceeding ` 50,000:</p> <p>(i) in relation to a supply; or (ii) for reasons other than supply; or (iii) due to inward supply from an unregistered person,</p> <p>The registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB-01 before commencement of such movement.</p>
Who causes movement of goods?	<p>If supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier.</p> <p>If recipient arranges transport, movement is caused by him.</p> <p>If goods are supplied by an unregistered supplier to a registered known recipient, movement shall be said to be caused by such recipient.</p>
How to calculate value of consignment?	<p>Consignment value of goods shall be the value:</p> <ul style="list-style-type: none"> ✓ 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 Central tax, State or Union territory tax, integrated tax and cess charged, if any, 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.
Special situations where e-way bill needs to be issued even if the value	<p>Inter-State transfer of goods by principal to job-worker</p> <p>Where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment.</p>

of the consignment is less than 50,000:	Inter-State transfer of handicraft goods by a person exempted from obtaining registration Where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration, the e-way bill shall be generated by the said person irrespective of the value of the consignment.
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E-way Bill in case of 'Bill To Ship To' Model

What is Bill to Ship To Model?	In a "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely: ‘A’ is the person who has ordered ‘B’ to send goods directly to ‘C’. ‘B’ is the person who is sending goods directly to ‘C’ on behalf of ‘A’. ‘C’ is the recipient of goods. In this complete scenario, two supplies are involved and accordingly two tax invoices are required to be issued: Invoice -1: which would be issued by ‘B’ to ‘A’. Invoice -2: which would be issued by ‘A’ to ‘C’.
E Way Bill is such case:	It is clarified that as per the CGST Rules, 2017, either A or B can generate the e-Way Bill but it may be noted that only one e-Way Bill is required to be generated.

Information to be furnished in E Way Bill

Part A	Comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation, etc.
Part B	Transport details which includes Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number, in case of transport by road.

Who is mandatorily required to generate e-way bill?

Where the goods are transported by a registered person - whether as consignor or recipient as the	Whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal).
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consignee	
Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road	The registered person shall furnish the information relating to the transporter in Part B on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A.
Where the goods are transported by railways or by air or vessel	The e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, information in part B [viz transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number)] on the common portal.

When is it not mandatory to furnish the details of conveyance in Part-B?

Exemption for Part B	<p>E-way bill is valid for movement of goods by road only when the information in Part-B is furnished.</p> <p>However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported for a distance of upto 50 km within the State/Union territory.</p>
Coverage of 50 Kms	<p>From the place of business of the consignor to the place of business of the transporter for further transportation.</p> <p>or</p> <p>From the place of business of the transporter finally to the place of business of the consignee.</p>

Consolidated E-way bill

What is Consolidated E Way Bill?	<p>Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle).</p> <p>That is, the transporter carrying multiple consignments of various consignors and consignees in a single vehicle can generate and carry a single document - consolidated e-way bill (EWB-02) instead of carrying</p>
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	<p>separate document for each consignment in a conveyance.</p> <p>Consolidated EWB is like a trip sheet and it contains details of different e-way bills in respect of various consignments being transported in one vehicle and these e-way bills will have different validity periods. Hence,</p>
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Cancellation of E-way bill

Cancellation of E-way bill	<p>Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.</p> <p>However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.</p> <p>Further, unique EWB number generated is valid for a period of 15 days for updation of Part B.</p>
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Validity Period of E-way bill

Distance Chart	<p>Upto 100 km: One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</p> <p>For every 100 km or part thereof thereafter One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship.</p> <p>Upto 20 km One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</p> <p>For every 20 km or part thereof thereafter One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship.</p>
Extension of Validity Period	<ol style="list-style-type: none"> 1. Extension by Commissioner for certain categories of goods: Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein. 2. Extension by transporter in exceptional circumstances: Where, under circumstances of an exceptional nature, including transhipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after

	<p>updating the details in Part B, if required.</p> <p>The validity of the e-way bill may be extended within 8 hours from the time of its expiry.</p>
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Acceptance of e-way bill

Acceptance / Rejection	<p>The details of the e-way bill generated shall be made available to the –</p> <p>(a) supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or</p> <p>(b) recipient, if registered, where the information in Part A has been furnished by the supplier/transporter, on the common portal, and the supplier/recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.</p> <p>In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details.</p> <p>The time-limit specified for this purpose is:</p> <ul style="list-style-type: none"> (i) 72 hours of the details being made available to him on the common portal or (ii) the time of delivery of goods, whichever is earlier.
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Situations where E-way Bill is not required to be generated

Specified Goods	<ol style="list-style-type: none"> 1. Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers 2. Kerosene oil sold under PDS 3. Postal baggage transported by Department of Posts 4. Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal 5. Jewellery, goldsmiths' and silversmiths' wares and other articles 6. Currency 7. Used personal and household effects 8. Coral, unworked and worked coral
Other Situations	<ol style="list-style-type: none"> 1. where the goods are being transported by a non-motorised conveyance 2. 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

3. in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory
4. where the goods [other than de-oiled cake], being transported, are exempt from tax.
5. where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel
6. where the supply of goods being transported is treated as no supply under Schedule III of the Act
7. 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
8. where the goods being transported are transit cargo from or to Nepal or Bhutan
9. Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers and Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd.
10. any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
11. where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
12. where empty cargo containers are being transported
13. where the goods are being transported upto a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan.
14. where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

Documents and devices to be carried by a person-in-charge of a conveyance

Documents to be carried	The person-in-charge of a conveyance shall carry - (a) the invoice or bill of supply or delivery challan, as the case may be; and (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a RFID embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner.
Invoice Reference Number in lieu of tax invoice	In case, e-invoice is issued, the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice [Rule 138A(2)]. In such a case, the registered person will not have to upload the information in Part A of E-way bill for generation of e-way bill and the same shall be auto-populated by the common portal on the basis of the information furnished in the prescribed form [Rule 138A(3)].
Documents in lieu of e-way bill	Where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill: (a) tax invoice or bill of supply, or bill of entry; or (b) a delivery challan, where the goods are transported for reasons other than by way of supply [Rule 138A(5)].

Verification of documents and conveyances

Verification of documents and conveyances	<p>The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.</p> <p>The Commissioner shall get RFID readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.</p> <p>The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf.</p> <p>However, on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.</p>
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Inspection and verification of goods

Inspection and verification of goods	<p>A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of a prescribed form within 24 hours of inspection and the final report in Part B of said form shall be recorded within 3 days of such inspection.</p> <p>However, where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of said form, for a further period not exceeding 3 days.</p> <p>The period of 24 hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.</p> <p>Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently.</p> <p>The hard copies of the notices/orders issued by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.</p> <p>Only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.</p>
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Facility for uploading information regarding detention of vehicle

Facility for uploading information regarding detention of vehicle	<p>Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in specified form on the common portal.</p>
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Restriction on furnishing of information in Part A of Form GST EWB 01

Restriction on furnishing of information in Part A of Form	<p>No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall not be allowed to furnish the information in Part A of Form GST EWB-01 in respect of following registered persons, whether as a supplier or a recipient:</p>
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GST EWB 01

(i) A person paying tax under composition scheme has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or
(ii) A person paying tax under regular scheme has not furnished the returns for 2 consecutive months, or

(iii) A person paying tax under regular scheme has not furnished GSTR 1 (Statement of outward supplies) for any 2 months or quarters, as the case may be.

However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions.

An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

QUESTIONS AND ANSWERS

Q. 1

Short note on “E-way Bills under GST law”.

Answer:

E-way bill will be generated when there is a movement of goods in a vehicle/conveyance of value more than Rs.50,000 (either each Invoice or in aggregate of all Invoices in a vehicle/ Conveyance) -

- In relation to a 'supply'
- For reasons other than a 'supply' (say a return).
- Due to inward 'supply' from an unregistered person.

For this purpose, a supply may be either of the following:

- A supply made for a consideration (payment) in the course of business.
- A supply made for a consideration (payment) which may not be in the course of business.
- A supply without consideration (without payment) In simpler terms, the term 'supply' usually means a:

1. Sale - sale of goods and payment made
2. Transfer - branch transfers for instance
3. Barter/Exchange - where the payment is by goods instead of in money

Therefore, eWay Bills must be generated on the common portal for all these types of movements. For certain specified Goods, the eway bill needs to be generated mandatorily even if the Value of the consignment of Goods is less than Rs.50,000:

1. Inter-State movement of Goods by the Principal to the Job-worker by Principal/ registered Job-worker,
2. Inter-State Transport of Handicraft goods by a dealer exempted from GST registration.

Q. 2

List out any 5 cases where generation of E-Way Bill is not necessary.

Answer:

Cases where generation of E-Way Bill is not necessary are:

- (i) The mode of transport is non-motor vehicle
- (ii) Goods transported under customs supervision or under custom seal
- (iii) Transit cargo transported to or from Nepal or Bhutan
- (iv) Empty cargo containers are being transported
- (v) Consignor transporting goods to or from between place of business and a weighbridge for weighment at a distance of 20kms, accompanied by a delivery challan.

Q. 3

Short note on “Validity period of E-way bill”

Answer:

Validity period of E-way bill:

Type of conveyance	Distance	Validity of EWB
Other than Over dimensional cargo	Less than 100kms	1 Day
	For every additional 100kms or part thereof	Additional 1 Day
For Over dimensional cargo	Less than 20kms	1 Day
	For every additional 20kms or part thereof	Additional 1 Day

Q. 4

Write short notes on “List out any five cases where generation of E-Way Bill is not necessary”.

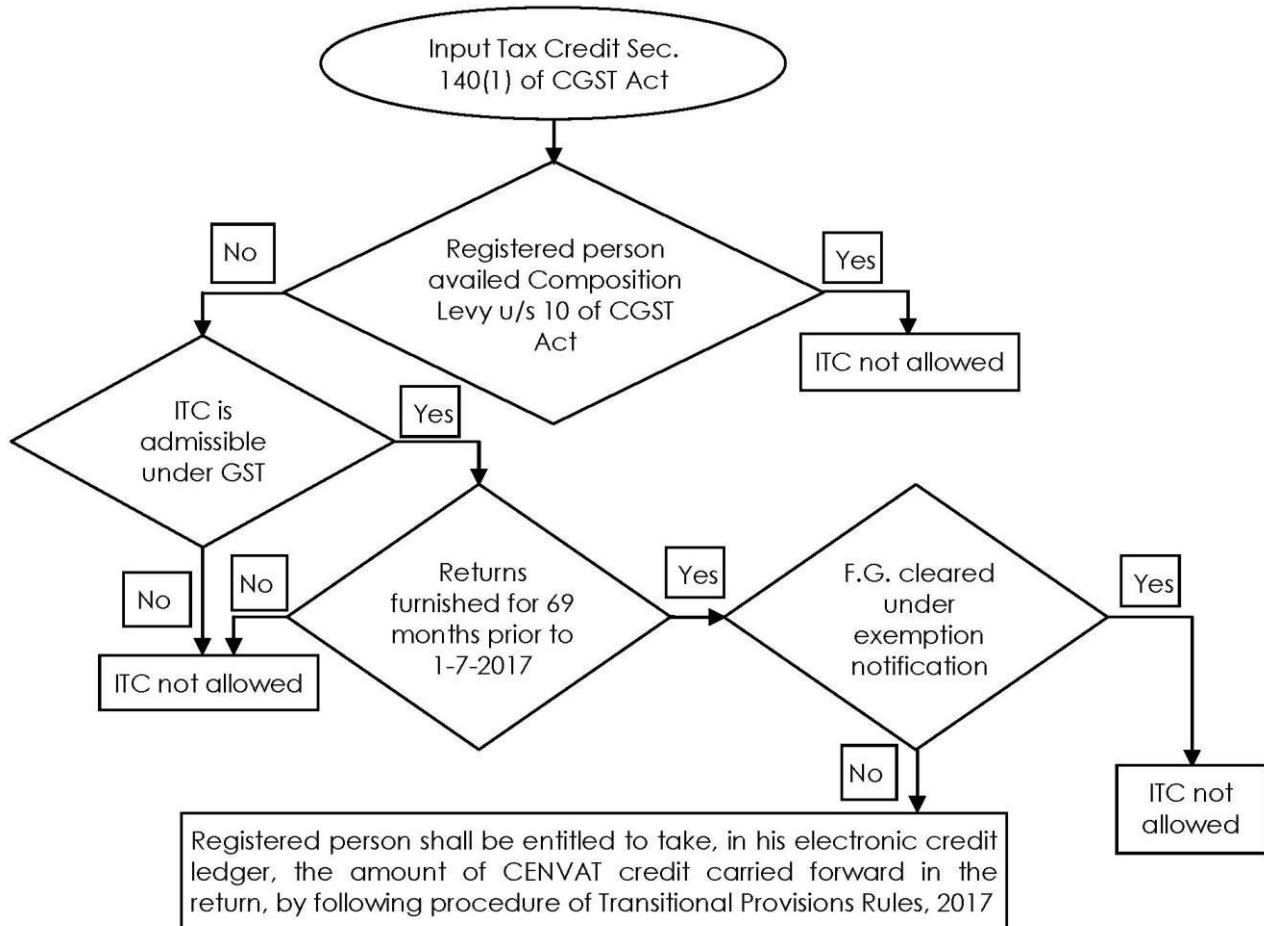
Answer:**Generation of E-way Bill is not necessary in the following cases:**

- (i) The mode of transport is non-motor vehicle.
- (ii) Goods transported from Customs Port, airport, air cargo complex or land customs station to Inland Container Depot (ICD) or Container Freight Station (CFS) for clearance by Customs.
- (iii) Goods transported under customs supervision or under customs seal.
- (iv) Goods transported under Customs Bond from ICD to customs port or from one customs station to another.
- (v) Transit cargo transported to or from Nepal or Bhutan
- (vi) Movement of goods caused by defence formation under Ministry of Defence as a consignor or consignee.
- (vii) Empty cargo containers are being transported
- (viii) Consignor transporting goods to or from between place of business and a weighbridge for weighment at a distance of 20 Km s. accompanying by a Delivery Challan.
- (ix) Goods being transported by rail where the consignor of goods is the Central Government, State Governments or a local authority.
- (x) Goods specified as exempt from E-way Bill requirements in the respective State/Union Territory GST Rules.
- (xi) Transport of certain specified goods - includes the list of exempt supply of goods, Annexure to Rule 138(14), goods treated as no supply as per Schedule III, certain Schedule to Central Tax Rate notification.

TRANSITIONAL PROVISIONS

Input Tax Credit

Input Tax Credit [Sec. 140(1) of CGST Act]



Submission of Application:

- **FORM GST TRAN-1** duly signed on the Common Portal within 60 days from 1-7-2017 by showing details of tax already c/f in their respective returns for inputs including goods, services and capital goods.
- Inputs purchased from 100% EOU/EHTP credit is allowed to the extent as provided in rule 3(7) of CCR, 2004. (CGST RULES)

S. No.	Nature of ITC carried forward in last return filed	Tax carried forward as
1	Service tax	CGST
2	Central Excise	CGST
3	CVD under Customs Act	IGST
4	SAD (Spl. CVD) under Customs Act (not available to service Providers)	IGST
5	NCCD on inputs	CGST

S. No.	Nature of ITC carried forward in last return filed	Tax carried forward as
1	State VAT	SGST
2	Entry Tax	SGST

Submission of Application:

The application shall specify separately

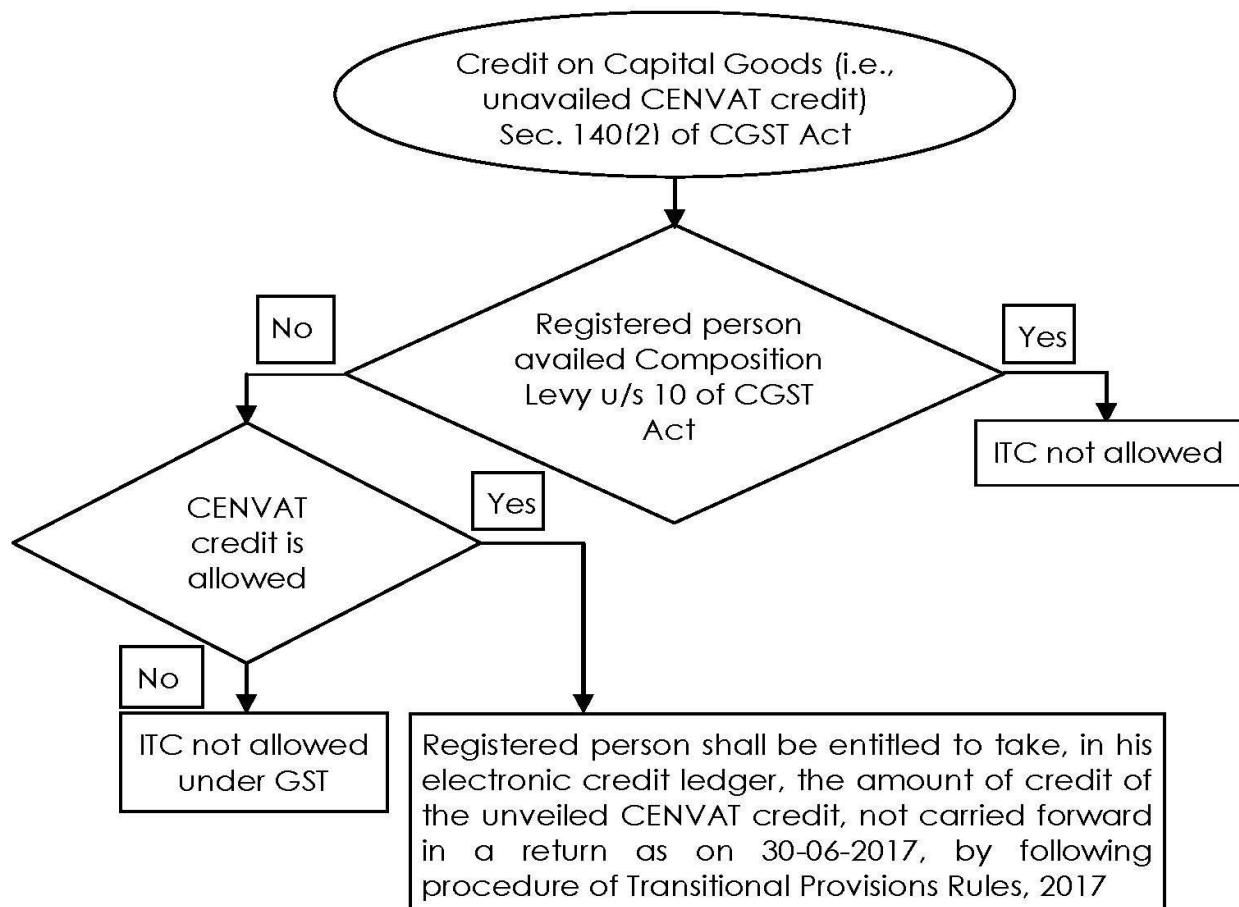
- the value of claim u/s 3, 5(3), 6, 6A and 8(8) of CST Act, 1956 made by the applicant during the financial year relating to the relevant return, and

- ii. The serial number and value of declaration in Form C and / or F and certificates in Form E and/or H or Form I specified in Rule 12 of the CST (Registration and Turnover) Rules, 1957 submitted by the applicant in support of the claims referred to in sub-clause (i) above. (SGST RULES)

As per CGST (Amendment) Act, 2018 - Section 140(1) has been amended to -"A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit of eligible duties carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed."

CENVAT Credit on only "Eligible duties" can be availed - Section to eliminate dispute of Transition of EC, SHEC & KKC in GST. Further CVD us 3(1) of Customs Tariff Act has been excluded from eligible duty.

(A) Credit on Capital Goods (i.e. Unavailed CENVAT credit) [Sec. 140(2) of CGST Act]



Under FORM GST TRAN-1 (Part-B)

Transitional Provisions Rules, 2017 Rule 1(2): Under Form GST TRAN-1 (Part-B) DETAILS of unavailed tax on capitol goods where such ITC is not carried forward in their respective returns.

S. No.	Nature of ITC carried forward in last return filed	Tax carried forward as
1	Central Excise & NCCD	CGST
2	CVD	IGST
3	SAD (i.e. Spl. CVD)	IGST
4	VAT	SGST

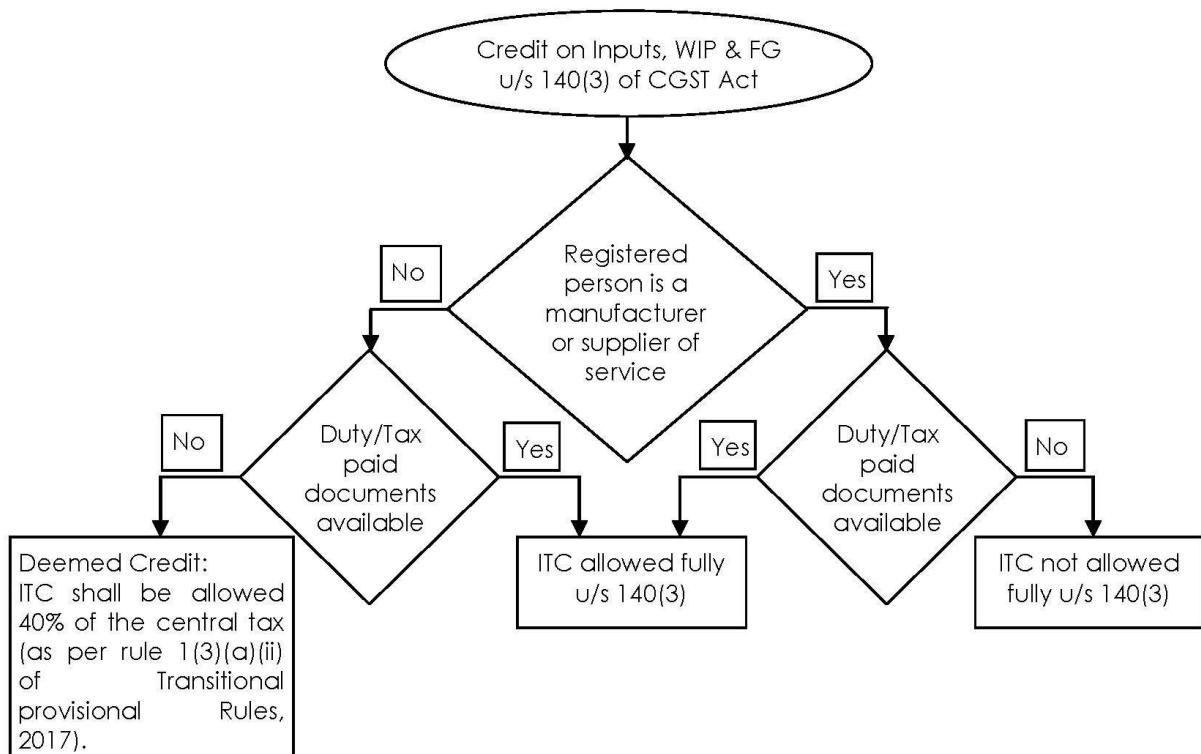
Also specify the separately the following:

- Amount of ITC already availed or utilized under the existing laws till 01-07-2017 and
- Amount of ITC yet to be availed or utilized under the existing laws till 01-07-2017

(B) Credit of duties on Inputs held in Stock, WIP or F.G. as on 01-07-2017. [Sec. 140(3) of CGST Act]:

A registered person, who:

- (a) was not liable to be registered under the existing law (C.Ex, S.T. & VAT), or
- (b) Who was engaged in the manufacture of exempted goods and provision of exempted services, or
- (c) who was providing works contract service and was availing of the benefit of NT No. 26/2012 or
- (d) A first state dealer or a second stage dealer or a registered importer or a depot of manufacturer shall be entitled to take, in his electronic credit ledger, subject to the following conditions, namely
 - (i) Such inputs used or intended to be used for making taxable supplies under this Act;
 - (ii) Such registered person is eligible for input tax credit on such inputs under this Act;
 - (iii) Such registered person is in possession of invoice evidencing payment of duty under the existing law (C.Ex, S.T. & VAT) in respect of such inputs;
 - (iv) Such invoices were issued not earlier than 12 months immediately preceding 1st July 2017 (it means the duty paid document shall not be of the date prior to 1-7-2016);

Credit on Inputs, WIP & FG [u/s 140(3) of CGST Act]:**Transitional Provisions Rules:**

- i. A registered person other than manufacturer or supplier of service will only be eligible for deemed credit.
- ii. @ 40% of the Central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.
- iii. The goods are required to be sold within a period of 6 months in order to avail the credit, as the scheme is applicable only for 6 tax periods from the appointed date.

Transitional Provisions Rules

Deemed Credit a provision applies only if the following conditions are satisfied:

- i. Such goods were not wholly exempt from duty of excise or were not nil rated.
- ii. The registered person should have the document for procurement of these goods (e.g. he should possess purchase invoices/bills/challan etc).
- iii. A registered person availing this scheme must separately submit the details of stock in hand on 1st July. The registered person must give details of sales of such goods in the FORM GST TRAN-1 at the end of each of the six tax periods during which the scheme is in operation.

- iv. The amount of credit allowed will be credited to the electronic credit ledger maintained in the **FORM GST PMT-2** on the Common Portal.
- v. The stock of goods on which the credit is availed must be easily identified by the registered person and must be stored accordingly.

The amount of credit specified in the application in the **FORM GST TRAN-1** will be credited to the electronic credit ledger of the applicant maintained in the **FORM GST PMT-2** on the Common Portal.

Deemed Credit [u/s 140(3)]:

- Registered person holding stock as on 1-7-2017 along with VAT and Entry tax paid document on such stock of goods (which suffered tax at first point of sale in the state and subsequent sale of which are not subject to tax) shall be allowed to avail the input tax credit on such goods held in stock. Thus, in case of credit of VAT and Entry tax, is allowed as ITC equal to the VAT and Entry tax which attracted tax at the first point only.
- If such registered person is not in possession of any document evidencing payment of VAT, then such credit shall be allowed @ 40% of the State tax applicable on such goods and shall be credited after the State tax payable on such supply has been paid.
- The scheme shall be available for six tax periods from the 1-7-2017.
- This benefit is available only when the supplier pass on the benefit of such credit by way of reduced prices to the recipient.
- The stock of goods on which such credit is availed is to be so stored that it can be easily identified by the registered person.

Example 1:

Mr. X is a taxable person under GST (who is a wholesaler), is having a stock worth of Rs. 5,00,000/- as on 01-07-2017. Such person has supplied goods for Rs. 5,60,000/- and on which he has paid CGST @ 9% and SGST @ 9%.

How much ITC is allowed under sec. 140(3) of GST in the following independent cases:

- (a) If he is in possession of duty paid document for the stock (namely BED is Rs. 62,500 and VAT Rs. 28,125).
- (b) If he is not in possession of duty paid document for the stock, but has invoice evidencing purchase of good.

Answer:

- (a) ITC allowed is equal to BED is Rs. 62,500 as CGST credit and VAT of Rs. 28,125 as SGST credit.
- (b) In accordance with the provisions of Transition Rules, he can claim credit to the extent of 60% of CGST paid, i.e., Rs. 30,240/- (50,400 @ 60%) as CGST credit.
- In accordance with the provisions of Transition Rules, he can claim credit to the extent of 60% of SGST paid, i.e., Rs. 30,240/- (50,400 @ 60%) as SGST credit.
- (C) Credit in respect of exempted and non-exempted goods or provisions of exempted as well as non-exempted services [u/s 140(4)]:

Registered person is liable to tax under this Act, on all his goods and services, shall be entitled to take, in his electronic credit ledger

- (a) The amount of CENVAT credit c/f in a return furnished under the existing law by him in accordance with the provisions of Sec. 140(1); and
- (b) The amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished goods or F.G. held in stock on as on 1-7-2017, relating to such exempted goods or services, in accordance with the provisions of Sec 140(3).

Example 2:

M/s X Ltd. manufacturer of product 'A' and 'B'. Product 'A' is cleared on payment of duty whereas product 'B' is exempt from payment of excise duty. Inputs used exclusively for product 'A' of Rs. 2,00,000 suffered excise duty Rs. 25,000 and product 'B' of Rs. 1,00,000 suffered excise duty paid Rs. 12,500.

Common inputs of Rs. 3,00,000 is used for product 'A' as well as 'B' which also suffered excise duty Rs. 37,500.

As on 1-7-2017, Finished goods of Product 'A' worth Rs. 10,00,000 and Product 'B' worth of Rs. 5,00,000 is in Stock. How much ITC credit is allowed to M/s X Ltd under GST under Section 140(1) and 140(4) of the CGST Act, 2017. w.e.f. 1-7-2017 Product 'A' as well as 'B' taxable with CGST 6% as well as SGST6%. Note: Manufacturer is in possession of relevant duty paid documents on inputs.

Answer

ITC c/f under Sec 140(1) is as follows:

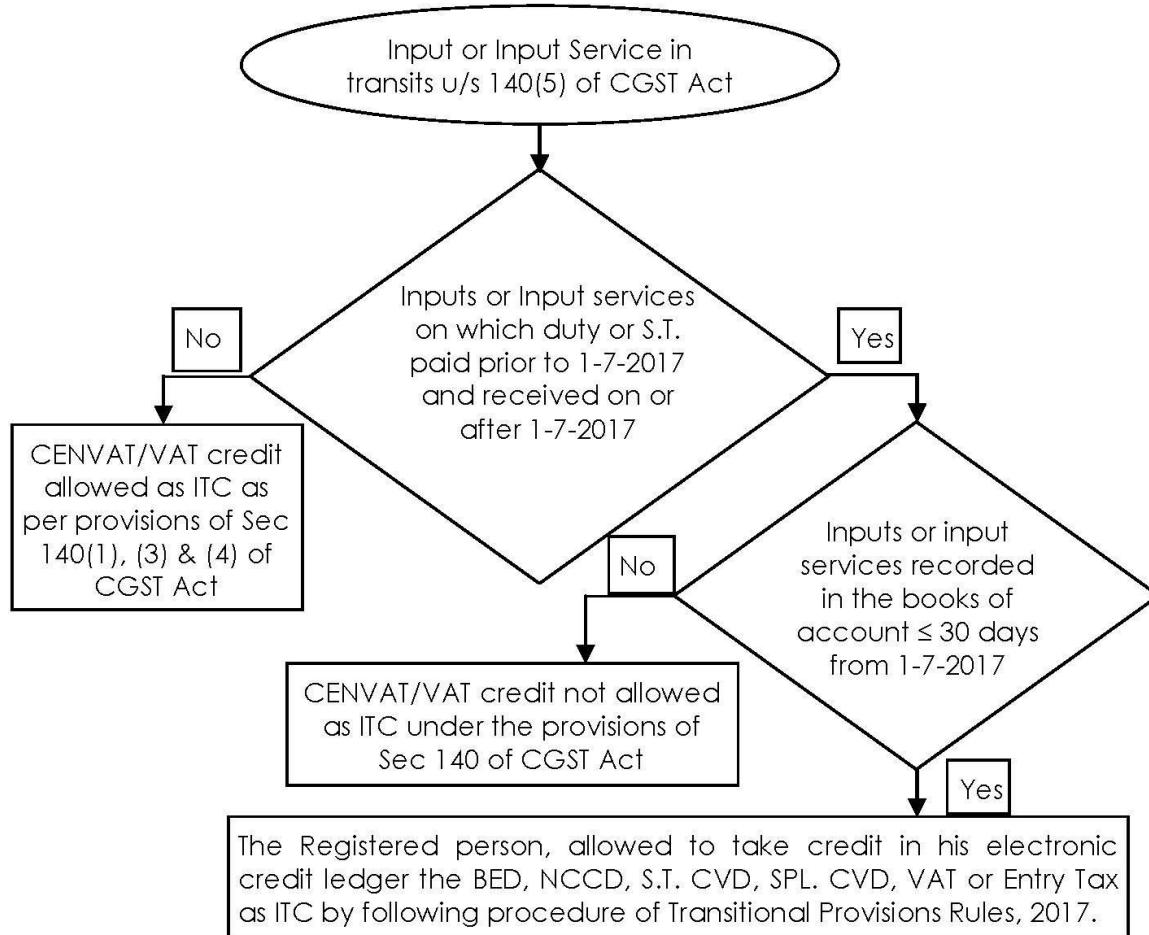
Inputs used exclusively for Product 'A'	= 125,000
Inputs used commonly for "A & B"	= 125,000
(Rs. 37,500 x Rs. 10 Lakhs / Rs. 15 Lakhs)	

ITC allowed under Sec 140(3) is as follows:

Inputs used exclusively for Product 'B'	= Rs. 12,500
Inputs used commonly for "A & B"	= Rs. 12,500
(Rs. 37,500 x Rs. 5 Lakhs / Rs. 15 Lakhs)	

Total ITC under section 140(4) = 175,000

(D) Input or Input Service in transits [u/s 140(5) of CGST Act]:



Period of 30 days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 30 days.

The registered person shall furnish a statement namely Form GST TRAN - 1 (Part -E):

- (i) The name of supplier,
- (ii) Serial number and date of issue of invoice by the supplier based of which credit of input tax was admissible under the existing law (C.Ex., S.T., & VAT)
- (iii) The description, quantity and value of the goods or services
- (iv) The amount of eligible taxes and duties (BED, S.T., NCCD, CVD, Spl. CVD, VAT or Entry Tax)
- (v) The date on which the receipt of goods or services is entered in the books of account of the recipient.

Example 3:

Mr. X has cleared goods from his factory on 20th May 2017 for sale to Mr. Y for Rs. 5,00,000. Effective rate of E.D @12.5%. However, E.D Rs. 62,500 has been paid on 6th June 2017. The consignment received by Mr. Y on 5th July 2017.

Find the following:

- (a) Mr. Y is eligible for ITC if so what amount?
- (b) Time limit within which receipt of inputs should record in the books of account of Mr. Y.
- (c) Mr. Y recorded receipt of inputs in the books of account on 15-8-2017, if so can be avail the ITC?

Answer:

- (a) Yes. Mr. Y is eligible to avail the ITC of Rs. 62,500 provided he deals with taxable supplies being registered person.
- (b) Inputs or Input Services recorded in the books of account < 30 days from 1-7-2017. Therefore, Mr. Y should be account for by 30th July 2017.
- (c) Since, period of 30 days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 30 days.

In the given Mr. Y can take credit on inputs on 15th Aug 2017, provided permission granted by the Commissioner for extension not exceeded 30 days.

Example 4:

Mr. X imported goods from USA on 28th June 2017 for 15,00,000. Customs duties like BCD 150,000, CVD 168,750, Cess Rs. 3,563 and Spl.CVD. of Rs. 24,893 also paid on 29th June 2017. The consignment received by Mr. Y into his factory on 20th July 2017. The services of Customs Broker and C&F are used for imported inputs. Service Tax 110,000, SBC of Rs. 500 and KKC of Rs. 500 has been paid on 30th June 2017 along with value of services to the provider of services.

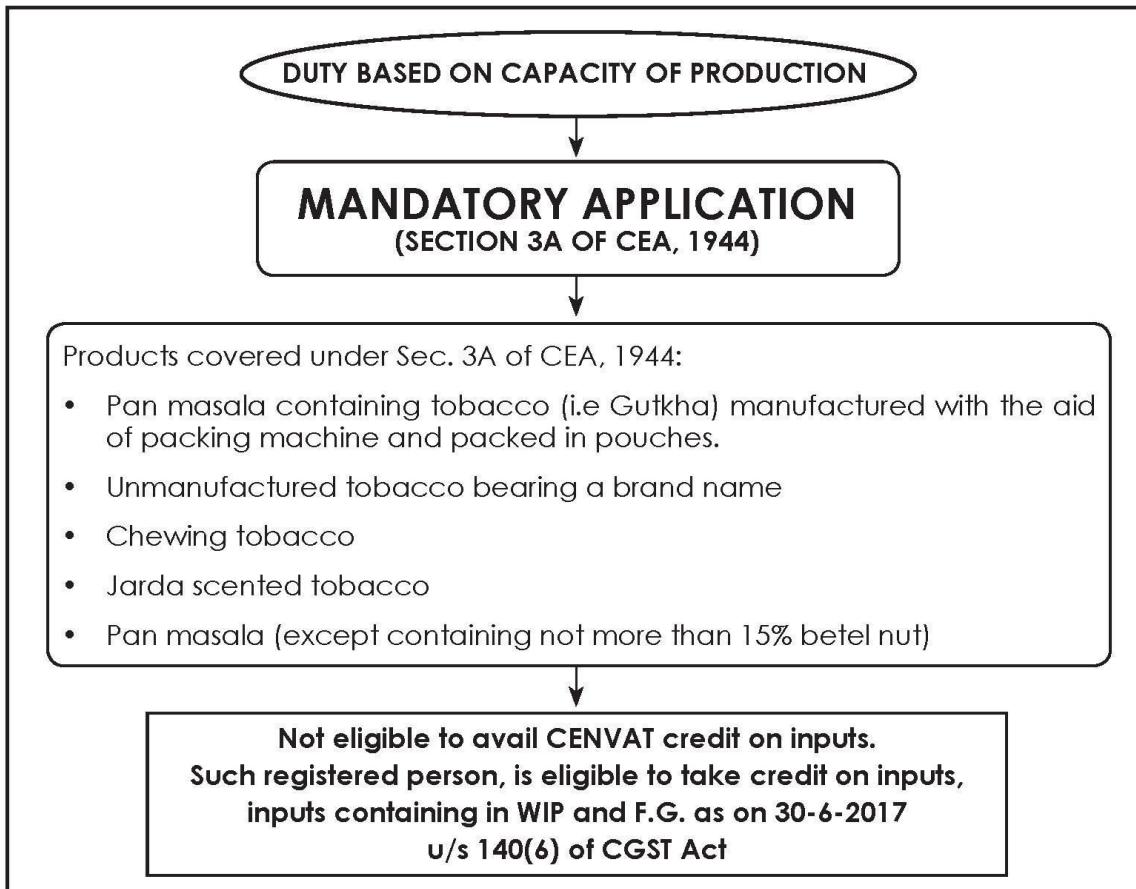
Mr. Y is eligible for ITC if so what amount?

Answer:**Statement showing ITC to Mr. X under GST**

S. No.	Duties and Taxes	Tax Amount in t	Remarks
1	BCD	Nil	Not allowed as ITC
2	CVD	68,750	Allowed as ITC under CGST
3	Cess	Nil	Not allowed as ITC
4	Spl. CVD	24,893	Allowed as ITC under CGST
5	Service Tax	10,000	Allowed as ITC under CGST
6	SBC	Nil	Not allowed as ITC
7	KKC	nil	Not allowed as ITC
	Total u/s 140(5)	1,03,643	

(E) Duty based on capacity of production

Such registered person, is eligible to take credit on inputs, inputs containing in WIP and F.G. as on 30-6-2017 u/s 140(6) of CGST

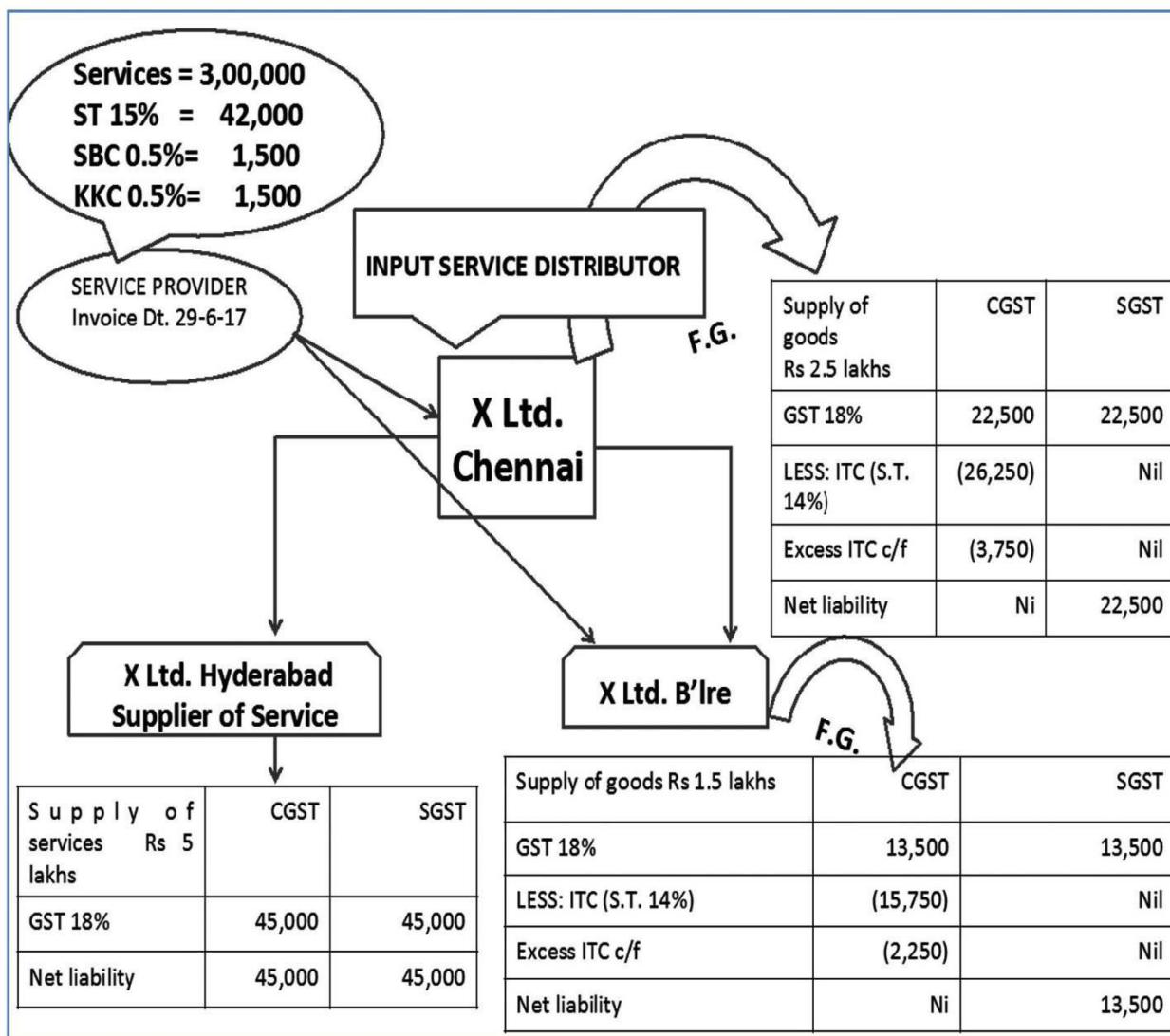
**Satisfy the following conditions to take credit [u/s 140(6)]:**

- (i) Such inputs are used or intended to be used for making taxable supplies under this Act;
- (ii) The registered person not opted to pay tax under composition levy (Sec 10.);
- (iii) The said registered person is eligible for input tax credit on such inputs under this Act;
- (iv) The said registered person is in possession of invoice evidencing payment of duty under existing law (C.Ex., S.T., CVD, Spl. CVD., VAT or Entry tax) in respect of inputs; and
- (v) Such invoice not earlier than 12 months as on 30-6-2017.

(F) Credit on input service by an input service distributor [u/s 140(7)]:

- The input tax credit on account of any services received prior to 1-7-2017 by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after 1-7-2017.

Input Service Distributor



(G) Centralized registered person under existing law is allowed to take credit [u/s 140(8)]:

- Centralized registration is allowed under Rule 4 of the STR, 1994.
 - Registered person under this Act, to take credit in the Electronic Credit Ledger for the amount carried forward in the return furnished in the earlier law.
 - Thus, the balance of credit shown in the return filed for a period upto 30th June 2017 can be carried forward by the service provider.
- Note:** Rule 7 of STR, 1994 may amend to provide for filing of return for the period 1-4-2017 to 30-6-2017 by 25th July 2017.
- Provided that if registered person furnishes his return for the period from ending 30-6-2017 within 3 months (i.e. from 1-7-2017), then the credit shall be carried forward, subject to the condition that the said return is either an original return or in case of revised return, the credit amount is less than the credit shown in the original return.
 - Return is filed subsequent to September 2017 (i.e. after 3 months from 1-7-2017), the credit will not be allowed to carried forward to the person having centralized registration.

Distribution of credit by Centralized registered person under existing law is allowed to transfer credit to any registered person have same PAN [u/s 140(8)]:

Example 5:

Guidelines Academy being provider of taxable services has obtained centralized registration in Chennai for its offices in Hyderabad and Cochin under the Finance Act, 1994. The Chennai Office has the balance credit of Rs. 5 Lakhs as on 30-06-2017. Can Guidelines Academy distribute the credit to Hyderabad and Cochin?

If so in which ratio. Explain?

Answer:

Registered person, can be filed the return for the period ending 30th June 2017 by showing credit that can be carried forward by him on or before the due date or within 3 months from 1-7-2017 as the case may be. In the given case, credit can be distributed by Guidelines Academy to Hyderabad and Cochin. Since, all the units has same PAN.

It is not necessary that to distribute the credit in the ratio of the turnover of these locations.

(H) Reversal of Service tax credit on input services due to non-payment [u/s 140(9) of CGST Act]:

- As per Rule 4(7) of CCR, 2004: C.C. on I.S. allowed on credit basis, provided payment should be made within **three months** from the date of invoice.
- In case the amount is not paid within 3 months from the date of invoice, the credit is required to be reversed by the service provider/manufacturer.
- The said credit can be taken as and when the manufacturer or service provider has paid the amount to the service provider.
- **CENVAT credit on input service reversed under rule 4(7) of CCR, 2004, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of service within a period of 3 months from 1-7-2017.**

(I) The manner in which credit is required to be calculated [u/s 140(10) of CGST Act]:

The Transitional Provision Rules, 2017 specify: Manner of calculation of credit u/s 140(3); Manner of calculation of credit u/s 140(4); Manner of calculation of credit u/s 140(6).

As per CGST (Amendment) Act, 2018 - Explanation to Section 140 -

Explanation 1.—For the purposes of sub sections (1), (3), (4) and (6), the expression "eligible duties" means—

- (i) The additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act,1957;
- (ii) The additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act,1975;
- (iii) The additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act,1975;
- (iv) The duty of excise specified in the First Schedule to the Central Excise Tariff Act,1985;
- (v) The duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;and
- (vi) The National Calamity Contingent Duty leviable under section 136 of the Finance Act,2001, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Explanation 2.—For the purposes of sub-sections (1) and (5), the expression "eligible duties and taxes" means—

- (i) The additional duty of excise leviable under section3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- (ii) The additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act,1975;
- (iii) The additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act,1975;
- (iv) The duty of excise specified in the First Schedule to the Central Excise Tariff Act,1985;
- (v) The duty of excise specified in the Second Schedule to the Central Excise Tariff Act,1985;
- (vi) The National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001;and
- (vii) The service tax leviable under section 66B of the Finance Act, 1994, in respect of inputs and input services received on or after the appointed day.

Explanation 3.—For removal of doubts, it is hereby clarified that the expression "eligible duties and taxes" excludes any cess which has not been specified in Explanation 1 or Explanation 2 and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act,1975.

CIRCULAR ON TRANSITIONAL PROVISIONS**Circular No. 58/32/2018- GST dt 04.09.2018- Recovery of arrears of wrongly availed CENVAT credit under the existing law and inadmissible**

The GST Council clarifies issue regarding the process of recovery of arrears of wrongly availed CENVAT credit under the existing law and CENVAT credit wrongly carried forward as transitional credit in the GST regime.

Accordingly, it is clarify that the recovery of arrears arising under the existing law shall be made as central tax liability to be paid through the utilization of the amount available in the electronic credit ledger or electronic cash ledger of the registered person, and the same shall be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01). Currently, the functionality to record this liability in the electronic liability register is not available on the common portal. Therefore, it is clarified that as an alternative method, taxpayers may reverse the wrongly availed CENVAT credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of FORM GSTR-3B. The applicable interest and penalty shall apply on all such reversals which shall be paid through entry in column 9 of Table 6.1 of FORM GSTR-3B. It is clarified that the taxpayers will reverse the wrongly availed CENVAT credit under the existing law and inadmissible credit through table 4(B)(2) of GSTR 3B. Interest and penalty will be applicable thereof.

ANTI-PROFITEERING

ANTI-PROFITEERING

Anti Profiteering-Section 171 As per section 171(1),

- Any reduction in rate of tax on any supply of goods or services or
- the benefit of input tax credit

Shall be passed on to the recipient by way of commensurate reduction in prices.

Detailed analysis of above provision is as follows-

Any reduction in rate of tax on any supply of goods or services-

For Example Under the Service Tax regime, Tour operator services are charged at abated rate of 9% whereas in Goods & Services Tax Act,2017 rate of tax fixed is 5% which resulted in reduction of tax from 9% to 5%. The tax rate reduction benefit to the extent of 4% to be passed on to recipient.

Particulars	Service tax regime	GST regime	Remarks
Taxable value	100	100	
ST/GST rate (%)	9%	5%	
ST/GST (Rs.)	9	5	
Total Invoice value	109	105	Reduction of Rs. 4 is benefit to be passed on to recipient

The benefit of input tax credit

Any additional benefit by way of Input tax credit is arising to the supplier due to implementation of GST the same benefit to be passed on to recipient by way of reduction in prices which is explained as follows-

X Ltd being an Interior designing service provider while providing output service has availed Input services and a material 'M' for which tax paid is as under

Particulars	Service tax regime	GST regime
Tax paid towards service tax on Input services availed	15	15
Tax paid towards VAT for Material 'M'	5	5

Output tax liability of X Ltd is X 25 before deducting Input tax credit available.

In the given case benefit of input tax credit accruing to X Ltd due to implementation of GST is as follows-

Particulars	Service tax regime	GST regime	Remarks
Output tax liability	25	25	
Input allowed-			
Towards Input services	15	15	Service provider cannot avail VAT paid as Input tax credit in Service tax regime
Towards Material 'M'	NIL	5	
Total Input Tax credit eligible for set off	15	20	
Net tax payable	10	5	
Input tax benefit due to GST	-	5	Benefit of Rs. 5 to be passed to recipient by way reduction in prices

ANTI-PROFITEERING COMMITTEE-SECTION 171(2)

Anti-profiteering Committee [Section 171(2)]

The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

The National Anti-Profiteering Authority shall be a five member committee consisting of

- A Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and

- Four Technical Members who are or have been Commissioners of State tax or central tax or have held an equivalent post under existing laws.
- The Additional Director General of Safeguards under the CBEC (Board) shall be the Secretary to the Authority.

The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

Duties & Powers of Anti-profiteering committee-Section 171(3)

The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

The Authority can determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

The Authority would have the following duties:

- (i) to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- (ii) to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- (iii) to order,
 - a. reduction in prices;
 - b. Return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Consumer Welfare Fund;
 - c. imposition of penalty; and
 - d. Cancellation of registration.

w.e.f. 1-8-2019:

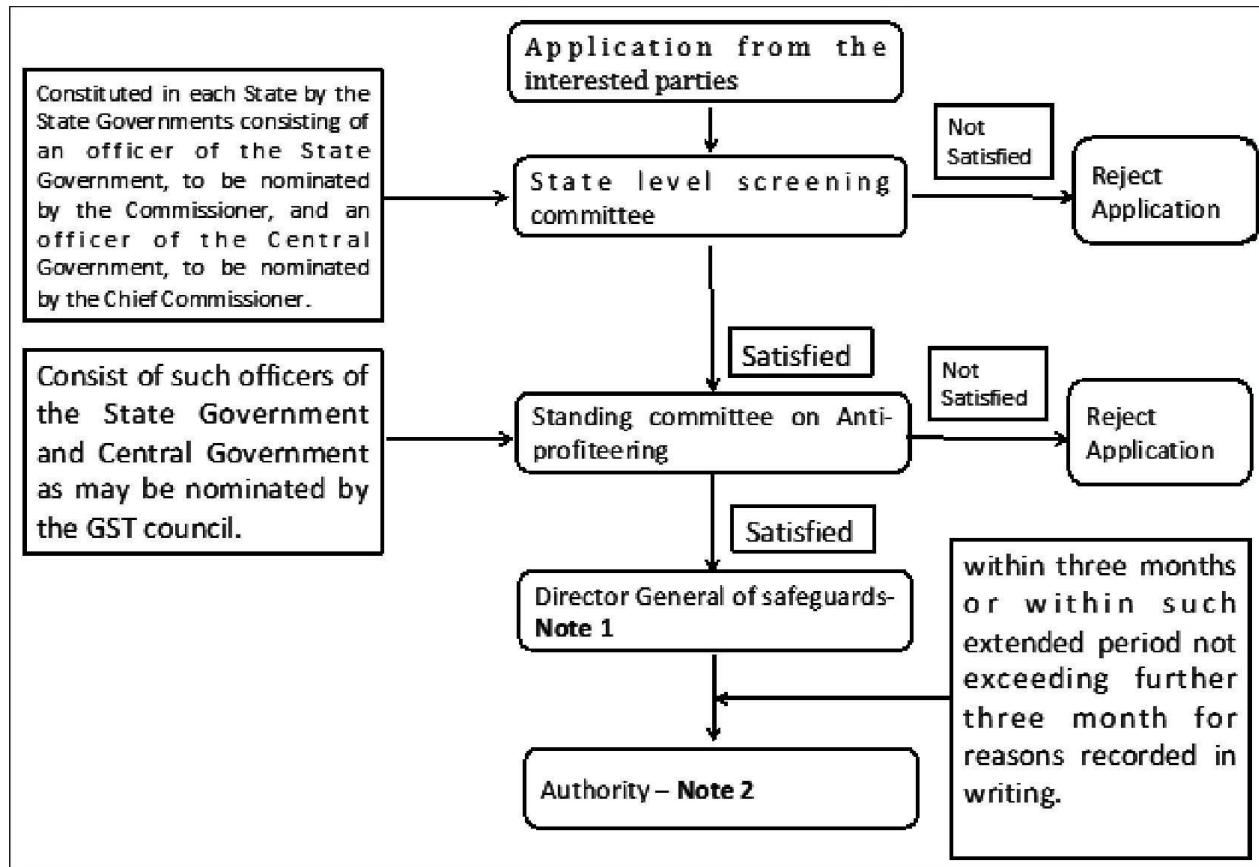
as per section 171(3A) of the CGST Act, 2017 Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.—For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.'

Application & process flow of Anti-profiteering hierarchy mechanism:

w.e.f. 12-7-2018 the Director General of safeguards replaced as the Director General of Anti-Profiteering.

**Note-1:**

The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine undue profiteering and before initiation of the investigation, issue a notice to the interested parties (and to such other persons as deemed fit for a fair enquiry into the matter) containing, inter alia, information on the following, namely: -

- (a) The description of the goods or services in respect of which the proceedings have been initiated;
- (b) Summary of the statement of facts on which the allegations are based; and
- (c) The time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

The evidence or information presented to the Director General of Safeguards by one interested party can be made available to the other interested parties, participating in the proceedings. The evidence provided will be kept confidential and the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply mutatis mutandis to the disclosure of any information which is provided on a confidential basis. The Director General of Safeguards can seek opinion of any other agency or statutory authorities in the discharge of his duties. The Director General of Safeguards, or an officer authorised by him will have the power to summon any person necessary either to give evidence or to produce a document or any other thing. He will also have same powers as that of a civil court and every such inquiry will be deemed to be a judicial proceeding.

The Director General of Safeguards will complete the investigation within a period of three months or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

Note-2

The Authority shall (after granting an opportunity of hearing to the interested parties if so requested) within a period of three months from the date of the receipt of the report from the Director General of Safeguards

determine whether a registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices. If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority. Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order

- (a) Reduction in prices;
- (b) Return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest;
- (c) Imposition of penalty as specified under the Act; and
- (d) Cancellation of registration under the Act.

Any order passed by the Authority shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be. The Authority can direct any authority of central tax, State tax or Union territory tax to monitor the implementation of the order passed by it.

In exercise of the powers conferred by section 164 read with section 171 of the Central Goods and Services Tax Act, 2017(12 of 2017) the Central Government hereby makes the following rules under Anti Profiteering , namely :-

1. Constitution of the Authority Rule 122. - The Authority shall consist of- (a) a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and (i) (b) four Technical Members who are or have been Commissioners of State tax or central tax or have held an equivalent post under the existing law, -to be nominated by the Council.

2. Constitution of the Standing Committee and Screening Committees Rule 123.-

- (1) The Council may constitute a Standing Committee on Anti-profiteering which shall consist of such officers of the State Government and Central Government as may be nominated by it .
- (2) A State level Screening Committee shall be constituted in each State by the State Governments which shall consist of-
 - (a) One officer of the State Government, to be nominated by the Commissioner, and
 - (b) One officer of the Central Government, to be nominated by the Chief Commissioner

3. Appointment, salary, allowances and other terms and conditions of service of the Chairman and Members of the Authority Rule 124:-

(1) The Chairman and Members of the Authority shall be appointed by the Central Government on the recommendations of a Selection Committee to be constituted for the purpose by the Council

(2) The Chairman shall be paid a monthly salary of Rs. 2,25,000 (fixed) and other allowances and benefits as are admissible to a Central Government officer holding posts carrying the same pay. Where a retired officer is selected as a Chairman, he shall be paid a monthly salary of Rs. 2,25,000 reduced by the amount of pension.

(3) The Technical Member shall be paid a monthly salary of Rs. 2,05,400 (fixed) and shall be entitled to draw allowances as are admissible to a Government of India officer holding Group 'A' post carrying the same pay. Where a retired officer is selected as a Technical Member, he shall be paid a monthly salary of Rs. 2,05,400 reduced by the amount of pension.

(4) The Chairman shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty- five years, whichever is earlier and shall be eligible for reappointment. A person shall not be selected as the Chairman if he has attained the age of sixty-two years.

(5) The Technical Member of the Authority shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment. A person shall not be selected as a Technical Member if he has attained the age of sixty-two years.

4. Secretary to the Authority Rule 125 The Additional Director General of Safeguards under the Board shall be the Secretary to the Authority.

5. Power to determine the methodology and procedure Rule 126:- The Authority may determine the methodology and procedure for determination as to whether the reduction in rate of tax on the supply of

goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

6. Duties of the Authority- It shall be the duty of the Authority Rule 127:-

- (1) to determine whether any reduction in rate of tax on any supply of goods or services or the benefit of the input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- (2) to identify the registered person who has not passed on the benefit of reduction in rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- (3) To order,
 - (a) Reduction in prices;
 - (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent from the date of collection of higher amount till the date of return of such amount or recovery of the amount not returned in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57
 - (c) Imposition of penalty as prescribed under the Act; and
 - (d) Cancellation of registration under the Act.

7. Examination of application by the Standing Committee and Screening Committee Rule 128.-

- (1) The Standing Committee shall, within a period of two months from the date of receipt of a written application, in such form and manner as may be specified by it, from an interested party or from a Commissioner or any other person, examine the accuracy and adequacy of the evidence provided in the application to determine whether there is prima-facie evidence to support the claim of the applicant that the benefit of reduction in rate of tax on any supply of goods or services or the benefit of input tax credit has not been passed on to the recipient by way of commensurate reduction in prices.
- (2) All applications from interested parties on issues of local nature shall first be examined by the State level Screening Committee and the Screening Committee shall, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.

8. Initiation and conduct of proceedings Rule 129:-

- (1) Where the Standing Committee is satisfied that there is a prima-facie evidence to show that the supplier has not passed on the benefit of reduction in rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, it shall refer the matter to Director General of Safeguards for a detailed investigation.
- (2) The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in rate of tax on any supply of goods or services or the benefit of the input tax credit has been passed on to the recipient by way of commensurate reduction in prices.
- (3) The Director General of Safeguards shall, before initiation of investigation, issue a notice to the interested parties containing, inter alia, information on the following, namely:-
 - (a) The description of the goods or services in respect of which the proceedings have been initiated;
 - (b) Summary of statement of facts on which the allegations are based; and
 - (c) The time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.
- (4) The Director General of Safeguards may also issue notices to such other persons as deemed fit for fair enquiry into the matter.
- (5) The Director General of Safeguards shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.
- (6) The Director General of Safeguards shall complete the investigation within a period of three months of receipt of reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority a report of its findings, along with the relevant records.

9. Confidentiality of information Rule130:-

- (1) Notwithstanding anything contained in sub-rules (3) and (5) of rule 10 and sub-rule (2) of rule 14, the provisions of section 11 of the Right to Information Act, 2005 shall apply mutatis mutandis to the disclosure of any information which is provided on a confidential basis.
- (2) The Director General of Safeguards may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, the said information cannot be summarised, such party may submit to the Director General of Safeguards a statement of reasons why summarisation is not possible

10. Cooperation with other agencies or statutory authorities Rule 131:-

Where the Director General of Safeguards deems fit, he may seek opinion of any other agency or statutory authorities in discharge of his duties.

11. Power to summon persons to give evidence and produce documents Rule 132:- (1) The Director General of Safeguards, or an officer authorized by him in this behalf, shall be deemed to be the proper officer to exercise power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908). (2) Every such inquiry referred to in sub-rule (1) shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

12. Order of the Authority Rule 133:-

- (1) The Authority shall, within a period of three months from the date of receipt of the report from the Director General of Safeguards determine whether a registered person has passed on the benefit of reduction in rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.
- (2) An opportunity of hearing shall be granted to the interested parties by the Authority where any request is received in writing from such interested parties.
- (3) Where the Authority determines that a registered person has not passed on the benefit of reduction in rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order -
 - (a) Reduction in prices;
 - (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent from the date of collection of higher amount till the date of return of such amount or recovery of the amount including interest not returned in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;
 - (c) Imposition of penalty as prescribed under the Act; and
 - (d) Cancellation of registration under the Act.

13. Decision to be taken by the majority Rule 134:- If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority.

14. Compliance by the registered person Rule 135:- Any order passed by the Authority under these rules shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be.

15. Monitoring of the order Rule 136:- The Authority may require any authority of central tax, State tax or Union territory tax to monitor implementation of the order passed by it. 18. Tenure of Authority.- The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

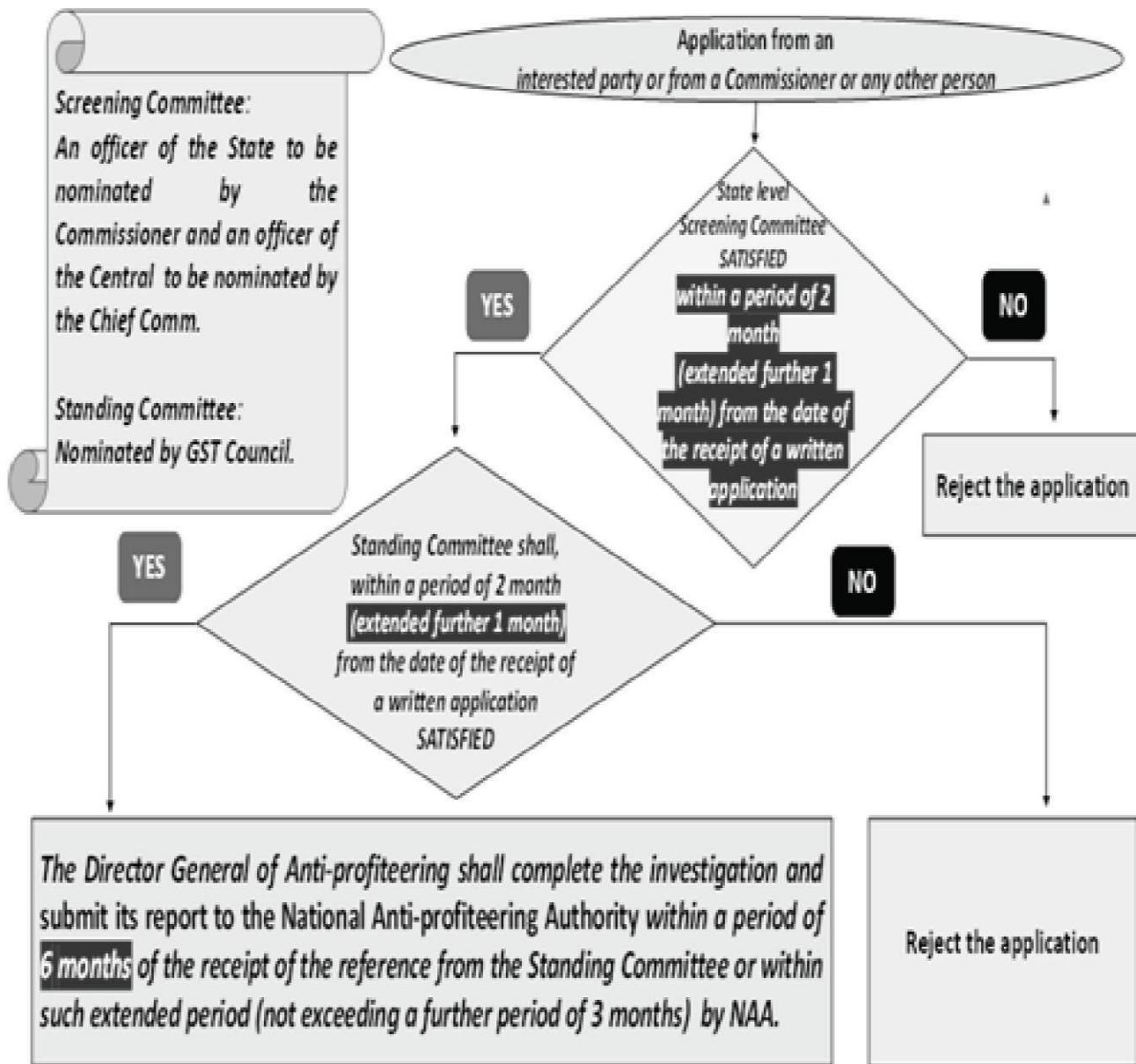
16. Tenure of Authority Rule137.- The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

AMENDMENTS:

1. Rule 133(3) has been amended vide Notification No. 26/2018 - Central Tax, dt 13.6.2018 so as to provide that incase where an Order for reduction has been passed by The Anti-Profiteering Authority and the eligible person does not claim return of the amount or is not identifiable, the amounts should be credited to the Consumer Welfare Fund.
2. AMENDMENT VIDE Notification No. 29/2018 - Central Tax, dt 06.07.2018 in Rule 125,129,130,131,132 &133 wherein "Directorate General of Safeguards" will be called "Directorate General of Anti-profiteering"

Application & process flow of Anti-profiteering hierarchy mechanism:

w.e.f. 12-7-2018 the Director General of safeguards replaced as the Director General of Anti-Profiteering.



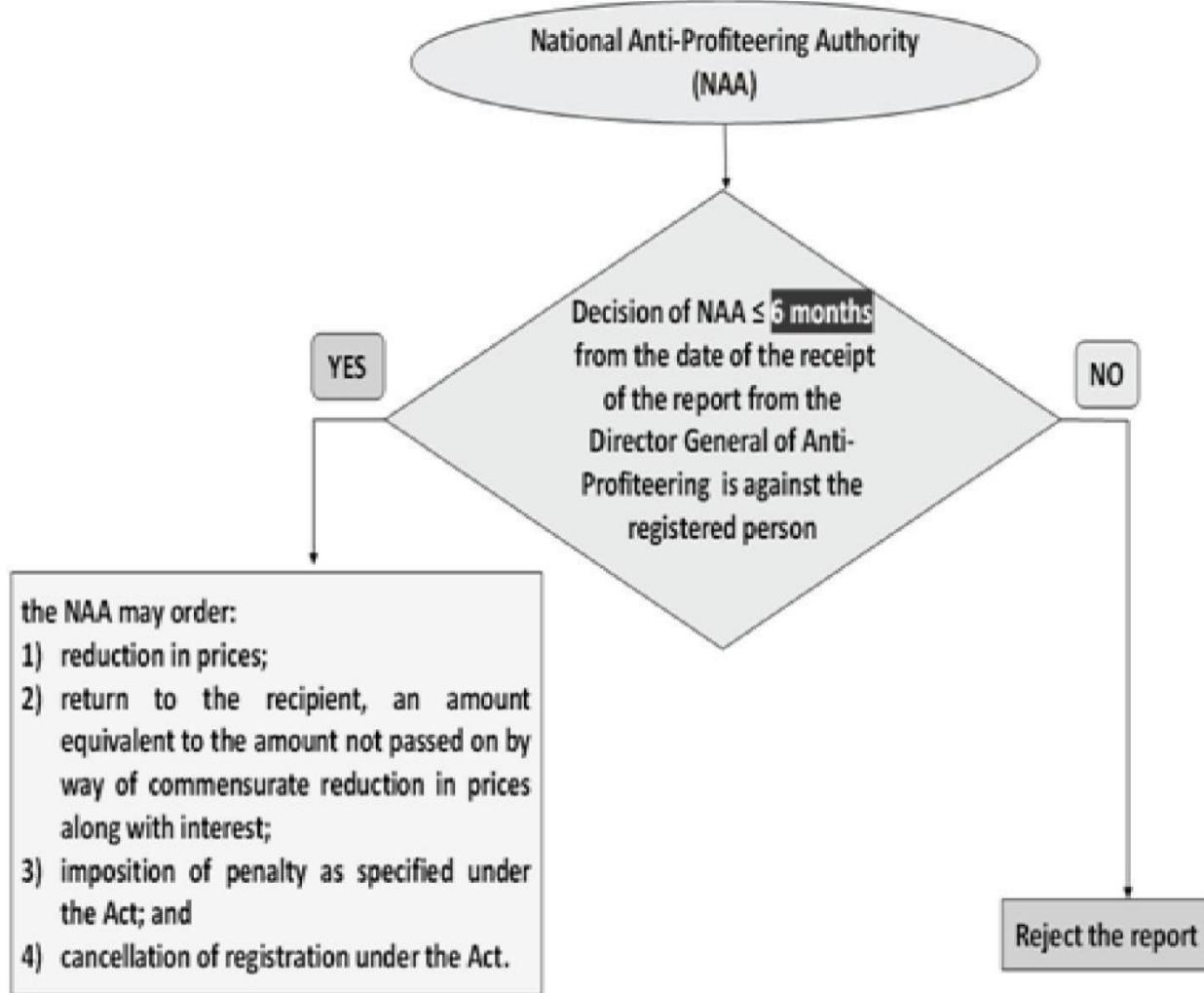
Anti-profiteering measure - Due date of compliance which falls during the period from 20-3-2020 to 29-11-2020 extended upto 30-11-2020:

(vide Notification No. 65/2020-Central Tax dated 01-09-2020)

"Provided that where, any time limit for completion or compliance of any action, by any authority, has been specified in, or prescribed or notified under section 171 of the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of November, 2020, and where completion or compliance of

such action has not been made within such time, then, the time-limit for completion or compliance of such action, shall be extended up to the 30th day of November, 2020."

With insertion of above proviso said Authority get further breather of three months to complete any action or comply with any action as now any such action falls during the period from the 20th day of March, 2020 to the 29th day of November, 2020 can be completed by the anti profiteering authority by 30-11-2020.



Rule 128 has been amended to provide that all applications from interested parties on issue of local nature as well as those forwarded by Standing Committee shall first be examined by the State level Screening Committee and the Screening Committee shall, within 2 months from the date of receipt of a written application (further extendable up to 1 month), upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.

Earlier, Screening Committee used to examine application on issues of local nature only and there was no time limit for forwarding the application to Standing Committee for further action.

Rule 129 provides that where Standing Committee is satisfied that there is a prima facie evidence to show that the supplier has not passed on the benefit to the recipient, it shall refer the matter to the Director General of Anti-Profiteering [DGAP] for detailed investigation.

Earlier, DGAP had to complete the investigation within a period of 3 months of the receipt of the reference from the Standing Committee. Now the said period of 3 months has been extended to 6months.

Therefore, now DGAP has to complete the investigation within a period of 6 months of the receipt of the reference from the Standing Committee which is further extendable up to 3 months.

In addition to DGAP and an officer authorized by him in this behalf, the Authority has also been empowered to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 of the CGST Act and shall have power in any

inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 [Rule 132].

As per rule 133, the Authority had to determine as to whether the registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of ITC to the recipient by way of commensurate reduction in prices, within 3 months from the date of receipt of investigation report from DGAP. The said period of 3 months has now been extended to 6 months.

In terms of rule 133, the Authority can now seek a clarification from DGAP on the Investigation report submitted by it during the process of determining as to whether the benefit of reduction in rate of tax or benefit of ITC has been passed on to the recipient by way of commensurate reduction in prices.

The procedure followed in decision making/investigation (Notification No. 31/2019 CT dated 28.06.2019):

As per rule 133, the Authority may, inter-alia, order to deposit an amount equivalent to 50% of the amount not passed on by way of commensurate reduction in prices, in the Consumer Welfare Fund of the Centre and remaining 50% in the Consumer Welfare Fund of the concerned State* where the eligible person does not claim return of the amount or is not identifiable.

The rule has been amended to provide that the said amount shall now be deposited along with interest @ 18% from the date of collection of the higher amount till the date of deposit of such amount.

*Here, the expression "concerned State" means the State or Union Territory in respect of which the Authority passes an order.

A new sub-rule (5) has been inserted in rule 133 to provide that where upon receipt of the report of the DGAP, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods and/or services other than those covered in the said report, it may, for reasons to be recorded in writing, within a period of six months, direct the DGAP to cause investigation or inquiry with regard to such other goods and/or services.

Such investigation or enquiry shall be deemed to be a new investigation or enquiry and all the provisions of rule 129 shall mutatis mutandis apply to such investigation or enquiry

As per rule 137, the Authority ceases to exist after the expiry of 2 years from the date on which the Chairman enters upon his office unless the GST Council recommends otherwise. Rule 137 has been amended to increase the said period of 2 years to 4 years.

w.e.f. 12-7-2018 the Director General of safeguards replaced as the Director General of Anti-Profiteering.

Note 1:

The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine undue profiteering and before initiation of the investigation, issue a notice to the interested parties (and to such other persons as deemed fit for a fair enquiry into the matter) containing, inter alia, information on the following, namely:—

- (a) The description of the goods or services in respect of which the proceedings have been initiated;
- (b) Summary of the statement of facts on which the allegations are based; and
- (c) The time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

The evidence or information presented to the Director General of Safeguards by one interested party can be made available to the other interested parties, participating in the proceedings. The evidence provided will be kept confidential and the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply mutatis mutandis to the disclosure of any information which is provided on a confidential basis. The Director General of Safeguards can seek opinion of any other agency or statutory authorities in the discharge of his duties. The Director General of Safeguards, or an officer authorised by him will have the power to summon any person necessary either to give evidence or to produce a document or any other thing. He will also have same powers as that of a civil court and every such inquiry will be deemed to be a judicial proceeding.

The Director General of Safeguards will complete the investigation within a period of three months or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

Note 2

The Authority shall (after granting an opportunity of hearing to the interested parties if so requested) within a period of three months from the date of the receipt of the report from the Director General of Safeguards determine whether a registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices. If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority. Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order:

- (a) Reduction in prices;
- (b) Return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest;
- (c) Imposition of penalty as specified under the Act; and
- (d) Cancellation of registration under the Act.

Any order passed by the Authority shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be. The Authority can direct any authority of central tax, State tax or Union territory tax to monitor the implementation of the order passed by it.

REPLYING TO DEPARTMENT NOTICES UNDER GST-SAMPLE CASES

SHOW CAUSE NOTICE

The Goods & Service Tax (GST) is payable on self-assessment basis i.e. assessee himself has to determine its tax liability.

If the determination of assessee goes wrong i.e. assessee has short paid any taxes or not paid any taxes or has wrong availed and utilized any input tax credit or has erroneously been refunded, etc then, under such circumstances demand would be raised by the GST officials by way of issuing GST notices - to be called as Show cause notices under taxation parlance.

Show cause notice (SCN) is the first stage in any investigation in tax laws. In Goods and Services Tax Act, show cause notice is to be issued before any penalty is levied or demand is raised. SCN is also required to be issued while taking action for payment of Goods and Services tax collected from any person which has not been deposited with the Central Government.

Handling a show cause GST notice and GST notice reply letter format

Some points stated below are important to note while handling show cause GST notices -

- Date of notice and date of receipt of GST notice could be different. While acknowledging the Show cause GST notice, always remember to put date and time over the acknowledgement copy.
- Don't avoid the receipt of SCN. If such notice is being served, there is no point in avoiding receiving it. First it has to be received and then contested / replied. Non-receipt is considered as a service.
- If the service of notice is time barred, it could be suitably replied with substantiating evidence.
- Whenever SCN is intended to enhance the liability of assessee or reduce the amount of refund, an opportunity of being heard is necessary and it cannot be denied by the revenue.
- SCN is always issued in writing.
- Department cannot go beyond what is mentioned in SCN and adjudicate an issue which is not a subject matter of SCN.
- SCN is required to be replied within the stipulated time mentioned in the notice and must be replied accordingly.
- Try to provide reply or explanation to all points covered in SCN and wherever necessary, substantiate the reply with documentary evidences.
- Detailed reply may be submitted along with earlier decided case laws.
- A list of evidences on which you are relying must also be submitted.
- Orders issued against show cause notice are appealable.

If the above points is born in mind by the assessees and service providers, it shall help them in appropriately replying to the show cause notice issued by the Department.

REPLYING TO DEPARTMENT NOTICES UNDER GST - SAMPLE CASES

Sample Case 1

REPLY TO SHOW CAUSE NOTICE (IN FORM DRC 01) RECEIVED FOR DIFFERENTIAL TAX AMT IN GSTR 3B VIS-A-VIS GSTR 1

FORM GST DRC - 06

[See rule 142(4)]

Reply to the Show Cause Notice

1.

GSTIN

2. Name

3.

Details of Show Cause Notice : Form GST DRC-01

Reference No.....

Date of issue:.....

4. Financial Year 2017-18

5. Reply: As below

Date

To.....

Dear Sir,

(Sub: Reply to DRC-01 dated.....(Reference No.....) issued to..... limited holding GSTIN.....)

With reference to the above mentioned subject, we confirm to have received the said Notice under Sec..... of The CGST Act 2017, read with Rule.....of CGST Rules 2017, in form DRC-01 and noted the contents thereof.

Facts of The Case

We, M/s having our registered office at (herein referred to as 'Notice') confirm having received the Show Cause Cum Demand Notice (herein after referred to as 'SCN') referred above and noted the contents thereof. The allegations, alleged contravention and proposal contained in the SCN are as under:-

1.0. It is alleged that M/s.....holding GSTIN.....has contravened the provisions of Section of the CGST Act 2017 (hereinafter referred to as 'the said Act') read with Rule.....Of The CGST Rules 2017 as amended (hereinafter referred to as 'the said Rules') in as much as the noticee has not paid GST amounting to Rs.....o.....Goods/ Services

2.0. The said noticee was therefore, required to show Cause to the Joint Commissioner of Service Tax, Service Tax as to why the said GST Amount alongwith Interest and penalty should not be recovered from the Noticee.

3.0. The noticee was asked by the department to submit documents relating to charging and payment of GST for the period.....which the noticee dutifully complied.

4.0. Thereafter certain correspondences have also taken place between the Noticee and the GST authorities whereby certain information/explanations/clarifications were sought and which the Noticee has provided.

Grounds

5.0. We have made a detailed reconciliation between the GSTR 1 and GSTR 3B filed by us for the month of JULY 2017- MARCH 2018.

6.0. Now we provide the detailed working of the differences between GSTR 1 and GSTR 3B in Annexure A to this submission. The reasons for the same is as follows-

1. In the month of one sale entry was missed out in GSTR 1, but while filing GSTR 3B the same was taken into consideration and correctly reported in the GSTR 3B and taxes had been paid on that. We had been reported this invoice in GSTR 1 of with the respective date of the invoice.

7.0. From the above, your honour may note that we have already amended GSTR 3B in subsequent tax period as per circular no.26/26/2017-GST. So as on date there is no discrepancy in our GSTR 1 and GSTR 3B.

Prayer

In view of the above, it is prayed before your honour that kindly accept our explanation on the matter of discrepancies in the returns from July 17 to Mar 18 And drop the issue.

For this act of kindness, your petitioner as in duty bound shall remain grateful.

6. Documents Annexed:

1.....

7. Option for personal hearing - Yes

8. Verification-

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed there from.

Signature of Authorized Signatory

Name

Designation / Status -----

Date

Sample Case 2

REPLYING TO NOTICE FOR DIFFERENCE BETWEEN TAX AMT IN GSTR 3B VIS-A-VIS IN GSTR 1 -THE NOTICE IS RECEIVED IN FORM ASMT-10 AND REPLY AS BELOW IN ASMT-

11

Form GST ASMT - 11

[See rule 99(2)]

Reply to the notice issued under section 61 intimating discrepancies in the return

1. GSTIN		
2. Name		
3. Details of the notice		Date.....
4. Tax Period	JULY 2017- MARCH 2018	
5. Reply to the discrepancies	<p>We refer to the above notice received on We have noted the differences provided by your honour between GSTR 3B and GSTR 1 filed by us for the months of JULY 2017- MARCH 2018.</p> <p>We have made a detailed reconciliation between the GSTR 1 and GSTR 3B filed by us for the month of JULY 2017- MARCH 2018.</p> <p>Now we provide the detailed working of the differences between GSTR 1 and GSTR 3B in</p>	

	<p>Annexure A to this submission. The reasons for the same is as follows-</p> <p>1. In the month of.....one sale entry was missed out in GSTR 1, but while filing GSTR 3B the same was taken into consideration and correctly reported in the GSTR 3B and taxes had been paid on that. We had been reported this invoice in GSTR 1 of with the respective date of the invoice.</p> <p>(Details as per annexure.....)</p> <p>From the above, your honour may note that we have already amended GSTR 3B in subsequent tax period as per circular no.26/26/2017-GST. So as on date there is no discrepancy in our GSTR 1 and GSTR 3B.</p> <p>In view of the above, it is prayed before your honour that kindly accept our explanation on the matter of discrepancies in the returns from July 17 to Mar 18 And drop the issue.</p>																
	<table border="1"> <thead> <tr> <th>sr. No.</th><th colspan="2">Discrepancy</th><th colspan="3">Reply</th></tr> </thead> <tbody> <tr> <td>1.</td><td colspan="2">Taxable value and tax amount related to reply</td><td colspan="3">Please find the details report of annexure 1</td></tr> </tbody> </table>					sr. No.	Discrepancy		Reply			1.	Taxable value and tax amount related to reply		Please find the details report of annexure 1		
sr. No.	Discrepancy		Reply														
1.	Taxable value and tax amount related to reply		Please find the details report of annexure 1														
6. Amount admitted and paid, if any -	Act	Tax	Interest	Others	Total												
	CGST	NA	NA	NA	NIL												
	SGSr	NA	NA	NA	NIL												

7. Verification-

I.....hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory

Name -

Designation / Status -

Date - 09-06-2018

Sample Case 3

REPLYING TO NOTICE FOR DIFFERENCE BETWEEN ITC AVAILED IN GSTR 3B VIS-A-VIS AVAILABLE IN GSTR 2A Date 10-06-2018

To

The office of the Assistant Commissioner (ST),

.....

Respected Sir/Madam,

Sub: Reply to the notice received on.....for variation in ITC claimed in GSTR 3B Vs ITC available under GSTR 2A.

We have received the said Notice u/s.....of The CGST Act 2017 and read with Rule.....of CGST Rules 2017 and noted the contents thereof. In the said notice your goodself have sited certain discrepancies in the ITC availed by the noticee in its GSTR 3B and the GSTR 2A filed by the noticee which is available on the GST Portal.

In this regard, we have tried to match the reasons for differences and the same as are summarised as under:

1. Ineligible ITC was not claimed by us.
2. Timing Gap - Wherein the Invoice would be uploaded in the GSTR 1 of the Counter Party in one month and the ITC for the same would be availed by us in another month.
3. There are certain delayed/non-compliance from the supplier's side due to non payment, incorrect uploading, data entry mistake in figures or GST numbers, classifying at B2C instead of B2B, etc.

We are further enclosing the invoice-wise details of the ITC availed by us as per Sec 16 of The CGST Act 2017.

We pray to take our reply on record and rest the issue in the light of Provisions as per Law.

For this act of kindness, your petitioner as in duty bound shall remain grateful.

Signature of Authorised Signatory

Name-.....

Designation / Status – Director

OPERATION OF GST PORTAL - A WALK-THROUGH

GST PORTAL

GST Portal or GSTN hosted at <https://www.gst.gov.in/> is a website where all the activities related to GST can be done. Activities like GST registration, return filing, payment of taxes, application for refund, etc. can be done on the GST Portal.

Services Available on GST Portal

Here is a list of some services available on the GST Portal..

1. Application for Registration for Normal Taxpayer, ISD, Casual Dealer
2. Application for GST Practitioner
3. Opting for Composition Scheme (GST CMP-02)
4. Stock intimation for Composition Dealers (GST CMP-03)
5. Opting out of Composition Scheme (GST CMP-04)
6. Filing GST Returns
7. Payment of GST
8. Filing Table 6A of GSTR-1 (Export Refund)
9. Claim Refund of excess GST paid (RFD-01)
10. Furnish Letter of Undertaking(LUT)(RFD-11)
11. Transition Forms (TRAN-1, TRAN-2, TRAN-3)
12. Viewing E-Ledgers

Other than the above services changing core and non-core fields, browsing notices received, filing ITC Forms, Engage/ Disengage GST Practitioner are some of the other services provided on the GST Portal/ GSTN.

Goods and Service Tax Network

The Goods and Service Tax Network (or GSTN) is a non-profit, non-government organization. It will manage the entire IT system of the GST portal, which is the mother database for everything GST. This portal will be used by the government to track every financial transaction, and will provide taxpayers with all services - from registration to filing taxes and maintaining all tax details.

Structure of GSTN

Private players own 51% share in the GSTN, and the rest is owned by the government. The authorized capital of the GSTN is X10 crore (US\$1.6 million), of which 49% of the shares are divided equally between the Central and State governments, and the remaining is with private banks.

The contract for developing this vast technological backend was awarded to Infosys in September 2015.

The GSTN is chaired by Mr. Navin Kumar, an Indian Administrative Service servant (1975 batch), who has served in many senior positions with the Govt. of Bihar, and the Central Govt.

Salient Features of the GSTN

The GSTN is a complex IT initiative. It will establish a uniform interface for the taxpayer and also create a common and shared IT infrastructure between the Centre and States.

1. Trusted National Information Utility

The GSTN is a trusted National Information Utility (NIU) providing reliable, efficient and robust IT backbone for the smooth functioning of GST in India.

2. Handles Complex Transactions

GST is a destination based tax. The adjustment of IGST (for inter-state trade) at the government level (Centre & various states) will be extremely complex, considering the sheer volume of transactions all over India. A rapid settlement mechanism amongst the States and the Centre will be possible only when there is a strong IT infrastructure and service backbone which captures, processes and exchanges information.

3. All Information Will Be Secure

The government will have strategic control over the GSTN, as it is necessary to keep the information of all taxpayers confidential and secure. The Central Government will have control over the composition of the Board, mechanisms of Special Resolution and Shareholders Agreement, and agreements between the GSTN and other state governments. Also, the shareholding pattern is such that the Government shareholding at 49% is far more than that of any single private institution.

4. Expenses Will Be Shared

The user charges will be paid entirely by the Central Government and the State Governments in equal proportion (i.e. 50:50) on behalf of all users. The state share will be then apportioned to individual states, in proportion to the number of taxpayers in the state.

Functions of GSTN

GSTN is the backbone of the Common Portal which is the interface between the taxpayers and the government. The entire process of GST is online starting from registration to the filing of returns.

It has to support about 3 billion invoices per month and the subsequent return filing for 65 to 70 lakh taxpayers. The GSTN will handle:

- Invoices
- Various returns
- Registrations
- Payments & Refunds

WALK-THROUGH

Various FAQs and User Manual, Training Kit are available on GST Portal. 1)FAQs on Registration - Normal Taxpayer (FORM GST REG-01)

1. I am on the landing page of the New Registration Application and there are two radio buttons - New Registration and Temporary Reference Number (TRN). Which one do I need to select?

Select the New Registration Application to begin applying for GST Registration .

If you have already filled Part A of the Registration Application and have a valid TRN, select Temporary Reference Number.

2. I am applying for a new registration. Which state should I select?

Select the state for which you are applying for the registration.

Once you select a state in Part A of the Registration Application, it cannot be changed at a later stage.

3. My principal place of business is in State 'X' but I am applying for a new registration for State 'Y'. Which state should I select?

Select the state for which you are applying for the registration as registration is state-specific.

4. In the field for PAN, do I need to put my own PAN or the PAN of the business?

Please enter the PAN of your business. In case of proprietor, please provide your personal PAN.

5. Whose e-mail ID and mobile number should I give in the PART A of the Registration Application?
Please give details of the Primary Authorised Signatory in the Part A of the Registration Application .

6. What is Captcha Code? Why do I need to fill it?

Captcha Code is a numeric code that must be filled every time a taxpayer login to the GST Portal. It has been added as an additional security measure.

7. The Captcha Code provided is not legible. What should I do?

You can click the refresh icon next to the code and the system will generate a new code for you.

8. I clicked the SUBMIT button and now the system is asking me for a mobile OTP and an e-mail OTP but I haven't received either. What do I do? / I have received my mobile OTP but not my e-mail OTP or vice versa. How long should I wait?

Please wait for at least 180 seconds after generating the OTPs.

In case you have still not received the OTP/s, make sure you are checking the correct mobile phone and e-mail inbox. For e-mail OTP, you must also check the spam folder of your e-mail account.

In case you have still not received one or both the OTPs, please click the Click to Resend OTP option available on the screen. Both the OTPs will be sent again.

9. How long are the OTPs valid? OR Are the OTPs valid for a limited period of time? OR What is the validity of the OTP?

The validity period of each OTP is clearly mentioned in the SMS and e-mail. They are valid for at least 10 minutes.

10. I have entered both OTPs correctly but the system is saying the OTPs are not valid.

It is possible your OTPs have expired. Click the Click to Resend OTP option available on the screen. Both the OTPs will be sent again. Please wait for at least 180 seconds after generating the OTPs.

Please note, when you generate fresh OTPs, both previous OTPs (mobile as well as e-mail) become invalid. You will now need to enter both mobile and e-mail OTP again.

11. How long should I wait for the OTPs before clicking on the resend OTP button?

Please wait for at least 180 seconds after generating the OTPs.

In case you have still not received the OTP/s, make sure you are checking the correct mobile phone and e-mail inbox. For e-mail OTP, you must also check the spam folder of your e-mail account.

In case you have still not received one or both the OTPs, please click on Click to Resend OTP option available on the screen. Both the OTPs will be sent again.

Please note, when you generate fresh OTPs, both previous OTPs (mobile as well as e-mail) become invalid.

12. What is a TRN?

TRN or Temporary Reference Number is a unique 15-digit reference number that is generated when you successfully submit all the fields of PART A (first page) of the new registration application and successfully validate your mobile number and e-mail ID by correctly entering the respective OTPs.

Your TRN is sent to you via SMS and e-mail. It is valid for 15 days from the date of creation.

After TRN is generated, note it down and access PART B of your new registration application on the GST Portal in the pre-login mode by entering the TRN.

13. Now that I have generated my TRN, how do I begin filling PART B of my new registration application?

Please go to the New Registration page and select the radio button Temporary Reference Number. Now enter your TRN and click PROCEED. A new page will open where you will have to enter the Mobile OTP and e-mail OTP which will be sent to you when you click PROCEED. Enter the respective OTPs and you will be directed to the landing page of PART B of the New Registration Application (Business Details section).

14. I did not write my TRN or I have forgotten my TRN?

Your TRN is also sent to you via SMS and e-mail.

15. I did not write my TRN and I also deleted the SMS and the e-mail that were sent to me. What do I do now?

In such a case, you will have to fill in all the details in PART A of the Registration Application again. Upon completing the process, a message will be displayed 'You already have a TRN generated <TRN number> with this combination'.

Be sure to save the TRN this time!

16. It has been more than 15 days since I generated a TRN. Can I still access my new registration application?

In such a case, you will have to fill in all the details in PART A of the Registration Application again. Upon completing the process, a message will be displayed 'You already have a TRN generated <TRN number> with this combination'.

17. Does the TRN expire 15 days after I generate it or 15 days after my last login?

The TRN expires 15 days after it is generated regardless of any number of logins by you.

18. I have logged into my new registration application successfully using my TRN, Mobile OTP, and E-mail OTP. What is the next step?

Please click on the blue box with the pencil icon inside it to continue filling your Registration Application.

2) Preparing GSTR 3B - User Manual.

1. GST3B Offline Utility: AnOverview

The Excel based GSTR-3B Offline Utility is designed to help taxpayer to prepare their GSTR-3B return offline. Details for following sections of GSTR-3B return can be added by taxpayer using the offline Utility

- 3.1 Details of Outward Supplies and inward supplies liable to reverse charge
- 3.2 Of the supplies shown in 3.1 (a) above, details of inter-State supplies made to unregistered persons, composition taxable persons and UIN holders
- Eligible ITC
- Values of exempt, nil-rated and non-GST inward supplies
- 5.1 Interest &late fee payable

Downloading GSTR3B Offline Utility and Uploading GSTR3B details

Login to the GST Portal and download and Open the **GSTR3B**

Offline Utility

Enter details in the GSTR-3B worksheet

Validate the details entered using 'Validate' button

Generate Json using 'Generate File' button

Upload the generated JSON on GST Portal

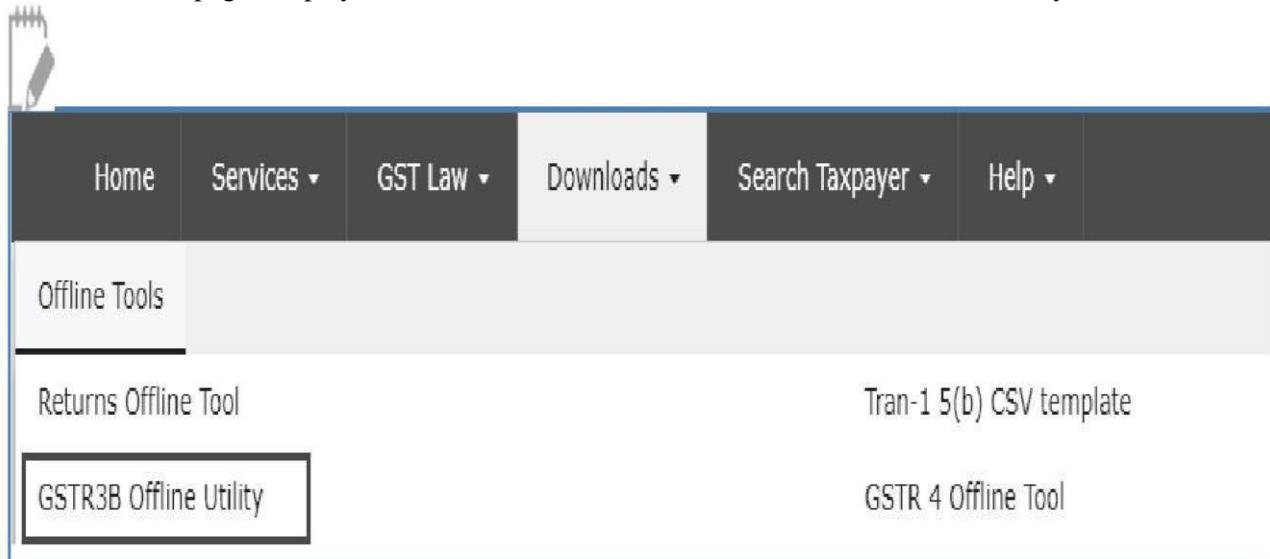
2. Downloading the GSTR3B Offline Utility

Downloading the GSTR3B Offline Utility is a one-time activity ,however, it may require an update in future if the Tool is updated at the GST Portal. Please check the version of the offline utility used by you with the one available for download on the GST Portal at regular intervals.

To download and install the GSTR3B Offline Utility to prepare the GSTR3B return offline, perform the following steps:

You can download the GSTR3B Offline Utility from the Portal without login to the GST Portal. 1. Access the <https://www.gst.gov.in/> URL.

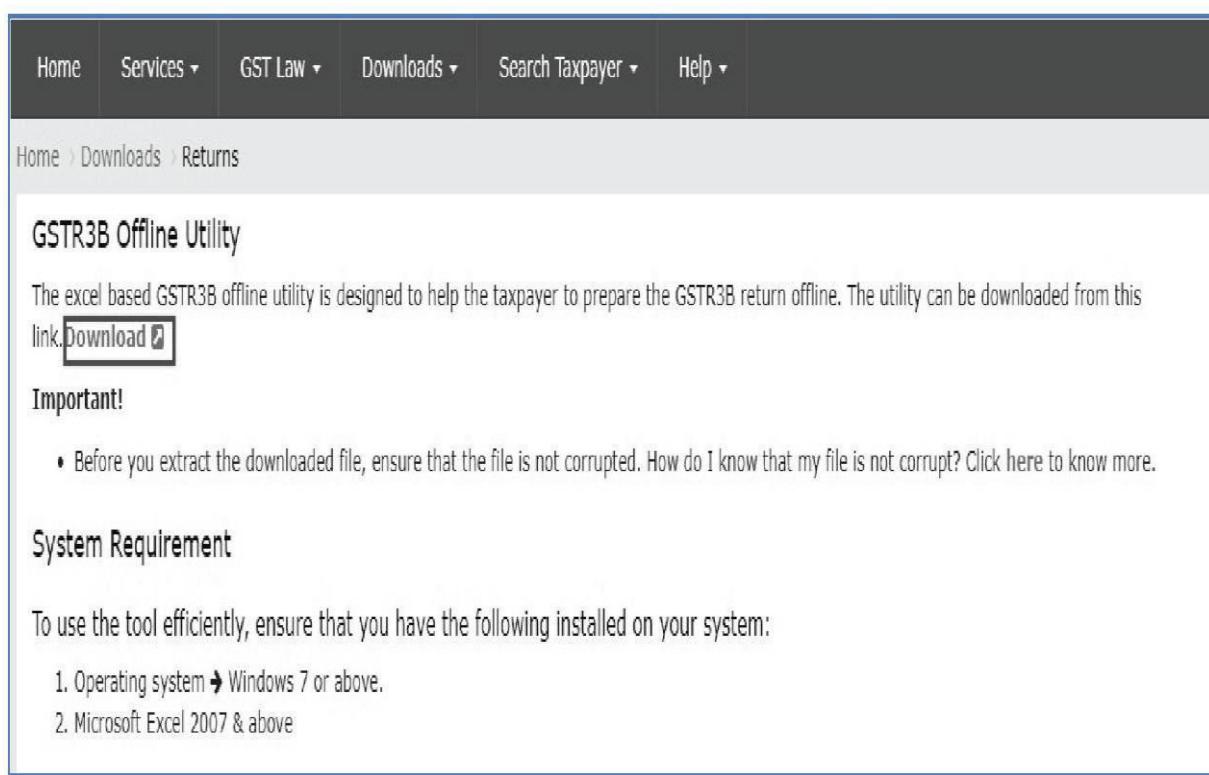
2. The GST Home page is displayed. Click the Downloads > Offline tools > GSTR3B Offline Utility.



The screenshot shows the GST Home page with a navigation bar at the top. The 'Downloads' menu is expanded, showing 'Offline Tools' and 'GSTR3B Offline Utility'. The 'GSTR3B Offline Utility' link is highlighted with a red box. Below the navigation bar, there are links for 'Returns Offline Tool' and 'Tran-1 5(b) CSV template'.

3. The Returns Offline tool page is displayed. Click the Download button.

The download of the GSTR3B Offline Utility usually takes 2-3 minutes to download depending on the Internet speed.



The screenshot shows the Returns Offline tool page. The 'GSTR3B Offline Utility' section is displayed, with a description and a 'Download' button highlighted with a red box. Below this, an 'Important!' section lists a note about file corruption. The 'System Requirement' section is also visible.

GSTR3B Offline Utility

The excel based GSTR3B offline utility is designed to help the taxpayer to prepare the GSTR3B return offline. The utility can be downloaded from this link.

Important!

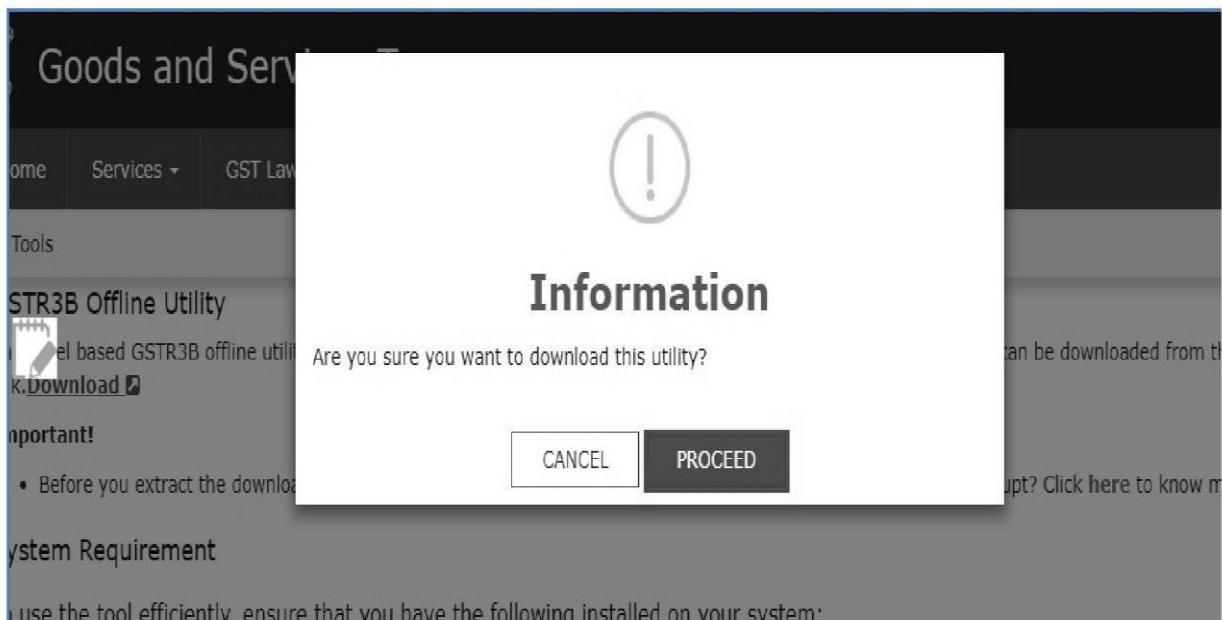
- Before you extract the downloaded file, ensure that the file is not corrupted. How do I know that my file is not corrupt? Click here to know more.

System Requirement

To use the tool efficiently, ensure that you have the following installed on your system:

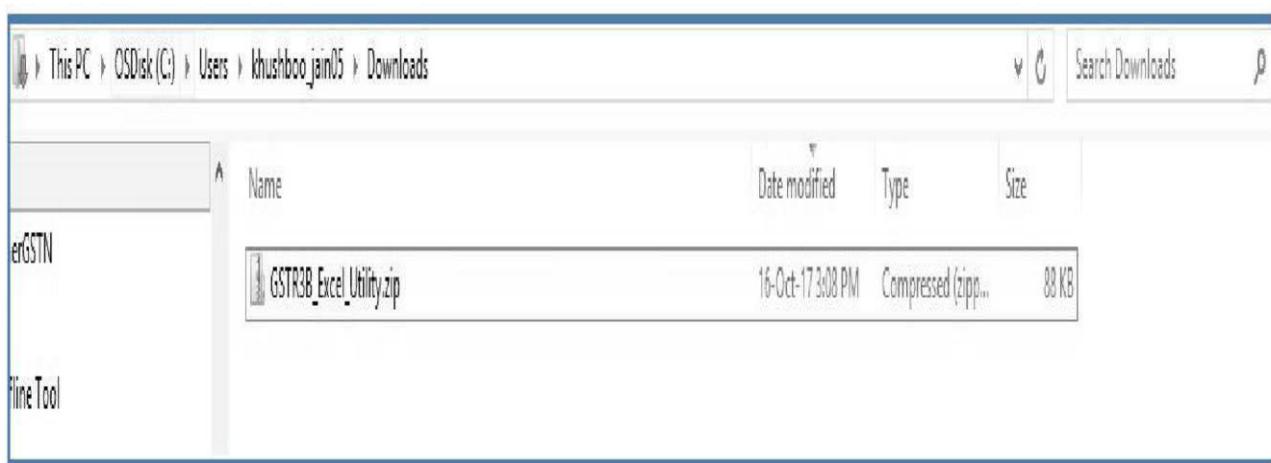
- Operating system → Windows 7 or above.
- Microsoft Excel 2007 & above

4. A confirmation message is displayed on the screen. Click the PROCEED button to download the GSTR3B Offline Utility from the GST Portal.



The Progress update page is displayed in a new browser tab. You can notice that the download is in progress.

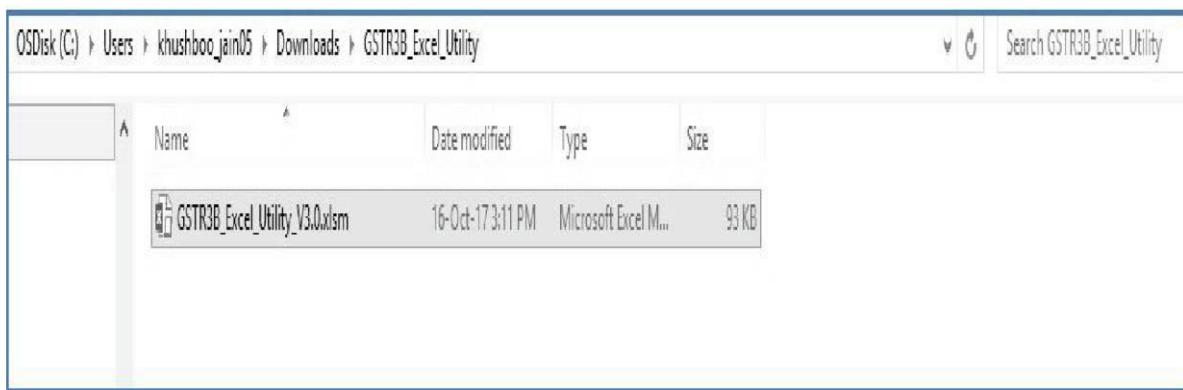
5. Browse and select the location where you want to save the downloaded files. In some machines, depending on your browser settings, the files are downloaded in the folder Downloads on your machine.



3. Installation of the GSTR3B Offline Utility

Once the download of the GSTR3B Offline Utility is complete, you need to unzip these downloaded files on your machine.

1. Unzip the downloaded files and extract the files from the downloaded zip folder GSTR3_Excel_Utility.zip. Zip folder consists of the GSTR3B_Excel_Utility file as shown in the screenshot below.



2. Double click the GSTR3B_Excel_Utility.
3. Click the Enable Editing button in the excel sheet.

4. Click the Enable Content button in the excel sheet.

Formore details regarding various FAQs and User Manual, Training Kit visit "www.gst.gov.in"