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CMA – Inter Paper 11 - GST

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Chapter 1 – GST: Introduction

1.1 OVERVIEW OF GOODS AND SERVICES TAX [GST]

France was the first country to introduce GST in 1954. Later it was implemented across 160 countries across the globe because this tax is transparent and more viable and neutral.

GST is extended to the whole of India including State of J&K.



What is GST - GST is a destination based tax on consumption of goods and services. It is a levy at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer.

Destination based tax: The tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.
The GST would replace the following taxes:

Taxes currently levied and collected by the Centre

a) Central Excise duty
b) Duties of Excise (Medicinal and Toilet Preparations)
c) Additional Duties of Excise (Goods of Special Importance)
d) Additional Duties of Excise (Textiles and Textile Products)
e) Additional Duties of Customs (commonly known as CVD)
f) Special Additional Duty of Customs (SAD)
g) Service Tax
h) Central Surcharges and Cesses as far as they relate to supply of goods and services

State taxes that would be subsumed under the GST are:

a) State VAT
b) Central Sales Tax
c) Luxury Tax
d) Entry Tax (all forms)
e) Entertainment and Amusement Tax (except when levied by the local bodies)

f) Taxes on advertisements
g) Purchase Tax
h) Taxes on lotteries, betting and gambling
i) State Surcharges and Cesses so far as they relate to supply of goods and services

The GST Council shall make recommendations to the Union and States on the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed in the GST.

Commodities outside GST –

Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) **as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption.**

So alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution.

Five petroleum products viz.

- petroleum crude,
- motor spirit (petrol),
- high speed diesel,
- natural gas and
- aviation turbine fuel

have temporarily been kept out and GST Council shall decide the date from which they shall be included in GST.

Furthermore, electricity has been kept out of GST.

The existing taxation system (VAT & Central Excise) will continue in respect of the above commodities.



Dual GST - It would be a dual GST with Centre and States simultaneously levying it on a common tax base. Centre will levy and administer CGST & IGST while respective states/UTs will levy and administer SGST/ UTGST.

- The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and that to be levied by the States/ Union territory would be called the State GST (SGST)/ UTGST.
- Similarly, Integrated GST (IGST) will be levied and administered by Centre on every inter-state supply of goods and services. IGST will be sum total of CGST + SGST/UTGST.

Manner of dual GST - The Central GST and the State GST would be levied simultaneously —

- On every transaction of supply of goods and services
- On the same value
- Except —
  - The exempted goods and services,
  - Goods which are outside the purview of GST and
  - The transactions which are below the prescribed threshold limits.

Examples on dual GST

Illustration 1: Suppose hypothetically that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say Rs. 100, —

Solution:

- the dealer would charge CGST of Rs. 10 and SGST of Rs. 10 in addition to the basic price of the goods.
- He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government.
- Of course, he need not actually pay Rs. 20 (Rs. 10 + Rs. 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his purchases (say, inputs).
- But for paying CGST he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

Illustration 2: Suppose, again hypothetically, that the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say Rs. 100, —

Solution:

- the ad company would charge CGST of Rs. 10 as well as SGST of Rs. 10 to the basic value of the service.
- He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government.
- Of course, he need not again actually pay Rs. 20 (Rs. 10+Rs. 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his purchase (say, of inputs such as stationery, office equipment, services of an artist etc.). But for paying CGST he would be allowed to use only the credit of CGST paid on its purchase while for SGST he can utilise the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

Benefits of GST: 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
- pave the way for a common national market.
- 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%.
- make our products competitive in the domestic and international markets
- 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.
- because of its transparent character, would be easier to administer

Concept of IGST - Under the GST regime, an Integrated GST (IGST) would be levied and collected by the Centre on inter-State supply of goods and services. Under Article 269A of the Constitution, the GST on supplies in the course of inter- State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Rates of GST - The CGST and SGST would be levied at rates to be jointly decided by the Centre and States. The rates would be notified on the recommendations of the GST Council. Rates of IGST would be sum total of rates of CGST & SGST.

GST Council - A GST Council is constituted comprising the Union Finance Minister (who will be the Chairman of the Council), the Minister of State (Revenue) and the State Finance/Taxation Ministers to make recommendations to the Union and the States on

- the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;
- the goods and services that may be subjected to or exempted from the GST;
- the date on which the GST shall be levied on petroleum crude, high speed diesel, motor sprit (commonly known as petrol), natural gas and aviation turbine fuel;
- model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
- the threshold limit of turnover below which the goods and services may be exempted from GST;
- the rates including floor rates with bands of GST
- any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
- special provision with respect to the North- East States, J&K, Himachal Pradesh and Uttarakhand; and
- Any other matter relating to the GST, as the Council may decide.Classification of goods & services

GSTN - GSTN stands for Goods and Service Tax Network (GSTN).

A Special Purpose Vehicle called the GSTN has been set up to cater to the needs of GST. The GSTN shall provide a shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders for implementation of GST.

The functions of the GSTN would, inter alia, include:

- facilitating registration;
- Forwarding the returns to Central and State authorities;
- Computation and settlement of IGST;
- Matching of tax payment details with banking network;
- providing various MIS reports to the Central and the State Governments based on the tax payer return information;
- Providing analysis of tax payers' profile; and
- Running the matching engine for matching, reversal and reclaim of input tax credit.

The GSTN has developed a common GST portal and applications for registration, payment, return and MIS/ reports. The GSTN would also be integrating the common GST portal with the existing tax administration IT systems and would be building interfaces for tax payers. Further, the GSTN is developing back-end modules like assessment, audit, refund, appeal etc. for 19 States and UTs (Model II States). The CBEC and Model I States (15 States) are themselves developing their GST back-end systems. Integration of GST front-end system with back-end systems will have to be completed and tested well in advance for making the transition smooth.

Dispute resolution between States/Centre - The Constitution (one hundred and first amendment) Act, 2016 provides that the Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute —

a) Between the Government of India and one or more States; or

b) Between the Government of India and any State or States on one side and one or more other Sates on the other side; or

c) Between two or more States, arising out of recommendations of Council or implementation thereof.

Compliance rating mechanism - As per Section 149 of the CGST/SGST Act, every registered person shall be assigned a compliance rating based on the record of compliance in respect of specified parameters. Such ratings shall also be placed in the public domain. A prospective client will be able to see the compliance ratings of suppliers and take a decision as to whether to deal with a particular supplier or not. This will create healthy competition amongst taxable persons.

Anti-Profiteering measure — Benefit of lowering tax effect to be passed over

As per section 171 of the CGST/SGST Act, —

■ 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.

An authority may be constituted by the government 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.

New Article 246A

1. **Overriding effect:** Article 246A overrides articles 246 and 254. Article 246 deals with distribution of power and Article 254 deals with effect of inconsistency between law of Parliament and law of State Legislature. This is done so as to provide a concurrent power to both Centre and States to levy GST without any issue of repugnancy or inconsistency, etc.
2. **Inter-state transactions -** Power with Centre : In case supply of goods, or of services,

or both takes place in the course of inter-State trade or commerce, the power to levy GST vests with Centre/Parliament exclusively.

3. **Other cases:** As regards other cases, it is provided that Parliament and Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.
4. **Petrol, Diesel and ATF -** Outside GST for now - Will come under GST from notified date :

   As per Article 279A(5), the GST Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

   New Article 269A-Sharing of Inter-state GST (IGST) - A new article 269A is inserted to provide that —

   ■ Goods and services tax

   ■ On supplies in the course of inter-State trade or commerce

   ■ shall be levied and collected by the Government of India and

   ■ such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

   Additional duty of customs also covered: For the purposes of Article 269A, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce. Thus, imports would be liable to IGST and revenue of additional duty of customs would also be shared as per Article 269A.

   Parliament to make law to provide for principles to determine whether supply inter-state or not.

   Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

   Other provisions - Cross-utilization of credits:

   ■ The amount apportioned to a State shall not form part of the Consolidated Fund of India.

   ■ If an amount collected as IGST has been used for payment of SGST, such amount shall not form part of Consolidated Fund of India.

   ■ If amount collected as SGST has been used for payment of IGST, such amount shall not form part of Consolidated Fund of the State.

   Goods and Services Tax Council (GSTC) -Article 279A - A new article 279A is inserted to constitute GSTC. The relevant features would be:

   1. **Due date:** The President shall constitute GSTC within 60 days from the date of commencement of the 101st Amendment Act. This Article came into force on 12-9-2016 & the GSTC was constituted on 15-9-2016.

   2. Members: GSTC will have following members:

   ◆ The Union Finance Minister .....Chairperson;

   ◆ The Union Minister of State in charge of Revenue or Finance..... Member;

   ◆ The State Finance Minister of each State (Finance or Taxation or any other nominated Minister)

3. Vice-Chairperson: The State Members of GSTC shall choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide. Thus, Vice-chairperson would be out of State Finance Ministers and Centre will have no role to play in his selection, appointment and tenure.

4. Role of GSTC: The GSTC shall make recommendations to the Union and the States on —.

a) The taxes, cesses and surcharges levied by the Union, the States and the local bodies 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 Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax 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) The rates including floor rates with bands of goods and services tax;

f) Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

g) 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

h) Any other matter relating to the goods and services tax, as the Council may decide.

The aforesaid would show that:

- various taxes/surcharges to be subsumed into GST would be recommended by GSTC from time to time
- Exemptions including threshold exemptions would be recommended by GSTC;
- Model law and principles for levy and place of supply would be recommended by GSTC;
- The rates of GST would have a floor rate with band of rates;
- Special provisions may be made for North-eastern States and State of J&K.

5. Guidance for GSTC: While discharging the functions conferred by this article, the GSTC shall be guided by the need —

For a harmonized structure of goods and services tax and

For the development of a harmonized national market for goods and services.

6. Procedure: The GSTC shall determine the procedure in the performance of its functions.

7. Quorum and Meetings:

a. One half of the total number of Members of the GSTC shall constitute the quorum at its meetings.

b. Every decision of the GSTC shall be taken at a meeting.

c. The decision shall be taken by a majority of not less than 3/4th of the weighted votes of the members present and voting as follows:

(i) The vote of the Central Government shall have a weightage of l/3rd of the total votes cast, and the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

Example: WT = WC+WS

Wherein—

WT = Total weighted votes of all members in favour of a proposal.

WC = Weighted vote of the Union = i.e., 33.33% if the Union is in favour of the proposal and be taken as "0" if, Union is not in favour of a proposal.

WS = Weighted votes of States in favour of a proposal = WST x SF ÷SP

SP = Number of States present and voting.

WST = Weighted votes of all States present and voting i.e., 66.67%

SF = Number of States voting in favour of a proposal.

Analysis: Thus, all states alone can make majority of 2/3rd, which is insufficient to take a decision at GSTC.

8. Vacancy, etc. not to invalid proceedings: No act or proceedings of the GSTC shall be invalid merely by reason of—

a) Any vacancy in, or any defect in, the constitution of the Council; or

b) Any defect in the appointment of a person as a member of the Council; or

c) Any procedural irregularity of the Council not affecting the merits of the case.

9. Resolution of disputes by GSTC: The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute—

a) Between the Government of India and one or more States; or

b) Between the Government of India and any State or States on one side and one or more other States on the other side; or

c) Between two or more States, Arising out of the recommendations of the Council or implementation thereof.

Definitions -Article 366

1. GST: As per new article 366(12A), "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.

(Thus, alcoholic liquor would always remain outside scope of GST.)

2. Services: As per new article 366(26A) "Services" means anything other than goods. The new definition would put at rest all controversies 1as regards definition of services.

3. State: As per new article 366(26B) "State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature.

Thus, article 366(29A) defining deemed sale continues.

TEST YOURSELF:

1. Write a short note on various lists provided under seventh schedule to the Constitution of India.
2. Enumerate the deficiencies of existing indirect taxes which led to the need for ushering into GST.
3. Discuss the dual GST model introduced in India.
4. List the Central and state levies which will be subsumed in GST in India.

Chapter 2 - Levy and collection of tax

The provisions discussed herein are the provisions of the Central GST Act, 2017.

2(84) Person "Person" includes—

a) An individual;

b) A Hindu Undivided Family;

c) A company;

d) A firm;

e) A Limited Liability Partnership;

f) An association of persons or a body of individuals, whether incorporated or not, in India outside India;

g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act



h) Any body corporate incorporated by or under the laws of a country outside India;

i) A co-operative society registered under any law relating to co- operative societies;

j) A local authority; [defined in section 2(69)]

k) Central Government or a State Government;

l) Society as defined under the Societies Registration Act, 1860;

m) Trust; and

n) Every artificial juridical person, not falling within any of the above;

Deemed Separate Persons - Where a person has,—

i. An establishment in India and any other establishment outside India [Indian & Foreign Branches];

ii. An establishment in a State/Union-territory & any other establishment outside that State or Union territory [Branches in two States/UTs]; or

iii. An establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory, [Branch & another registered business vertical] then such establishments are treated as establishments of distinct persons.

Branch or representational office amounts to 'establishment' [Expl. 2 to section 8]: A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Business vertical [Section 2(18) of CGST Act] : means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related** goods or services which is subject to risks and returns that are different from those of the other business verticals.

**Related goods/services: Factors that should be considered in determining whether goods or services are related include—

a) The nature of the goods or services;
b) The nature of the production processes;
c) The type or class of customers for the goods or services;
d) Methods used to distribute the goods or supply of services; and
e) The nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities.

Sec 25(4) Separate registrations make separate persons - 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.

Sec 25(5) Establishment in another state is separate person - 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.

Expl. To **Sec. 15 Related persons** - For the purposes of this Act, persons shall be deemed to be "related persons" if—
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;

Note 1: The term "person" also includes legal persons.
Note 2 — Sole distributors are deemed to be related : 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.

Note 3 — **Family [Section 2(49)]:** "Family" means,—
the spouse and children of the person, and
the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

Sec 2(107) Taxable person - "Taxable person" means a person who is registered or liable to be registered under section 22 or section 24.

Sec 2(20) Casual Taxable person - "Casual taxable person" means a person undertakes transactions

- Involving supply of goods or services or both who occasionally
- In the course or furtherance of business,

- Whether as principal, agent or in any other capacity,
- In a State or a Union territory where he has no fixed place of business.

Sec 2(77) Non-resident - "Non-resident taxable person" means any person who occasionally undertakes transactions —

Taxable person

- 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 Inc

Sec 2(94) Registered person - "Registered person" means a person who is registered under section 25 but does not include a person having a Unique Identity Number.

2.2 SUPPLIER & RECIPIENT OF GOODS/SERVICES [Sections 2(93) & 2(105)]

Sec 2 (105) Supplier - "Supplier" in relation to any goods or services or both, shall mean —

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

Sec 2 (93) Recipient - "Recipient" of supply of goods or services or both, means—

(a) Where a consideration is payable for the supply of goods or services or both the person who is liable to pay that consideration

(b) Where no consideration is payable for the supply of goods the person

- To whom goods are delivered or made available, or
- To whom possession or use of goods is given or made available

(c) Where no consideration is payable for supply of a service the person to whom the service is rendered

Person to whom supply is made = Recipient: Any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply.

Recipient to include his agent: Recipient shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

2.3 GOODS & SERVICE - MEANING OF

Sec 2(52) Goods - "Goods" means —

- **Every kind of movable property**
- **Other than money and securitie**

But includes —

- **Actionable claims**

Securities — Not goods [Section 2(101)] : "Securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956. Securities include -

♦shares, scripts, stocks, bonds, debentures, debenture stock or other marketable securities of a company;

♦ derivative, options, futures, swaps, forward agreements, etc.

Money — Not goods [Section 2(75)]: "Money" means —

- The Indian legal tender or any foreign currency,
- Cheque,
- Promissory note,
- Bill of Exchange,
- Letter of credit,
- Draft,
- Pay order,
- Traveller cheque,
- Money order,
- Postal or electronic remittance or
- any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination.

But shall not include any currency that is held for its numismatic value.

[**Numismatic means "collection and study of money (and coins in particular)". For example, a coin in force in ancient times and having denomination of a rupee shall not be regarded as 'money', as it is not held as a rupee, but, for its numismatic value.]

Actionable Claim — Goods [Section 2(1)]: "Actionable claim" shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882. Hence, actionable claims means a claim -

a) To any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property or

b) To any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, whether such debt or beneficial interest be existent, accruing, conditional or contingent.

Illustrations of actionable claims are -
(i) Unsecured debts
(ii) Right to participate in the draw to be held in a lottery.

Analysis: Actionable claims are goods. However, they are excluded from charge of GST as per section 7 read with Schedule III of the CGST Act. But, actionable claim being lottery, betting and gambling is liable to GST as supply of goods.

Sec 2 (102) - "Services" means —

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

Analysis: Thus, while money is not service, however, transaction of exchange/ conversion of money are 'service'. Secondly, securities are neither goods and=nor services; hence, outside scope of GST.

SUPPLY — MEANING OF [Section 7]

As per section 7(1), for the purposes of this Act, the expression "supply" includes—

(a) Supplies for consideration in course of business [Sec. 7(1)(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 for consideration [Sec. 7(l)(b)] - Import of services —

- **For a consideration**
- **Whether or not in the course or furtherance of business**

(c) **Certain supplies without consideration [Sec. 7(l)(c)]** - The following activities specified in Schedule I, made or agreed to be made without a consideration —

1. Sale of business assets on which ITC has been availed: Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supplies between related persons, except gift upto Rs. 50,000 to employees: Supply of goods or services or both —

- Between related persons (defined in Explanation to section 15 and discussed already in this Chapter) or
- between distinct persons as specified in section 25 (discussed already in this Chapter), when made in the course or furtherance of business.

Gifts upto Rs. 50,000 to employee — not taxable: However, gifts upto Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both. It may be noted that employer-employee are deemed to be related.

3. Agent to principal or vice-versa, if agent supplies/receives on behalf of principal: Supply of goods—

(a) By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) By an agent to his principal where the agent undertakes- to receive such goods on behalf of the principal.

"Agent" [Section 2(5)1]: Agent means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

"Principal" [Section 2(88)] : Principal means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

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4. Import from related parties: Import of services by a person —

- From a related person or
- From any of his other establishments outside India,
- In the course or furtherance of business.

Activity deemed to be supply of goods [Sec. 7(lA)] - Activities to be treated as supply of goods as referred to in Schedule II —

1. **Transfer of title**

(a) Any transfer of the title in goods;

(b)Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed.

2. **Permanent Transfer of business assets**:

(a) If goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, then, such transfer or disposal is a supply of goods by the person;

(b) Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

I. The business is transferred as a going concern to another person; or

II. The business is carried on by a personal representative who is deemed to be a taxable person.

3. **Supply of Goods by 'unincorporated association' or 'body of persons' for consideration: The following shall be treated as supply of goods, namely: —** Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration. This transaction is a deemed sale under Article 366(29A) of Constitution.

Activity deemed to be supply of services [Sec. 7(l)(d)] - Activities to be treated as supply of service as referred to in Schedule II —

1. **Transfer of right without transfer of title:** Any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services. Thus, transfer of right to use, which is a deemed sale under Article 366(29A), is a 'service' now.

2. **Land and Building**

(a) Any lease, tenancy, easement, license to occupy land is a supply of services;

(b) Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process [Job-work, repair, maintenance, etc.]: Any treatment or process which is applied to another person's goods is a supply of services.

4. Personal/Non-business use of business assets is 'service': Where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business

a) Are put to any private use or

b) Are used, or made available to any person for use, for any purpose other than a purpose of the business, Whether or not for a consideration, the usage or making available of such goods is a supply of services;

5. Supply of services [Declared Services]: The following shall be treated as supply of services, namely:—

a) Renting of immovable property;

b) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received

- after issuance of completion certificate, where required, by the competent authority or
- After its first occupation, Whichever is earlier.

"**Competent authority**" means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, —

(i) An architect registered with the Council of Architecture constituted under the Architects Act, 1972; or

(ii) A chartered engineer registered with the Institution of Engineers (India); or

(iii) A licensed surveyor of the respective local body of the city or town or village or development or planning authority;

"Construction" includes additions, alterations, replacements or remodeling of any existing civil structure;

(c) Temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) Development, design, programming, customization, adaptation, up gradation, enhancement, implementation of information technology software;

(e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply: The following composite supplies shall be treated as a supply of services, namely:—

(a) **works contract in relation to immovable property** : works contract as defined in clause (119) of section 2; and Works contract concept exists only for immovable property — No concept of works contract in relation to goods [Section 2(119)] : "Works contract" means a contract for —

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

Immovable property transactions are always service; Therefore, construction etc. of immovable property (whether they amount to works contract or not) is always 'service'.

Transaction on goods of others is always service: Any treatment on goods of others is always a service.

(b) **Restaurant or catering transactions:** supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration. Hence, restaurant or catering transactions are always and fully service.

Neither goods nor service [Section 7(2)] - The following shall be treated neither as a supply of goods nor a supply of services —

[a] activities or transactions specified in Schedule III

1. Services by an employee to the employer in the course of or in relation to his employment.

2. Services by any court or Tribunal established under any law for the time being in force.

Note: The term "court" includes District Court, High Court and Supreme Court.

3.(a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;

(b) The duties performed by any person who holds any post in pursuance of provisions of the Constitution in that capacity; or

(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

5 a. Sale of land

b. Sale of building, but, subject to clause (b) of paragraph 5 of Schedule II [i.e., construction services are taxable]

6. Actionable claims, other than lottery, betting and gambling.

[b] Notified statutory activities: such activities or transactions undertaken by —

import■ The Central Government,

■ A State Government or

■ Any local authority

In which they are engaged as public authorities, as may be notified by the Central Government on the recommendations of the Council.

Other transactions — Notification as 'goods' or 'services' [Section 7(3)] - Subject to the provisions of sections 7(1) and 7(2), the Central 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.

Important Notes/Clarifications

- Government has notified that "service by way of grant of alcoholic liquor licence against consideration in the form of licence fee or application fee or by whatever name called" shall neither be regarded as supply of goods nor supply of service. For other licences and privileges, GST shall apply.

- Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. 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.

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

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

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

2.5 TAX LIABILITY ON COMPOSITE AND MIXED SUPPLIES [Section 8]

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

(a) Composite Supply

1. Composite Supply [Sec. 2(30)]: Composite supply means a supply —



- made by a taxable person
- To a recipient
- consisting of two or more taxable supplies of goods or services or both, or any combination thereof,—

Which are naturally bundled and supplied in conjunction with each other in the ordinary course of business,

One of which is a principal supply;

Principal supply [Section 2(90)]: "Principal supply" means the supply of goods or services —

- Which constitutes predominant element of a composite supply and
- To which any other supply forming part of that composite supply is ancillary;

2. Composite supply to be taxed as 'principal supply' [Sec. 8(a)]: A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.

Illustration. — Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply. In this case, entire transaction would be taxed as 'supply of goods'.



(b) Mixed Supply

1. Mixed Supply [Section 2(74)]: "Mixed supply" means —

- Two or more individual supplies of goods or services, or any combination thereof,
- made in conjunction with each other
- By a taxable person
- For a single price
- Where such supply does not constitute a composite supply.

2. Mixed Supply to be taxed as 'highest rated supply' [Sec. 8(b)]: A mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Illustration.—

- A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Hence, will be taxed at highest rate out of rates applicable to said items.

- Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately. In that case, each item will be taxable at rate applicable to said item.

2.6 CONSIDERATION [Section 2(31)]

1. General Meaning - Consideration is defined in an inclusive sense.

As per section 2(d) of the Indian Contract Act, 1872, consideration is defined as: "When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing, something, such act or abstinence or promise is called a consideration for the promise".

2. Inclusive definition [Sec. 2(31)] - "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,

(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
- But shall not include any subsidy given by the Central Government or a State Government;

Deposit — Not consideration, unless appropriated by supplier: However, a deposit given in respect of the supply of goods or services or both —

- shall not be considered as payment made for such supply
- Unless the supplier applies such deposit as consideration for the said supply.

Analysis: Thus, consideration may flow from a third party as well. But, subsidy and refundable deposits are not consideration.

There shall be levied a tax —

- called the "central tax" (Central Goods and Services Tax: CGST)
- on all intrastate supplies of —
  - Goods or
  - Services or
  - Both,
- Except on the supply of alcoholic liquor for human consumption

1.9 AGGREGATE TURNOVER, EXEMPT SUPPLY, INWARD SUPPLY, OUTWARD SUPPLY, TAXABLE SUPPLY & NON-TAXABLE SUPPLY [Section 2]

Sec. 2(108) Taxable supply - "Taxable supply" means a supply of goods or services or both which is leviable to tax under this Act;

Sec 2(78) Nontaxable supply - "Non-taxable supply" means a supply of goods or services or both which is nor leviable to tax —

i. Under this Act or
ii. Under the Integrated Goods and Services Tax Act

Sec 2(47) Exempt supply - "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;

Sec 2(67) Inward supply - "Inward supply" in relation to a person, shall mean receipt of goods or services or both —

- Whether by purchase, acquisition or any other means
- With or without consideration;

Sec 2(83) Outward supply - "Outward supply" in relation to a taxable person, means supply of goods or services or both, —

- whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode,

- made or agreed to be made
- By such person
- In the course or furtherance of business;

Sec 2(6) Aggregate Turnover - "Aggregate turnover" means the aggregate value of —

- All taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
- Exempt supplies,
- Exports of goods or services or both and
- Inter-State supplies

Of persons having the same Permanent Account Number, to be computed on all India basis but excludes CGST, SGST, UTGST and GST Compensation Cess.

QUESTIONS:

1. What is the taxable event under GST?
2. What is the tax treatment of composite supply and mixed supply under GST?
3. Supply of all goods and/ or services is taxable under GST. Discuss the validity of the statement.
4. Whether transfer of title and/ Or possession is necessary for a transaction to constitute supply of goods?
5. Examine whether the following activities amount to supply under section 7 of the CGST Act:

a) Veena charitable trust, trust which gets the eye treatment of needy people done free of cost, donated clothes and toys to children living in slum area.

b) Siri manufacturers have a factory in Delhi and a Depot in Mumbai. Both these establishments are registered in respective states. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

c) Rahul is an electronic commerce operator in Chennai. His brother who is settled in London is a well-known lawyer. Rahul has taken legal advice from him free of cost with regard to his family dispute.

d) What your answer be different if in the above case, Rahul has taken advice in respect of his business unit in Chennai?

6. State whether the following supplies would be treated as supply of goods or supplier of service as per schedule II of the CGST act-

a) Renting of immovable property

b) Good forming part of business assets are transferred disposed of by or under directions of person carrying on the business, whether or not for consideration.

c) Transfer of right in goods without transfer of title in goods.

d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

7. Determine whether the following supplies amount to composite supplies-
a) Hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.

b) A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.

8. Good supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reasons.

Illustrations

Illustration 1

Examine whether the following activities would amount to supply under section 7 of the CGST Act:

(a) Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.

(b) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

(c) Raman is an Electronic Commerce Operator in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regards to his family dispute.

(d) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

CHARGE OF GST

As discussed in an earlier chapter, the taxable event under GST is SUPPLY. CGST and SGST/UTGST are levied on all intra-State supplies of goods and/or services while IGST is levied on all inter-State supplies of goods and/ or services.

Levy and collection of CGST {Section 9 of CGST Act}:

Section 9(1):

Subject to the provisions of sub-section (2), there shall be levied a tax called the 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 and at such rates, not exceeding twenty per cent., as may be notified by the

Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Section 9(2):

The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council

Section 9(3):

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such 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 the supply of such goods or services or both.

Section 9(4):

The central tax in respect of the 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 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 the supply of such goods or services or both

Section 9(5):

The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Concept of E- commerce operators:

Electronic Commerce Operators (ECO) display products as well as services which are actually supplied by some other person to the consumer, on their electronic portal. The consumers buy such goods/ services through these portals. On placing the order for a particular product/ service, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.

The Government may notify specific categories of services the tax on intra -State supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

Notification No. 17/2017 CT (R) dated 28.06.2017 as amended has notified the following categories of services supplied through ECO for this purpose

- Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;

Maxicab/ Motorcab/ Motor cycle: shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicles Act, 1988.

Maxicab: means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, excluding the driver, for hire or reward.

Motorcab: means any motor vehicle constructed or adapted to carry not more than 6 passengers excluding the driver for hire or reward.

Motor car: means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage.

- Services by way of providing accommodation in hotels, inns, guest 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 section 22(1) of the CGST Act

- Services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.

Reverse charge mechanism:

Generally, the supplier of goods or services is liable to pay GST. However, in case of certain notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. 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.

Further, intra-State supply of taxable goods or services or both by an unregistered supplier to a registered person are exempt from CGST provided the aggregate value of such supplies of goods and/or services received by a registered person from any or all the unregistered suppliers does not exceed INR 5,000 in a day.

Supplies of goods taxable under reverse charge, i.e. the goods where tax is payable by the recipient: Goods like cashewnuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, etc. are taxable under reverse charge, i.e. recipient is liable to pay tax.

Supply of services taxable under reverse charge, i.e. the services where tax is payable by the recipient: Notification No. 13/2017 dated 28.06.2017 as amended has notified the following categories of supply of services wherein whole of the CGST shall be paid on reverse charge basis by the recipient of services:

S.No	Supplier of service	Recipient of service
1.	Service provided by insurance agent	Insurance company
2.	CG/ SG/ UT/ Local authority except • Renting of immovable property • 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 • Service in relation to aircraft or vessel inside or outside the precincts of a port or an airport • Transport of goods or passengers **However, service by way of renting of immovable property to a registered person is covered under RCM**	To a business entity located in taxable territory
3.	Taxable service provided by a goods transport agency (By Road)	Person who pays freight other than individual who is not registered.
4.	An arbitral tribunal or an individual advocate including a senior advocate or a firm of advocates by way of legal services.	To a business entity.
5.	Sponsorship service provided to any bodycorporate or firm.	Body corporate or Firm, who receives such service.
6.	Services provided or agree to be provided by a director of a body corporate to body corporate.{Effective from 11.07.2014}	Service receiver (company)

7.	Services provided by Recovery Agents to Banks or Financial Institutions or NBFC	Banks or Financial Institutions or NBFC
8.	Author/ music composer/ photographer/ artist or the like	Publisher/ Music company/ producer or the like located in taxable territory
9.	Services by Individual DSA to Banks or NBFC	Banks or NBFC
10.	Service by members of overseeing committee of RBI to RBI	RBI

However, an author can choose to pay tax under forward charge if-

(i) he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;

(ii) he makes a declaration on the invoice issued by him in prescribed form to the publisher.

The said provisions have been amended stipulating that reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to-

(a) a Department/establishment of the Central Government/ State Government/ Union territory; or

(b) local authority; or

(c) Governmental agencies,

which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.

New services covered under RCM:

S.No.	Category of supply of service	Supplier of service	Recipient of Service
1.	Services provided by Business facilitator to a banking company [Effective from 01.01.2019]	Business facilitator	A banking company, located in the taxable territory
2.	Services provided by an agent of business correspondent to business correspondent.	An agent of business correspondent	A business correspondent, located in the taxable territory
3.	Security services (services provided by way of supply of security personnel) provided to a registered person. However, 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 CGST Act 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 composition scheme. [Effective from 01.01.2019]	Any person other than a body corporate	A registered person, located in the taxable territory.
4.	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 [Effective from 01.04.2019]	Any person	Promoter
5.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter

	[Effective from 01.04.2019]		
	Services provided by way of renting of a motor vehicle provided to a body corporate	Any person other than a body corporate, who is paying CGST @ 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory
	Services of lending of securities under Securities Lending Scheme,1997 ("Scheme") of Securities and Exchange Board of India, 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

COMPOSITION LEVY [Section 10 of CGST Act]:

Turnover limit for determining the eligibility for composition scheme enhanced to 1.5 crore

Earlier, the Government had the power to increase the turnover limit for determining the eligibility for composition scheme (hereinafter referred to as eligibility turnover limit) upto 1 crore [First proviso to section 10 of CGST Act].
The said provision has been amended thereby empowering the Government to enhance the eligibility turnover limit for composition scheme upto 1.5 crore.

Consequently, in pursuance of aforesaid power, with effect from 01.04.2019, the eligibility turnover limit for composition scheme is enhanced from 1 crore to 1.5 crore. In other words, a registered person, whose aggregate turnover in the preceding financial year did not exceed 1.5 crore is eligible to opt for composition scheme.

Resultantly, henceforth the eligibility turnover limit for composition for 8 Special Category States - Arunachal Pradesh, Uttarakhand, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura is ` 75 lakh while remaining 3 Special Category States – Assam, Himachal Pradesh and Jammu and Kashmir - had higher eligibility turnover limit of ` 1.5 crore.

Composition scheme taxpayers permitted to render services other than restaurant services upto a specified limit [Second proviso to section 10 of the CGST Act]

Under the erstwhile provisions, only a supplier of restaurant service was eligible for composition scheme. A person engaged in the supply of any service other than restaurant service was not eligible for composition scheme.

However, there are cases where a manufacturer/ trader is also engaged in supply of services other than restaurant service though the percentage of such supply of services is very small as compared to the supplies of goods. There may also be cases where a restaurant service provider is also engaged in supplying a small percentage of other services.

With a view to enable such taxpayers to avail of the benefit of composition scheme, second proviso has been added to section 10(1) which permits a registered person opting for composition scheme to supply services [other than restaurant services] of specified value. This specified value is value not exceeding:
10% of the turnover in a State/Union territory in the preceding financial year
Or
5 lakh, whichever is higher.

Consequently, eligibility to opt for composition scheme as contained in section 10(2)(a) has also been amended to provide that the registered person shall be eligible to opt for the composition scheme provided:

either he is not at all engaged in supply of services other than restaurant services
or
in case he supplies services other than restaurant services, value of such services does not exceed 10% of the turnover in a State/Union Territory in the preceding financial year or 5 lakh, whichever is higher.

Under composition scheme, a (i) manufacturer, (ii) restaurant service provider and (iii) any other supplier eligible for composition levy, is required to pay tax @ (i) ½%5, (ii) 2½%6 and (iii) ½%7 respectively.
Earlier, tax rate under category (iii) was ½% of turnover of taxable supplies of goods in the State or Union territory.

However, as discussed above, since now a supplier opting for composition scheme has also been permitted to supply services other than restaurant services marginally, with effect from 01.02.2019, tax rate under category (iii) is ½% of turnover of taxable supplies of goods and services in the State or Union territory [Notification No. 03/2019 CT dated 29.01.2019].

Option to pay concessional tax @ 3%:

With effect from 01.04.2019, Notification No. 2/2019 CT (R) dated 07.03.20198 has provided an option to a registered person whose aggregate turnover in the preceding financial year is upto 50 lakh and who is not eligible to pay tax under composition scheme, to pay tax @ 3% on first supplies of goods and/or services upto an aggregate turnover of 50 lakh made on/after 1st April in any FY, subject to specified conditions.

Aggregate turnover includes value of all outward supplies of persons i..e, taxable,, exempt, exports and also inter state of persons having the same PAN be computed on all India basis but excludes CGST, SGST, UTGST, IGST, CESS, value of inward supplies on which tax is payable by reverse charge.

"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 an all-India basis but excludes Central tax, State tax, Union territory tax, Integrated tax and cess.

Rate of composite tax - The composite tax may (i.e., optional) be paid in lieu of the tax payable by him. It is calculated at such rate as may be prescribed, but not exceeding,—
(a) in case of a manufacturer - 1% of the turnover in State/Union territory {Amended to 0.5%}

(b) in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II [i.e., restaurant and caterers] - 2.5% of the turnover in State/Union territory
(c) In case of other suppliers - 0.5% of turnover in State/Union territory {Turnover shall be taxable turnover}

Conditions in rules - Composition scheme may be availed, subject to such conditions and restrictions as may be prescribed.

Statutory conditions - The registered person shall be eligible to opt under sub-section (1), if:—
(a)He is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II; [therefore, except restaurant and caterers, other service providers are ineligible for composition schemes]
(b) He is not engaged in making any supply of goods which are not leviable to tax under this Act;
(c) He is not engaged in making any inter-State outward supplies of goods;
(d) He is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source u/s 52; and
(e) He is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council.

Scheme applies to all regd. persons with same PAN - If more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme unless all such registered persons opt to pay tax under that sub-section.

Option lapses, if turnover crosses limit - The option availed of by a registered person under this section shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under this section.
Composite tax, not be collected - A taxable person to whom the provisions of this section apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

No input credit - A taxable person to whom the provisions of this section apply shall not be entitled to any credit of input tax.

Penalty for wrong use of scheme - If the proper officer has reasons to believe that a taxable person has paid tax under this section despite not being eligible, such person shall, —

- in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and
- The provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

Other points:

- Suppliers who opted for composition scheme cannot issue any tax invoice, but simply need to issue a bill of supply.
- Payment of tax shall be on quarterly basis.

Composition Rules, 2017

REG-01 Application of composite tax along with application for registration: Any person who applies for registration may give an option to pay tax under section 10 in Part B of FORM GST REG-01, which shall be considered as an intimation to pay tax under the said section.

CMP-02 & ITC-3 Declaration prior to start of year: Any registered person who opts to pay tax under section 10 shall electronically file an intimation in FORM GST CMP-02, duly signed, on the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised.

ITC declaration within 60 days: He shall also furnish the statement in FORM GST ITC-3 within sixty days from the commencement of the relevant financial year.

CMP-03 - Any person who files an intimation under this rule to pay tax under section 10 shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in FORM GST CMP-03, on the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, within 90 days of the date from which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

Single intimation for one PAN - Any intimation under this rule in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

No fresh intimation every year - The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

2. Conditions and restrictions - The person exercising the option to pay tax under section 10 shall comply with the following conditions:—

(a) He is neither a casual taxable person nor a non-resident taxable person;

(b) the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised vide CMP-01;

(c) The goods held in stock by him have not been purchased from an unregistered person and where purchased, he pays the reverse charge tax under section 9;

(d) He shall pay tax under reverse charge under Section 9 on inward supply of goods or services or both received from unregistered persons;

(e) He was not engaged in the manufacture of goods as notified under section 10, during the preceding financial year **i.e., Ice cream and other edible ice whether or not containing cocoa, Pan masala, tobacco and manufactured tobacco substitutes.** Recently, aerated waters is also covered in this.

(f) He shall mention words "composition taxable person, not eligible to collect tax on supplies" at top of the bill of supply issued by him; and

(g) He shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

Note: There is no restriction on composition supplier to procure goods from inter-state supplies.

3. Validity - The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and these rules.

4. Withdrawal of option CMP-04 - Mandatory withdrawal on violation of conditions: The person shall be liable to pay normal tax from the day he ceases to satisfy any of the conditions mentioned in section 10 or these rules and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in FORM GST CMP-04 within 7 days of occurrence of such event.

However, such person shall be allowed to avail ITC in respect of stock of inputs and inputs contained in semi-finished goods or finished goods held in stock by him and on capital goods held by him on the date of withdrawal by furnishing a statement within 30 days of withdrawal of option, containing details of stock held.

Optional withdrawal: The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in FORM GST CMP-04, duly signed, electronically on the Common Portal.

CMP-05 Notice of withdrawal: Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 or has contravened the provisions of the Act or these rules, he may issue a notice to such person in FORM GST CMP-05 to show cause within 15 days of the receipt of such notice as to why option to pay tax under section 10 should not be denied.

CMP-06 Reply to notice: Reply to the show cause notice issued in Form GST CMP-05 from the registered person

CMP-07 Order : The proper officer shall issue an order in FORM GST CMP-07 within 30 days of receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 from the date of option or from the date of the event concerning such contravention, as the case may be.

Withdrawal applies to all units - Any intimation for withdrawal or denial of the option in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

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ILLUSTRATIONS

Illustration 1

M/S Sai Trading Company, an eligible registered dealer in goods making intra state supplies within the state of Andhra Pradesh, reported an aggregate turnover of Rs. 78 Lakhs in the preceding financial year

(i) Determine whether Sai Trading Company will be eligible for composition levy, as on 31-10-17

(ii) Will your answer be different, if in the above scenario, M/s Sai Trading Company is making intra state supply within the state of Jammu and Kashmir?

Illustration 2

Decide which person is liable to pay GST in the following independent cases, where recipient is located in the taxable territory. Ignore the aggregate turnover and exemption available.

a. Mr Raghu provided sponsorship services to WE-WIIN Cricket academy an LLP
b. "Safe Trans", a Goods Transport Agency, transported goods of Kapil & Co., a partnership firm which is not registered under GST

Illustration 3

State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

(a) Services provided by an arbitral tribunal to any business entity.
(b) Sponsorship services provided by a company to an individual.
(c) Renting of immovable property service provided by the Central Government to a registered business entity.

Illustration 4

A person availing composition scheme in Haryana during a financial year crosses the turnover of Rs. 1.5 crore during the course of the year i.e. he crosses the turnover of Rs. 1.5 crore in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

Illustration 5

Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was Rs. 90 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical. You are required to advice Mohan Enterprises, whether he can do so?

Illustration 6

Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs. 1.5 crores:

(i) Mohan is engaged in providing only legal services in Rajasthan and is registered in the same State.

(ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighboring States.

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EXEMPTIONS

POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST ACT/SECTION 6 OF IGST ACT]

1. Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, **by notification**, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.
2. Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, **by special order** in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
3. The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub- section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

LIST OF SERVICES EXEMPT FROM TAX

1. **Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities -**

In order to claim exemption under this head, following two conditions must be satisfied:-

(i) The entity is registered with income tax authorities under section 12AA of the Income tax Act, 1961, and

(ii) The entity carries out one or more of the specified charitable activities.

It implies that tax is payable on any service other than by way of charitable activities to any other person [subject to fulfilment of other conditions of taxability] provided by an entity registered under section 12AA of the Income tax Act, 1961.

2. **Services by way of transfer of a going concern, as a whole or an independent part thereof.**
3. **Pure services provided TO Government -**

- 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
- 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.

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 243 W of the Constitution are exempt.

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.

6. Services BY Government -

Services by the Central Government, State Government, Union territory or local authority excluding the following services—

- 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;
- services in relation to an **aircraft or a vessel,** inside or outside the precincts of a port or an airport;
- transport of goods or passengers; or
- Any service, other than services covered under entries (a) to (c) above, provided to business entities.

7. Services provided by the Central Government, State Government, Union territory or local authority **to a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.**.

Explanation - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:-

- Clauses (a), (b) and (c) of Entry 6 above.
- Services by way of **renting of immovable property**.

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**.

However, nothing contained in this entry shall apply to services referred in clauses (a), (b) and (c) of Entry 6 above.

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**.

However, nothing contained in this entry shall apply to services referred in Clause (a), (b) and (c) of Entry 6 above

Further, in case where **continuous supply of service*** 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 FY.

*as defined in section 2(33) of the CGST Act, 2017

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 provided the 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.

Since FIFA U-17 Women's World Cup 2020 is to be hosted in India, exemption has been granted to services provided by and to FIFA and its subsidiaries related any of the events under this World Cup.

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**.
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**.

A. 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.
B. 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.

12. Services by way of renting of residential dwelling for use as residence.
13. Services by a person by way of-

- conduct of any religious ceremony;
- 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 section 10(23C)(v) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the said Income-tax Act.

However, nothing contained in entry (b) of this exemption shall apply to-

- Renting of rooms where charges are ₹1,000 or more per day;
- Renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ₹10,000 or more per day;
- Renting of shops or other spaces for business or commerce where charges are ₹10,000 or more per month.

14. **Services by a hotel**, inn, guest house, club or campsite, by whatever name called, **for residential or lodging purposes**, having value of supply below or equal to ₹1,000 per day or equivalent.

15. **Transport of passengers**, with or without accompanied belongings, by –

- Air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
- **Non-air conditioned contract carriage** other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or
- **Stage carriage** other than air- conditioned stage carriage.

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 **RCS (Regional Connectivity Scheme) airport**, against

consideration in the form of viability gap funding:

However, nothing contained in this entry shall apply on or after the expiry of a period of 1 year from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

17. Service of **transportation of passengers**, with or without accompanied belongings, by—

- **Railways** in a class other than—
- ✓ first class; or
- ✓ an air-conditioned coach;
- **Metro, monorail or tramway;**
- **Inland waterways**;
- **Public transport**, other than predominantly for tourism purpose, in a vessel between places located in India; and
- Metered cabs or auto rickshaws (including e-rickshaws).

18. Services by way of transportation of goods -

- **By road** except the services of—
- ✓ a goods transportation agency;
- ✓ a courier agency;
- By inland waterways.

19. Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India **upto 30.09.2020**

20. Services by way of transportation by rail or a vessel from one place in India to another of the following goods -

- relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- defence or military equipments;
- newspaper or magazines registered with the Registrar of Newspapers;
- railway equipments or materials;
- agricultural produce;
- milk, salt and food grain including flours, pulses and rice; and
- Organic manure.

21. Services provided by a goods transport agency, by way of transport in a goods carriage of -

- agricultural produce;
- goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹1,500;
- goods, where consideration charged for transportation of all such goods for a single consignee does not exceed ₹750;
- milk, salt and food grain including flour, pulses and rice;
- organic manure;
- newspaper or magazines registered with the Registrar of Newspapers;
- relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- Defence or military equipments.

22. Services by way of giving on hire -

To a state transport undertaking, a motor vehicle meant to carry more than 12 passengers or **to** **a local authority, an Electrically operated vehicle (EOV) meant**

to carry more than 12 passengers; EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle.; or

To a goods transport agency, a means of transportation of goods.

23. Service by way of access to a road or a bridge on payment of toll charges.

24. Services by way of loading, unloading, packing, storage or warehousing of rice.

Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.

25. Transmission or distribution of electricity by an electricity transmission or distribution utility.

26. Services by the Reserve Bank of India.

27. 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);
- Inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

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.

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.

Services of life insurance provided/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.

30. Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948.

31. Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.

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.

33. Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.

34. Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees 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.

35. **Services of general insurance business provided under following schemes -**

- Hut Insurance Scheme;
- Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
- Scheme for Insurance of Tribals;
- Janata Personal Accident Policy and Gramin Accident Policy;
- Group Personal Accident Policy for Self-Employed Women;
- Agricultural Pumpset and Failed Well Insurance;
- premia collected on export credit insurance;
- Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;
- Jan Arogya Bima Policy;
- Pradhan Mantri Fasal Bima Yojana (PMFBY);
- Pilot Scheme on Seed Crop Insurance;
- Central Sector Scheme on Cattle Insurance;
- Universal Health Insurance Scheme;
- Rashtriya Swasthya Bima Yojana;
- Coconut Palm Insurance Scheme;
- Pradhan Mantri Suraksha BimaYojna;
- 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.
- **Bangla Shasya Bima**

36. **Services of life insurance business provided under following schemes-**

- Janashree Bima Yojana;
- Aam Aadmi Bima Yojana;
- Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of 2L;
- Varishtha Pension BimaYojana;
- Pradhan Mantri Jeevan Jyoti BimaYojana;
- Pradhan Mantri Jan DhanYogana;
- Pradhan Mantri Vaya Vandan Yojana.

37. Services by way of collection of contribution under the Atal Pension Yojana.

38. Services by way of collection of contribution under any pension scheme of the State Governments.

39. **Services by the following persons in respective capacities -**

- Business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;
- Any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or
- Business facilitator or a business correspondent to an insurance company in a rural area.

40. Services provided to the Central Government, State Government, and Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, and Union territory.
41. One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (30 years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.
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 license fee or spectrum user charges, as the case may be.
43. Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.
44. Services provided by an incubatee up to a total turnover of ₹50 lakh in a financial year subject to the following conditions, namely:-

- The total turnover had not exceeded ₹50 lakh during the preceding financial year; and
- A period of three years has not elapsed from the date of entering into an agreement as an incubatee.

45. **Services provided by -**

- An arbitral tribunal to –
  - ❖ any person other than a business entity; or
  - ❖ a business entity with an aggregate turnover up to **such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017**;
- A partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-
  - ❖ an advocate or partnership firm of advocates providing legal services;
  - ❖ any person other than a business entity; or
  - ❖ a business entity with an aggregate turnover up to **such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.**;
- A senior advocate by way of legal services to-
  - ❖ any person other than a business entity; or
  - ❖ A business entity with an aggregate turnover up to ₹20 lakh (₹10 lakh in the case of Special Category States) in the preceding financial year.

46. Services by a veterinary clinic in relation to health care of animals or birds.
47. **Services provided by the Central Government, State Government, Union territory or local authority by way of -**

- Registration required under any law for the time being in force;
- 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.

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 bio- incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.

49. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.

50. Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.

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.

52. Services by an organiser to any person in respect of a business exhibition held outside India.

53. Services by way of sponsorship of sporting events organised -

- By a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
- 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;
- By the Central Civil Services Cultural and Sports Board;
- As part of national games, by the Indian Olympic Association; or
- Under the Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme.

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—

- agricultural operations directly related
- to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
- supply of farm labour;
- 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;
- renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- loading, unloading, packing, storage or warehousing of agricultural produce;
- agricultural extension services;
- Services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

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.

56. Services by way of slaughtering of animals.

57. Services by way of pre-conditioning, pre- cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.

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.

59. Services by a foreign diplomatic mission located in India.

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.

61. Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving license, birth certificate or death certificate.

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.

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.

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:

However, the exemption shall apply only to tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource.

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.

66. Services provided -

- By an educational institution to its students, faculty and staff;
- **To an educational institution, by way of -**

❖ transportation of students, faculty and staff;

❖ catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;

❖ security or cleaning or house- keeping services performed in such educational institution;

❖ services relating to admission to, or conduct of examination by, such institution; upto higher secondary:

However, nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre- school education and education up to higher secondary school or equivalent.

In this regard, it has been clarified that Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, Maritime Training Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST subject to fulfilment of other conditions specified under entry 66 of the exemption notification

67. Services provided to a recognised sports body by-

- An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;
- Another recognised sports body.

68. Any services provided by -

- The National Skill Development Corporation set up by the Government of India;
- A Sector Skill Council approved by the National Skill Development Corporation;
- An assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- A training partner approved by the National Skill Development Corporation or the Sector Skill Council,
- **In relation to-**

❖ the National Skill Development Programme implemented by the National Skill Development Corporation; or

❖ A vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or

❖ Any other Scheme implemented by the National Skill Development Corporation.

69. 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.

70. Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY) 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.

71. 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.

72. Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.

73. Services by way of -

- Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
- Services provided by way of transportation
- Of a patient in an ambulance, other than those specified in (a) above.

74. 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.

75. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

76. 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 -

- As a trade union;
- for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or

- Up to an amount of ₹7,500 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.

77. Services by an artist by way of a performance in folk or classical art forms of -

- music, or
- dance, or
- theatre,

If the consideration charged for such performance is not more than ₹1, 50,000.
However, the exemption shall not apply to service provided by such artist as a brand ambassador.

78. Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.

79. Services by way of training or coaching in recreational activities relating to -

- arts or culture, or
- Sports by charitable entities registered under section 12AA of the Income-tax Act.

80. Services by way of right to admission to -

- circus, dance, or theatrical performance including drama or ballet;
- award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
- Recognised sporting event, where the consideration for admission is not more than ₹500 per person as referred to in (a), (b) and (c) above.

Above services have been exempted from both CGST and IGST by virtue of notifications issued under respective Acts.

Apart from this, list of services exempt from IGST by Notification No. 9/2017 IT (R) dated 28.06.2017 as amended also include following three services:

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 for the purposes of providing charitable activities; or

(c) A person located in a non-taxable territory. However, the exemption shall not apply to -

❖ online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or

Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India **upto 30.09.2020.**

Services received by the RBI, from outside India in relation to management of foreign exchange reserves.

Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.

Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI)[1]

Issue: Whether GST is applicable on additional / penal interest on the overdue loan? Whether such penal interest would be exempt under Entry 27 of exemption notification or it would be taxable treating it as consideration for liquidated damages[2]?

Clarification: As per the provisions of section 15(2)(d) of the CGST Act, the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. Entry 27 of exemption notification, *inter alia,* exempts 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). Here, interest means interest payable in any manner in respect of any moneys borrowed/debt incurred (including a deposit, claim or other similar right or obligation), but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.

There are two transaction options involving EMI that are prevalent in the trade. In view of th e provisions of law discussed in preceding para, these two options, alongwith the GST applicability on them, have been explained with the help of illustrations as under -

Indigolearn

Illustration – 1: X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. However, X gives Y an option to pay in installments, Rs. 11,000/- every month before 10th day of the following month, over next four months (Rs. 11,000/- × 4 = Rs. 44,000/-). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to Rs. 500/- per month for the delay.

In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to Rs. 500/- per month for each delay in payment.

In this case, the amount of penal interest is to be included in the value of supply [i n terms of section 15(2)(d)]. The transaction between X and Y is for supply of taxable goods i.e. mobile phone.

Illustration – 2: X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.

Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry. However, any service fee/ charge or any other charges, if any, are levied by M/s. ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt.

Moreover, the value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

ILLUSTRATIONS

Illustration 1

Examine whether GST is exempted on the following independent supplies of services:

(i) Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school.

(ii) Services provided by way of vehicle parking to general public in a shopping mall.

Illustration 2

Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:

Customer	Nature of service provided	Amount charged (Rs.)
A	Transportation of Milk	20,000
B	Transportation of books on a consignment transported in a single goods carriage	3,000
C	Transportation of chairs for a single consignee in the goods carriage	600

Illustration 3

Examine whether GST is payable in the following independent supply of services:

(I) Indiana engineering college, a recognised educational institution, has conducted an entrance text examination for various courses run by it and charged entrance fee from the applicants.

(ii) Ramfal Lalaji, an agriculturist, has stored sugarcane in a warehouse. He has taken fumigation services in the said warehouse from Gupta Pest Control Co. for which, he paid consideration of Rs. 6,000.

Illustration 4

Examine whether supply of food and drink in the following independent cases is exempt from GST:

(I) "Smart kids" is a play school located in Delhi. It has outsourced the catering services for supply of food and drink in the canteen of play school to BTV Caterers, Delhi for a consideration of Rs. 8 lakhs per annum.

(ii) Wellness Hospital, a clinical establishment located in Tirupati, is specialized in diabetic treatment. The hospital has its own canteen-Tasty foods. The canteen serves the food and drink to the in-patients as advised by the doctors/ nutritionists of the hospital. Apart from this, others (who are not admitted) or attendants or visitors of the in-patients also take food and drink from the canteen.

Illustration 5

Examine whether GST is payable in the following independent supply of services:

(I) Teja & Co, a tour operator, provides services to a foreign tourist for tour conducted in Jammu & Kashmir and received a sum of Rs. 3,00,000

(ii) Ms. Poorva acts as a Team Manager for Indian Sports League (ISL), a recognised sports body, for a Tennis tournament organised by Multi brand retail company and received a remuneration of Rs. 2,00,000.

Illustration 6

Decide with reason whether the following independent services are exempt under CGST act, 2017:

(I) M/s Fast Trans, a goods transport agency, transported relief materials meant for victims of Kerala flood being a natural disaster, by road from Delhi to Ernakulam for a Limited Co.

(ii) Kenya enterprise, an event organizer, provided services to Breathing Wall Ltd. by way of organizing a business exhibition at Pragati Maidan in New Delhi as part of Make in India Initiative.

Illustration 7

Decide with reason whether the following independent services are exempt under CGST act, 2017:

(I) Gokul Residence Welfare Association received Rs.9,000 per month as contribution from each member for sourcing of goods and services from third person for common use of its members.

(ii) Mr, Vikalp, a performing artist, has received Rs.1,58,000 from performance of classical dance and Rs. 90,000 from acting in TV serial during the month of June,2018

Illustrations 8

Decide with reason whether the following independent supplies are exempt under CGST act, 2017:

- Amith, runs a fair price shop, and earns Rs.30,000 as consideration from government for sale of food grains.
- Determine taxability:
    a. Mr. X, a resident has given a part of his residence by way of renting to Mr. Y for residential purpose.
    b. What would be your answer if house is given for commercial purpose?
- Mr. A, a priest charged, Rs. 51,000 for services provided to B for conduct of his marriage ceremony.
- Determine taxability:
    a. Tirupati temple provides accommodation service wherein the room rent is Rs. 900 per day.
    b. What would be your answer, if the room rent is Rs. 1,100 per day?
- Mr. Akash, travel by air from Hyderabad to Sikkim and Airlines Co. charged Rs. 10,000. Will GST apply on Rs. 10,000?
- Mr. Mohan, an independent journalist, working for Press Trust of India. And provide services by way of collecting or providing News.
- A News reporter attends a press conference of Ministers or a visit to Police station or a Crime scene for collection of News to be delivered to various Newspapers or TV Channels.
- Mr. Lal applied for a passport and paid a fee of Rs 1,500 at the passport office. Will GST apply on Rs. 1,500?
- PVR Cinema's charges Rs. 200 as application charges for exhibition of a film.

12(1) Tax payable as per TOS

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

12(2) Time of supply — general

DoI = Date of Issue of invoice by the supplier or the last date on which he is required under Section 31(1), to issue the invoice with respect to the supply.

As per Section 31, a registered person shall before or at the time of removal of goods for supply to the recipient, where supply involves movement of goods or delivery of goods or making available thereof to the recipient in any other case issue a tax invoice showing all prescribed particulars. As per section 31(4), in the case of continuous supply of goods, the invoice should be issued before or when the statement of accounts is issued or as the case may be, each such payment is received.

Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

DoP = Date on which the supplier receives the payment with respect to the supply, being the earlier of —

DoPE = Date on which the Payment is Entered in his books of account

DoPB = Date on which the payment is credited to his bank account.

Time of Supply [ToS] = Earlier of: (a) DoI, or, (b) DoP.

AS PER NOTIFICATION NO. 66/2017, TOS IN CASE OF SUPPLY OF GOODS IN DATE OF INVOICE

Small advances upto Rs. 1,000, then, ToS = DoI [Option of supplier]: Where the supplier of taxable goods receives an amount up to Rs. 1,000 in excess of the

amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Only 'part supply' billed in invoice is considered : For the purposes of (a) and (b) above, "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment. Hence, in case of part billing or part payment, only the part of the supply billed/paid is considered.

12(3) Reverse charge - ToS

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—

(a) **DoR :** the date of the receipt of goods; or

(b) **DoP :** the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) DoI + 30 days : the date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

Date of entry in books of recipient, if ToS can't be determined as per above : If it is not possible to determine the time of supply under (a) or (b) or (c) above, the time of supply shall be the date of entry in books of account of the recipient of supply.

12(4) Supply of vouchers by a supplier -ToS on issue/ redemption

In case of supply of vouchers by a supplier, ToS shall be—

(a) The date of issue of voucher, if the supply is identifiable at that point; or

(b) The date of redemption of voucher, in all other cases.

12(5) ToS not determinable — ToS — Due Date of return or date of paying tax

Where it is not possible to determine the time of supply under the provisions of section 12(2), (3) or (4), the ToS shall—

(a) In a case where a periodical return has to be filed, be the date on which such return is to be filed;

or

(b) In any other case, be the date on which the tax is paid.

12(6) Addition in value by interest, fee, etc. - ToS on receipt basis

The time of supply —

To the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

TIME OF SUPPLY (TOS) OF SERVICES [Section 13]

13(1) Tax payable as per TOS

The liability to pay tax on services shall arise at time of supply, as determined in accordance with the provisions of this section.

13(2) Certain acronyms

DoI = Date of Issue of invoice by the supplier.

DoP = Date of receipt of payment i.e., date on which the supplier receives the payment with respect to the supply, being the earlier of —

DoPE = Date on which the Payment is Entered in his books of account

DoPB = Date on which the payment is credited to his bank account.

DoS = Date of provision of service

DoR = the date on which the recipient shows the receipt of services in his books of account.

Only 'part supply' billed/paid is considered: For the above purposes, "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment. Hence, in case of part billing or part payment, only the part of the supply billed/paid is considered.

Sec 13(2) Time of Supply [ToS]: In general, ToS shall be –

(a) If invoice is issued within period prescribed u/s 31(2)

ToS = Earlier of:

DoI, or,

DoP.

(b) If invoice is not issued within period prescribed u/s 31(2)

ToS = Earlier of:

DoS, or,

DoP.

If (a) or (b) do not apply

ToS = DoR

(c) Small advances upto Rs. 1,000, then,

ToS = DoI [Option of supplier]

If supplier of taxable services receives an amount up to Rs. 1,000 in excess of amount indicated in tax invoice, then, ToS of such excess amount shall, at the option of said supplier, be DoI in respect of such excess amount.

Reverse Charge

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be —

(a) General

Earlier of the following dates, namely:—

DoP : the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

DoI + 60 days : date immediately following 60 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

(b) If ToS can't be determined above

Where it is not possible to determine the time of supply under aforesaid provision, the time of supply shall be the date of entry in the books of account of the recipient of supply.

Associated enterprises

In case of supply by associated enterprises, if supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

13(4) Supply of vouchers

In case of supply of vouchers by a supplier, ToS shall be—

(a) Date of issue of voucher, if the supply is identifiable at that point; or

(b) The date of redemption of voucher, in all other cases.

13(5) ToS not determinable — ToS — Due Date of return or date of paying tax

Where it is not possible to determine the time of supply under the provisions of section 13(2), (3) or (4), the ToS shall—

(a) In a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) In any other case, be the date on which the tax is paid.

13(6) Addition in value by interest, fee, etc. - ToS on receipt basis

The time of supply –

To the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration

Shall be the date on which the supplier receives such addition in value.

QUESTIONS:

1. **Ramu Private Limited receives the order and advance payment on 05th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice was issued at that time, and it is issued much later, after expiry of prescribed period for issue of invoice. When is the time of supply of service?**
2. **Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2ndAugust but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment. What is the time of supply of the 150 cartons?**
3. **Sodexo meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for six months and can be used against purchase of food items. The employees can use them in various stores for purchases of various edible items on different dates throughout the six months. What is the date of supply of the coupons?**
4. **An Income tax and money laundering case against Mr X, working in a multinational company, reveals a large volume of undisclosed assets, which he claims as service income. On this basis, The GST authorities investigate the GST liability. Dates of provision of service, whether in the first half of the second half of the financial year being scrutinised by income tax authorities, are not known. Mr X pays GST during investigation. What is the time of supply of the service?**

5. **Determine the time of supply in the following cases assuming that GST is payable under reverse charge.**

SNO	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of goods
	(1)	(2)	(3)
1	July 1	August 10th	June 29
2	July 1	June 25th	June 29
3	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29
4	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
5	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29
6	August 1	August 10th	June 29

Indigolearn

6. Determine the time of supply in the following cases assuming that GST is payable under reverse charge.

SNO	Date of payment by recipient of supply of services.	Date of issue of invoice by supplier of services
	(1)	(2)
1	August 10th	June 29th
2	August 10th	June 1st
3	Part payment is made on June 30th and balance amount paid on September 1st	June 29th
4	Payment is entered in the books of account on June 28th and debited in recipient's bank account on June 30th	June 1st
5	Payment is entered in the books of account on June 30th and debited in recipient's bank account on June 26th	June 29th

ILLUSTRATIONS

Illustration 1

Royal Sweet Co., Delhi, a registered supplier, has furnished the details of the following few transactions which took place in November, 20XX:

S.No.	Date	Particulars	Date of Invoice	Amount (Rs.)
I.	11.11.20XX	Payment made to an advocate in Delhi	07.07.20XX	1,25,000
II.	20.11.20XX	Paid sitting fees to Director from Haryana for meeting in Delhi on 15.10.20XX [Inter-State supply]	15.10.20XX	75,000

Assume the rates of taxes to be as under:-

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

You are required to compute GST [CGST, SGST/IGST, as the case maybe] payable for the month of November, 20XX along with time of supply of the afore mentioned activities.

Illustration 2

Explain the meaning of the term "date of receipt of payment" as per section 13 of the CGST Act,2017.

Illustration 3

M/s. Ramchandra Associates has received some taxable services from Mohan Dalal (P) Ltd. on 12.01.20XX by making a cash payment of Rs. 5,00,000 on same day.

Payment was entered in the books of accounts of

- M/s. Ramchandra Associates on 16.01.20XX
- Mohan Dalal (P) Ltd. on 20.01.20XX.

Invoice was issued by Mohan Dalal (P) Ltd. on 18.01.20XX.

Determine the time of supply in the given case

Illustration 4

Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June

- and made advance payment for the transport on the same date, i.e., 17th June.
- However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July.
- Invoice was received from the transporter on 22nd July.

What is the time of supply of the transporter's service?

Note: Transporter's service is taxed on reverse charge basis

Illustration 5

Raju Pvt Ltd. receives the order and

- advance payment on 5th January for carrying out an architectural design job.
- It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.

When is the time of supply of service?

Illustration 6

Investigation shows that 150 cartons of ceramic capacitors were despatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment.

What is the time of supply of 150 cartons for the purpose of payment of tax?

Illustration 7

An order is placed on Ram & Co. on 18th August for supply of a consignment of customised shoes.

- Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December.
- The customer collects the consignment from the premises of Ram & Co. on 7th December and electronically transfers the payment on the same date,
- which is entered in the accounts on the next day, 8th December

What is the time of supply of the shoes for the purpose of payment of tax?

Illustration 8

Sodexo **meal coupons** are sold to a company on 9th August for being distributed to the employees of the said company.

The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months.

What is the date of supply of the coupons?

Illustration 9

A firm of advocates

- issues invoice for services to ABC Ltd. on 17th Feb.

- The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company.
- The dispute drags on and finally payment is made on 3rd November.

Identify the time of supply of the legal services.

Note: Legal services are taxable on reverse charge basis.

Illustration 10

Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December.

What is the method to fix the time of supply of the service?

Illustration 11

M/s Mansh and Vansh Trading Company, a registered supplier, is liable to pay GST under forward charge.

Determine time of supply from the following information furnished by it:

Goods supplied on	3rd Oct
Invoice issued on	5th Oct
Payment received on	9th Oct

Illustration 12

Mr.Lakhan provides Continuous Supply of Services (CSS) to M/s TNB Limited. He furnishes the following further information:

(i)	Date of commencement of providing CSS	01-10-2017
(ii)	Date of completion of providing CSS	31-01-2018
(iii)	Date of receipt of payment by Mr.Lakhan	30-3-2018

Determine the time of supply of issue of invoice as per provisions of CGST Act, 2017, in the following circumstances:

1. If no due date of payment is agreed upon by both under the contract of CSS

2. If payment is linked to the completion of service
3. If M/s TNB Limited has to make payment on 25-03-2018 as per the contract between them.

Illustration 13

On 4th September 2017, V.R.Mehman, a famous music composer received Rs.3 crore of consideration from M/s Zilmil Music Co. Ltd. for sale of copyright of his original music album.

He finished his work and make available the CD to the music company on 20th July and raised invoice on 24th July. What will be the time of supply as per CGST Act, 2017.

Note: Above services is taxable under Reverse Charge basis.

Illustration 14

XYZ & Co., a firm of chartered accountants issued invoice rendered to Mr.A on 7th September 2017. Determine time of supply in the following independent cases:

1. Provision of service completed on 1st August 2017
2. Provision of service completed on 14th August 2017
3. Mr. A made payment on 3rd August 2017 where provision of service was remaining to be completed
4. Mr. A made payment on 15th September 2017 provision of service was remaining to be completed

VALUE OF SUPPLY

7.1 CONSIDERATION [Section 2(31)]

1. General Meaning

Consideration is defined in an inclusive sense.

As per section 2(d) of the Indian Contract Act, 1872, consideration is defined as: "When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing, something, such act or abstinence or promise is called a consideration for the promise".

2. Inclusive definition [Sec. 2(31)]

"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,

(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
- But shall not include any subsidy given by the Central Government or a State Government;

Deposit — Not consideration, unless appropriated by supplier: However, a deposit given in respect of the supply of goods or services or both —

- Shall not be considered as payment made for such supply
- Unless the supplier applies such deposit as consideration for the said supply.

Analysis: Thus, consideration may flow from a third party as well. But, subsidy and refundable deposits are not consideration.

7.2 VALUE OF TAXABLE SUPPLY [Section 15]

Section 15 of the CGST Act supplemented with the Determination 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.

Section 15 of the CGST Act provides common provisions for determining the value of goods and services. It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration of the supply.

In most of the cases of regular normal trade, the invoice value is the taxable value. However, when value cannot be determined under section 15 and for certain specific transactions, the value is determined using Chapter IV: Determination of Value of Supply of CGST Rules.

Provisions of value of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Market value shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related [Section 2(73)]

Prescribed means prescribed by rules made under this Act on the recommendations of the Council [Section 2(87)].

Recipient of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

Supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].

Voucher means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)]

15(1) General, value = Transaction value

The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both, where –

- Supplier and recipient of the supply are not related and
- The price is the sole consideration for the supply.

15(2) Inclusions in value

The value of supply shall include:

- All taxes except CGST, SGST, UTGST & GST Compensation Cess : 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;
  Note: TCS charged under Income Tax shall not be included in value of supply since it is only an interim levy not having character of tax
- Supplier's obligation met by recipient, if not already included : Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
- Incidental expenses: Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply

- Sums charged for activities done before delivery: 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;
- Interest, late fee, etc.: Interest or late fee or penalty for delayed payment of any consideration for any supply;
- Subsidies: Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments. Subsidy includible in value of recipient - supplier: Amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

15(3) Exclusion of discount

The value of the supply shall not include any discount —

- Discount recorded in invoice : Discount 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; and
- Discount granted as per agreement existing prior to ToS & credit reversed by recipient of supply: Discount given after 'the supply has been effected', if—
- 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
- 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.

15(4) Value not determinable — Go to rules

Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

15(5) Notified supplies — Value as per rules

Notwithstanding anything contained in sub-section (1) or subsection (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.

Illustration:

Computation of value of taxable supply

Particulars	Amount (₹)
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods (includible in the value as per section 15(2)(a))	5,000
CGST & SGST chargeable on the goods (not includible in the value as per section 15(2)(a))	-
Packing charges (includible in the value as per 15(2)(c))	1,000
Subsidy received from a non-govt body (since subsidy is received from a non-govt body, the same is included in the value in terms of section 15(2)(e))	2,000
Total	58,000
Less: Discount @ 2% on ₹ 50,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a)]	1,000
Total	**57,000**

QUESTIONS:

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1. **R&S food private limited, get an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. R&S food Private Limited does the testing and charges a testing fee for the same from the customer. R&S argues that such testing fees should not form part of the consideration for the sale as it is a separate activity. Is his argument correct in the light of section 15?**

2. **A philanthropic Association makes a substantial donation each year to reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to Rs.3 lakhs a year compared to Rs.5 lakhs a year for other students. What would be the taxable value of the service of coaching and instructions provided by the institution?**

3. **M banners, and advertising firm, gives an interest free credit period of 30 days for payment by the customer. Customer paid for the supply 32 days after the supply of service. M banners waived the interest payable for delay of 2 days.**

   The department wants to add interest for two days as per contract. Should national interest be added to the taxable value?

4. **X coupons Ltd, sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of Rs.900 but is redeemable for supplies worth Rs.1000. What is the value of supply of such coupon under GST laws?**

ILLUSTRATIONS

Illustration 1

AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fees should not form part of the consideration for the sale is a separate activity.

Is his argument correct in the light of section 15?

Illustration 2

A philanthropic association makes a substantial donation each year to a reputed private management institution to substitute the education of law income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to Rs.3 lakh a year compared to Rs.5 lakh a year for other students.

What would be the value of the service of coaching and instruction provided by the institution to the low-income group students?

Illustration 3

Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply, 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.

The Department wants to add interest for two days as per contract. Should notional interest be added to the value?

Illustration 4

Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly.

When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.

Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

Illustration 5

Raman Ltd., a registered supplier in Mumbai (Maharashtra), has supplied goods to Sahil Traders and Jaggi Motors Ltd. located in Ahmedabad (Gujarat) and Pune (Maharashtra) respectively. Raman Ltd. has furnished the following details for the current month:

#	Particulars	Sahil Traders (Rs.)	Jaggi Motors (Rs.)
(i)	Price of the goods (including GST)	20,000	15,000
(ii)	Packing Charges	600	
(iii)	Commission	400	
(iv)	Weighment Charges		1,000
(v)	Discount for prompt payment (recorded in the invoice)		500

Items given in points (ii) to (v) have not been considered while arriving at the price of the goods given in point (i) above.

Compute the GST liability (CGST & SGST or IGST as the case may be) of Raman Ltd. for the given month. Assume the rates of taxes to be as under:

Particulars	Rate of Tax
Central Tax (CGST)	9%
State Tax (SGST)	9%
Integrated Tax (IGST)	18%

Illustration 6

Red Pepper Ltd., Delhi, a registered supplier, is manufacturing taxable goods. It provides the following details of taxable Inter-State supply made by it for the month of March, 20XX.

Particulars	Amount (Rs.)
List price of goods supplied inter-state (exclusive of taxes)	15,00,000

Subsidy received by Central Govt. for supply of taxable goods to Govt. School	2,10,000
Subsidy received by an NGO for supply of taxable goods to an old age home	50,000
Tax levied by Municipal Authority	20,000
Packing charges	15,000
Late fee paid by the recipient of supply for delayed payment of invoice	6,000

The list price of the goods takes into account the two subsidies received. However, the other charges / taxes/ fees are charged to the customers over and above the list price. Calculate the value of taxable supply made by M/s Red Pepper Ltd. for the month of March 20XX. Rate of IGST is 18%.

Illustration 7

Kamal Book Depot, a wholesaler of stationery items, registered in Mumbai, has received order for supply of stationery items worth Rs.2,00,000 on 12th November 20XX from another local registered dealer, Mr.Mehta, Mumbai. Kamal Book Depot charged the following additional expenses from Mr.Mehta:

	Particulars	**Amount (Rs.)**
(i)	Packing charges	5,000
(ii)	Freight & Cartage	2,000
(iii)	Transit Insurance	1,500
(iv)	Extra designing charges	6,000
(v)	Taxes by Municipal Authority	500

The goods were delivered to Mr. Mehta on 14th November 20XX. Since Mr. Mehta was satisfied with the quality of the goods, he made the payment for goods the same day and simultaneously placed another order on Kamal Book Depot for stationery items amounting to Rs.10,00,000 to be delivered in the month of December 20XX**. On receipt of second order, Kamal Book Depot allowed a discount of Rs.20,000 on the first order placed by Mr. Mehta

Compute the GST liability of Kamal Book Depot for the month of November 20XX assuming the rates of GST on the goods supplied as under: (I)CGST 9% & (ii) SGST 9%

Would your answer be different if expenses (i) to (v) given in the table are already included in the price of Rs.2,00,000?

Note:

1. All the amounts given above are exclusive of GST
2. Kamal Book Depot and Mr. Mehta are not related persons and price is the sole consideration of the supply.

** Payment and invoice for the second order will also be made in the month of December only.

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Chapter 4 – Input tax credit

CERTAIN DEFINITIONS [Section 2]

Input tax (Sec 2(62)) -

"Input tax" in relation to a registered person, means

central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

- Integrated goods and services tax charged on import of goods;
- The reverse charge tax payable under the provisions of sub-sections (3) and (4) of section 9;
- The reverse charge tax payable under the provisions of sub- sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- The reverse charge tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or
- The reverse charge tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,
- But does not include the tax paid under the composition levy:

Input tax credit (Sec 2(63)) -

"Input tax credit" means the credit of input tax

Output tax (Sec 2(82)) -

"Output tax" in relation to a taxable person, means —

The tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis. Thus, RCM tax is input tax and not output tax.

Capital goods (Sec 2(19)) -

"Capital goods" means goods the value of which is capitalised in the books of account of the person claiming the input tax credit and Which are used or intended to be used in the course or furtherance of business

Input (Sec 2(59)) -

"Input" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business

Place of business includes--

- a place from where the business is ordinarily carried on, and includes a warehouse, a go down or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- a place where a taxable person maintains his books of account; or
- a place where a taxable person is engaged in business through an agent, by whatever name called [Section 2(85)].

Quarter shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].

Job work means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly [Section 2(68)]

Manufacture means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly [Section 2(72)]

Market value shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related [Section 2(73)].

Motor vehicle shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 [Section 2(76)].

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 [Section 2(77)].

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 [Section 2(78)]

Conveyance includes a vessel, an aircraft and a vehicle [Section 2(34)].

Document includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)]

Input means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [Section 2(59)].

Input service (Sec 2(60)) -

"Input service" means any service used or intended to be used by a supplier in the course or furtherance of business

Input service distributor (Sec 2(61)) -

"Input Service Distributor" means an office of the supplier of goods or services or both which Receives tax invoices issued under section 31 towards the receipt of input services and Issues a prescribed document for the purposes of distributing —

- ✓ The credit of central tax, State tax, integrated tax or Union territory tax paid on the said services
- ✓ To a supplier of taxable goods or services or both having same Permanent Account Number as that of said office;

Chapter V of the CGST Act [Sections 16 to 21] & Chapter V: Input Tax Credit of the CGST Rules [Rules 36-45] prescribe the provisions relating to ITC. State GST laws also prescribe identical provisions in relation to ITC.

ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [Sec.16]

General power to take credit -

Every registered person shall, Subject to such conditions and restrictions as may be prescribed and, in the manner, specified in section 49, be entitled to take credit of —

Input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to electronic credit ledger (viz. input tax credit account) of such person.

Conditions -

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—

Tax paying document: he is 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;

Goods/service received: he has received the goods or services or both.

Delivery at recipient's instruction is valid receipt by recipient: It shall be deemed that the registered person has received the goods OR SERVICES where the goods OR SERVICES 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.

Tax charged actually paid to Govt.: 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

Return furnished: he has furnished the return under section 39.

Goods in lot — Credit on receipt of last lot -

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.

Reversal of credit, if sum not paid in 180 days — Re-credit later -

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 180 days from date of issue of invoice by 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.

However, 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.

No ITC, if depreciation claimed on tax -

Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

Time-limit - A registered person is not entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both, after —

The due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or

Furnishing of the relevant annual return, whichever is earlier.

APPORTIONMENT OF CREDIT AND BLOCKED CREDITS [Section 17]

Business/ Personal use — Pro rata credit [17(1)] -

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.

No credit for exempt supplies — Pro rata [17(2) & (3)] - Where the goods or services or both are used by the registered person —

Partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and

Partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

Inclusion in exempt supplies: The value of exempt supply shall be such as may be prescribed, and shall include —

Supplies on which recipient is liable to pay tax on reverse charge basis, Transactions in securities, Sale of land and Sale of building, subject to construction services under Schedule II.

The CGST (Amendment) Act, 2018 has inserted an explanation in this sub-section to clarify that 'value of exempt supply' for the purpose of this sub-section shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule, i.e. sale of land and sale of building. Therefore, while in all other items of Schedule III, ITC will not be required to be reversed; in case of sale of land and sale of building, ITC will need to be reversed.

Banks, FI &NBFC [17(4)] - A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to:

(a) Either comply with the provisions of sub-section (2), or

(b) Avail of, every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse.

The option once exercised shall not be withdrawn during the remaining part of the financial year. However, 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.

Attribution - The Central Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

ITEMS INELIGIBLE FOR CREDIT [Section 17(5)]

Notwithstanding anything contained in section 16(2) and section 18(2), input tax credit shall not be available in respect of the following, namely: —

Motor vehicles -

Motor vehicles and other conveyances except when they are used—

(i) For making the following taxable supplies, namely:—

- Further supply of such vehicles or conveyances; or
- Transportation of passengers; or
- Imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) For transportation of goods;

- **ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.**
- **ITC is not allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed.**
- **ITC is allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed.**

As per section 2(28) of the Motor Vehicles Act, 1988, "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimeters.

- Food, beauty, health etc. –

  The following supply of goods or services or both—

  Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery. However, it is eligible for credit, if an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
- Membership of a club, health and fitness centre;
- Rent-a-cab, life insurance and health insurance. However, it is eligible for credit, if—

  The Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

  Such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and
- Travel benefits extended to employees on vacation such as leave or home travel concession.

Works contract services – Works contract services when supplied for construction of an immovable property. However, credit is allowed, if —

It is supplied for construction of plant and machinery, or,

It is an input service for further supply of works contract service;

Construction : "Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.

Plant and machinery : It 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—

Land, building or any other civil structures;

Telecommunication towers; and

Pipelines laid outside the factory premises.

Construction inputs -

Goods or services or both received by a taxable person for construction of an immovable property on his own account including when such goods or services or both are used in the course or furtherance of business. However, credit is allowed, if it is supplied for construction of plant or machinery.

Composite tax item -

Goods or services or both on which tax has been paid under section 10

NR person -

Goods or services or both received by a non-resident taxable person except on goods imported by him.

Personal use -

Goods or services or both used for personal consumption

Lost, stolen or gifted or samples -

Goods Lost, Stolen, Destroyed, Written off or Disposed of by way of gift or free samples; and

Evasion, seizure & confiscation -

Any tax paid in accordance with the provisions of sections 74 (evasion matters), 129 (seizure/detention) and 130 (confiscation)

AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES [Section 18]

Subject to such conditions and restrictions as may be prescribed

New Registration — credit of stock [18(1)] -

A person who —

Has applied for registration under this Act within 30 days from the date on which he becomes liable to registration and

Has been granted such registration shall be entitled to take credit of input tax in respect of

- Inputs held in stock and
- Inputs contained in semi-finished or finished goods held in stock

On the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Voluntary Registration [18(1)]

A person who takes registration u/s 25(3) [voluntary registration] shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration

Opting out of composite tax [18(1)] -

Where any registered person ceases to pay tax under section 10 [composite Tax], he shall be entitled to take credit of input tax in respect of —

- Inputs held in stock,
- Inputs contained in semi-finished or finished goods held in stock and

On capital goods (however, credit on capital goods shall be reduced by such percentage points as may be prescribed), on the day immediately preceding the date from which he becomes liable to pay tax under section 9.

Exempted Supply becoming taxable [18(1)] -

Where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of —

- Inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and

On capital goods exclusively used for such exempt supply (however, credit on capital goods shall be reduced by such percentage points as may be prescribed),

On the day immediately preceding the date from which such supply becomes taxable.

Time-limit of 1 year [18(2)] -

A registered person shall not be entitled to take input tax credit under Section 18(1) in respect of any supply of goods or services or both to him after 1 year from the date of issue of tax invoice relating to such supply.

Transfer of credit [18(3)] -

Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall he allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

Opting Composite tax, or, supplies becoming exempt [18(4)] -

Where —Any registered person who has availed of input tax credit opts to pay tax under section 10 [composite tax] or,

Where goods/services or both supplied by him become wholly exempt, he shall pay an amount, —

By way of debit in the electronic credit ledger or electronic cash ledger,

Equivalent to the credit of input tax in respect of : (i) inputs held in stock, and (ii) inputs contained in semi-finished or finished goods held in stock and (iii) on capital goods (reduced by such percentage points as may be prescribed), on the day immediately preceding the date of exercising of such option or the date of such exemption ; and

After payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Note: Electronic Credit Ledger is Input Tax Credit Alc; and electronic cash ledger is Personal Ledger Alc (PLA).

Rules - The amount of credit under sub-section [1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

Supply of capital goods or P&M, on which ITC taken -

Supply of capital goods or plant and machinery, on which input tax credit has been taken Amount equal to:

(i) Input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or

(ii) Tax on the transaction value of such capital goods or plant and machinery determined u/s 15, whichever is higher

If refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap - The taxable person may pay tax on the transaction value of such goods determined under section 15.

SGST/ UTGST to be used for payment of IGST only when credit of CGST is not available [Section 49 of the CGST Act]

Section 49(5) prescribes the order of utilization of ITC. As per clause (c) and clause (d) of section 49(5), ITC of SGST/UTGST should first be utilized towards payment of SGST/UTGST and the amount remaining, if any, may be utilized towards payment of IGST.

The CGST (Amendment) Act, 2018 has inserted provisos after the said clause (c) and clause (d) to lay down that ITC on account of SGST/UTGST can be utilized towards payment of IGST only where the balance of the ITC on account of CGST is not available for payment of IGST.

ITC of IGST to be fully utilised first [New section 49A of the CGST Act]

The CGST (Amendment) Act, 2018 has inserted a new section 49A "Utilisation of input tax credit subject to certain conditions" in the CGST Act.

Section 49A provides that ITC of CGST, SGST/UTGST should be utilised towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been utilised fully towards such payment. Section 49A starts with a non obstante clause, "Notwithstanding anything contained in section 49…." Thus, the provisions of section 49A would prevail over the provisions of section 49.

Order of utilization of ITC [New section 49B of the CGST Act]

The CGST (Amendment) Act, 2018 has inserted a new section 49B "Order of utilisation of input tax credit" in the CGST Act.

Section 49B provides that the Government may, on the recommendations of the Council, prescribe the order and manner of utilization of the ITC of IGST, CGST, SGST/UTGST towards payment of any such tax. Section 49B also starts with a non obstante clause, "Notwithstanding anything contained in this Chapter …." Thus, the provisions of section 49B would prevail over the provisions contained in Chapter X: Payment of Tax. However, utilisation of ITC of CGST for payment of

SGST/UTGST and vice versa will not be prescribed.

INPUT TAX CREDIT OF THE CGST RULES

Documents & conditions for claiming input tax credit {Rule 36}

Documents: The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely: —

- An invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
- A debit note issued by a supplier in accordance with the provisions of section 34;
- A bill of entry;
- An invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31;
- A document issued by an Input Service Distributor in accordance with the provisions of invoice rules;

1) **Documents should contain specified particulars:** Input tax credit shall be availed by a registered person only if all the applicable particulars as prescribed in Invoice Rules are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person.

2) **No credit, if demand raised alleging fraud :** No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been raised on account of any fraud, willful misstatement or suppression of facts.

Reversal of input tax credit in case of nonpayment of consideration {Rule 37}

(1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof the value of such supply along with the tax payable thereon within the time limit

specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply and the amount of input tax credit availed of in **FORM GSTR-2** for the month immediately following the period of one hundred and eighty days from the date of issue of invoice.

(2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.

(3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.

Claim of credit by a banking company or a financial institution {Rule 38} -

A banking company or a financial institution, including a non-banking financial company, engaged in supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the procedure specified below —

(a) The said company or institution shall not avail the credit of tax paid on inputs and input services that are used for non-business purposes and the credit attributable to supplies specified in sub-section (5) of section 17, in **FORM GSTR-2;**

(b) The said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 17 and not covered under clause (a);

(c) Fifty per cent, of the remaining input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in **FORM GSTR-2;**

(d) The amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.

Manner of determination of input tax credit in certain cases and reversal thereof {Rule 42}

(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-sections (1) or (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempted supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,—

(a) Total input tax involved on inputs and input services in a tax period, be denoted as 'T';

(b) The amount of input tax, out of **T,** attributable to inputs and input services intended to be used exclusively for purposes other than business, be denoted as 'T1';

(c) The amount of input tax, out of **T,** attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';

(d) The amount of input tax, out of **T,** in respect of inputs on which credit is not available under sub-section (5) of section 17, be denoted as 'T3';

(e) The amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as: **C1 = T — (T1+T2+T3)**

(f) The amount of input tax credit attributable to inputs and input services used exclusively in or in relation to taxable supplies including zero rated supplies, be denoted as 'T4';

(g) T1', 'T2', 'T3' and T4' shall be determined and declared by the registered person at the invoice level in **FORM GSTR-2;**

(h) Input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C2' and calculated as: C2 = C1-T4

(i) Input tax credit attributable towards exempt supplies, be denoted as 'Dl' and calculated as: D1= (E÷F) x C2 where, —

- 'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero-rated supplies, during the tax period, and
- 'F' is the total turnover of the registered person during the tax period.

However, where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to calculated;

Explanation— the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

(j) The amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent, of C2; and

(k) The remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting taxable supplies including zero rated supplies and shall be denoted as 'C3', where **C3 = C2 — (D1+D2)**

(l) The amount 'C3' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;

(m) The amount equal to 'Dl' and 'D2' shall be added reversed:

However, if the amount of input tax relating to inputs or input services which have been used partly for purposes other than business and partly for effecting exempt supplies has been identified and segregated at invoice level by the registered person, the same shall be included in Tl' and 'T2' respectively, and the remaining amount of credit on such input or input services shall be included in 'T4'.

(2) The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for filing the return for the month of September following the end of the financial year to which such credit relates, in the manner prescribed in the said sub-rule, and

(a) Where the aggregate of the amounts calculated finally in respect of 'Dl' and 'D2' exceeds the aggregate of the amounts determined under sub rule (1) in respect of 'Dl' and 'D2', such excess shall be reversed for a 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 first day of April of the succeeding financial year till the date of payment; or

(b) Where the aggregate of the amounts determined under sub-rule (1) in respect of T1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'Dl' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases -

(1) Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,—

(a) The amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in **FORM GSTR-2** and shall not be credited to his electronic credit ledger;

(b) The amount of input tax in respect of capital goods used or intended to be used exclusively for effecting taxable supplies including zero-rated supplies shall be indicated in **FORM GSTR-2** and shall be credited to the electronic credit ledger;

(c) The amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years:

However, 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 five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

(d) The aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'Tc', shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under this clause, the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'Tc';

(e) The amount of input tax credit attributable to a tax period on common capital goods during their residual life, be denoted as 'Tm' and calculated as: - **Tm= Tc÷r60**

(f) The amount of input tax credit, at the beginning of a tax period, on all common capital goods whose residual life remains during the tax period, be denoted as 'Tr' and shall be the aggregate of 'Tm' for all such capital goods.

(g) The amount of common credit attributable towards exempted supplies, be denoted as 'T', and calculated as: **T= (E÷F) x T**r where, 'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and 'F' is the total turnover of the registered person during the tax period: However, where the registered person does not have any turnover

during the said tax period or the aforesaid information is not available, the value of 'E/F' calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to calculated; Aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(h) The amount along with applicable interest shall, during every tax period of the residual life of the concerned capital goods, be added to the output tax liability/ reversed of the person making such claim of credit.

(2) The amount shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

Manner of claiming credit in special Circumstances {Rule 40}

(1) Input tax credit claimed in accordance with the provisions of section 18 on the inputs lying in stock or inputs contained in semi finished or finished goods lying in stock, or the credit claimed on capital goods in accordance with the provisions of said section, shall be subject to the following conditions —

(a) The input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

(b) The registered person shall within thirty days from the date of his becoming eligible to avail of input tax credit under sub- section (1) of section 18 shall make a declaration, electronically, on the Common Portal in **FORM GST ITC-01** to the effect that he is eligible to avail of input tax credit as aforesaid;

(c) The declaration under clause (b) shall clearly specify the details relating to the inputs lying in stock or inputs contained in semi-finished or finished goods lying in stock, or as the case may be, capital goods-

- On the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act, in the case of a claim under clause (a) of sub-section (1) of Section 18,
- On the day immediately preceding the date of grant of registration, in the case of a claim under clause (b) of sub-section (1) of Section 18,
- On the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under clause (c) of sub-section (1) of Section 18,
- On the day immediately preceding the date from which supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of Section 18.

(d) The details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered account or cost accountant if the aggregate value of claim on account of central tax, State tax and integrated tax exceeds two lakh rupees.

(e) The input tax credit claimed in accordance with clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in **FORM GSTR-1** or as the case may be, in **FORM GSTR- 4,** on the Common Portal.

Transfer of credit on sale, merger, amalgamation, lease or transfer of a business

(1) A registered person shall, on sale, merger, de-merger, amalgamation, lease or transfer or change in ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC**-02 electronically on the Common Portal along

with a request to transfer the unutilized input tax credit lying in his electronic credit ledger to the transferee: **However,** that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

(2) The transferor shall also submit a copy of a certificate issued by a practicing chartered account or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for transfer of liabilities.

(3) The transferee shall, on the Common Portal, accept the details so furnished by the transferor and, upon such acceptance, the un- utilized credit specified in FORM GST ITC-02 shall be credited to his electronic credit ledger.

(4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

Manner of reversal of credit under special Circumstances {Rule 44}

(1) The amount of input tax credit, relating to inputs lying in stock, inputs contained in semi-finished and finished goods lying in stock, and capital goods lying in stock, for the purposes of sub-section (4) of section 18 or sub-section (5) of 29, shall be determined in the following manner namely,—

(a) For inputs lying in stock, and inputs contained in semi-finished and finished goods lying in stock, the input tax credit shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by the registered taxable person on such input.

(b) For capital goods lying in stock the input tax credit involved in the remaining residual life in months shall be computed on pro-rata basis, taking the residual life as five years;

Illustration: Capital goods have been in use for 4 years, 6 month and 15 days. The residual remaining life in months = 5 months ignoring a part of the month Input tax credit taken on such capital goods=C. Input tax credit attributable to remaining residual life=C multiplied by 5/60

- The amount, as prescribed in sub-rule (1) shall be determined separately for input tax credit of IGST and CGST.
- Where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of goods on the effective date of occurrence of any of the events specified in sub-section (4) of section 18 or, as the case may be Sub-section (5) of section 29. The details furnished in accordance with this rule shall be duly certified by practicing CA or cost accountant.

(2) The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in **FORM GST ITC-03,** where such amount relates to any event specified in sub-section (4) of section 18 and in **FORM GSTR-10,** where such amount relates to cancellation of registration.

Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules]

Section 16(2) of the CGST Act provides certain conditions for availing ITC wherein one of the conditions is that the taxpayer must be in possession of the tax invoice or other tax paying document in respect of which he is claiming the ITC. Rule 36 of CGST Rules lays down the documents and other conditions basis which the registered person can claim ITC.

With effect from 09.10.2019, a new sub-rule (4) has been introduced in rule 36 to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier. As per sub-rule (4) of rule 36, ITC 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 GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1.

This can be further understood as under-

Case	Amount of ITC to be claimed by recipient
Where invoice/debit note has been uploaded by the supplier in his GTSR-1	**Full ITC, if all other conditions of availing ITC are fulfilled**

Where invoice/debit note has not been uploaded by supplier in his GTSR-1	**20% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.**

[Notification No. 49/2019 CT dated 09.10.2019]

Example:

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.

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX will be computed as under-

Invoices	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)
In respect of 80 invoices uploaded in GSTR-1	**6 lakh**	**6 lakh [Refer Note 1 below]**
In respect of 20 invoices not uploaded in GSTR-1	**4 lakh**	**Rs. 1.2 lakh [Refer Note 2 below]**
Total	**10 lakh**	**7.2 lakh**

Notes:

(1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.

(2) The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. Thus, in respect of 20 invoices not uploaded in GSTR-1s, the ITC has been restricted to Rs. 1.2 lakh [20% of Rs. 6 lakh].

ILLUSTRATIONS

Illustration 1

Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. 44195However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?

Illustration 2

What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

Illustration 3

XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October,2018 from the following particulars: -

S.No.	Inward supplies	GST (Rs.)	Remarks
1.	Inputs 'A'	1,00,000	One invoice on which GST payable was Rs. 10,000, is missing.
2.	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October,2018.
3.	Capital Goods	1,20,000	XYZ Ltd. Has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
4.	Input Services	2,25,000	One invoice dated 20.01.2018 on which GST payable was Rs. 50,000 has been received in Ocyober,2018.

Note:

1. All the conditions necessary for availing the ITC have been fulfilled.
2. XYZ Ltd. is not eligible for any threshold exemption.
3. The annual return for the financial year 2017-18 was filed on 15th September,2018.

Illustration 4

Granites Textiles Ltd. purchased a needle detecting machine on 8th July,2017 from Makhija Engineering Works Ltd. for Rs. 10,00,000 (excluding GST) paying GST @ 18% on the same.

It availed the ITC of the GST paid on the machine and started using it for manufacture of goods.

The machine was sold on 22nd October,2018 for Rs. 7,50,000 (excluding GST), as second-hand machine to LT. Pvt. Ltd.The GST rate on supply of machine is 18%.

State the action which Granites Textiles Ltd. is required to take, if any, in accordance with the statutory GST provisions on the sale of the second-hand machine.

Illustration 5

AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. Can AB & Co. avail credit on GST charged by CD & Co.?

Illustration 6

Outdoor catering services availed by a company, for a team development event organized for its employees. Is ITC allowed?

Illustration 7

Outdoor catering service availed by a company to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. Is ITC Allowed?

Illustration 8

ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S.No	Items	GST paid (Rs.)
i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory. These items were supplied free of cost to the employees in lieu of services rendered by them to the manufacturer in the course of employment.	25,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note:

1. All the conditions necessary for availing the ITC have been fulfilled.
2. ABC Co. Ltd. is not eligible for any threshold exemption

Illustration 9

Fun Pharma Private Limited, a registered supplier is engaged in the manufacture of Taxable goods. The company provides the following information of GST paid on the purchases made / input services availed by it during the month of September 2017 :

S,No	Particulars	GST Paid (Rs.)
(i)	Purchase of cabs used for the transportation of its employees	3,30,000
(ii)	Inputs consisting of three lots, out of which first lot was received during the month	1,25,000
(iii)	Capital Goods (Out of three items, invoice for one item was missing and GST paid on that item was Rs. 25,000)	2,50,000
(iv)	Outdoor catering service availed on Women's day	72,000

Determine the amount of Input Tax Credit available with M/s Fun Pharma Private Limited for the month of September 2017 by giving necessary explanations for treatment of various items. All the conditions necessary for availing the Input Tax Credit have been fulfilled.

Illustration 10

CANWIN Ltd., a registered supplier, is engaged in the manufacture of tanks. The company provides the following information pertaining to GST paid on the purchases made/ input services availed by it during the month of January 2018:

S.No	Particulars	GST Paid (Rs.)
(I)	Purchase of machinery where debit note is issued	1,15,000
(ii)	Input purchased was directly delivered to Mr.Joe, a job worker and registered supplier	80,000
(iii)	Computers purchased (Depreciation was claimed on the GST portion under the Income Tax Act, 1961)	50,000

(iv)	Works Contract services availed for Construction of Staff quarters within the company premises	4,25,000

Determine the amount of ITC available to M/s CANWIN Ltd. for the month of January 2018 by giving brief explanations for treatment of various items. Subject to the information given above, all the conditions necessary for availing the ITC have been fulfilled.

Indigolearn

Illustration 11

Cloud Seven Private Limited, a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to GST paid on the purchases made/input services availed by it during the month of February, 20XX:

S.No	Particulars	GST Paid (Rs.)
(i)	Trucks used for transport of raw material	1,20,000
(ii)	Foods and beverages for consumption of employees working in the factory	40,000
(iii)	Inputs are to be received in five lots, out of which third lot was received during the month	80,000
(iv)	Membership of a club availed for employees working in the factory	1,50,000
(v)	Capital Goods (out of five items, invoice for one item was missing and GST paid on that item was Rs.50,000)	4,00,000
(vi)	Raw material (to be received in March, 20XX)	1,50,000

Determine the amount of input tax credit available with Cloud Seven Private Limited for the month of February, 20XX by giving necessary explanations for treatment of various items. All the conditions necessary for availing the input tax credit have been fulfilled.

Illustration 12

Le Mark Ltd. of Nashik, Maharashtra, a registered supplier, is engaged in manufacturing taxable goods. It provides the following details of items purchased and services availed by it from Gujarat, for the month of March, 20XX:

#	Particulars	GST Paid (Rs.)
(i)	Motor vehicle purchased for employees to be used for personal as well as business purposes	1,50,000
(ii)	Motor vehicle purchased for transportation of goods within the factory	2,00,000

(iii)	Food items for consumption of employees. These items are supplied free of cost to the employees in lieu of services rendered by them to the manufacturer in the course of employment	2,000
(iv)	Rent a cab facility availed for employees to fulfil a statutory obligation in this regard. The Government has notified such service under Sec 17(5)(b)(iii)(A) of the CGST Act, 2017	36,000

Calculate the amount of eligible input tax credit for the month of March, 20XX.

Illustration 13

With the help of information given below in respect of manufacturer for the month of September 2017

Calculate eligible input tax credit for the month?

Also calculate amount of ITC to be reversed in September 2017 and October 2017, there is no carry forward credit or reversal requirements only current month information is to be considered for calculation purpose

Outward supply

Outward Supply of Taxable goods	Rs. 70,000
Outward supply of Exempted goods	Rs. 40,000
Total turnover	Rs.1,10,000

Inward supply

Capital goods exclusively used for taxable outward supply GST paid is	Rs.2,000
Capital goods purchased exclusively for exempted outward supply is	Rs.1,800
Capital goods purchased which are used for both taxable and exempted outward supply is	Rs.4,200

Chapter 5 – Registration under GST

Under GST, registrations need to be taken State-wise, i.e. there are no centralized registrations under GST. A business entity having its branches in multiple States will have to take separate State wise registration for the branches in different States. Further, within a State, an entity with different branches would have single registration wherein it can declare one place as principal place and other branches as additional place of business. However, a business entity having separate registration for each of its business verticals in a state may obtain separate registration for each of its business verticals.

Fixed establishment: means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs [Section 2(50)]

Registered person: means a person who is registered under section 25, but does not include a person having a Unique Identity Number [Section 2(94)]

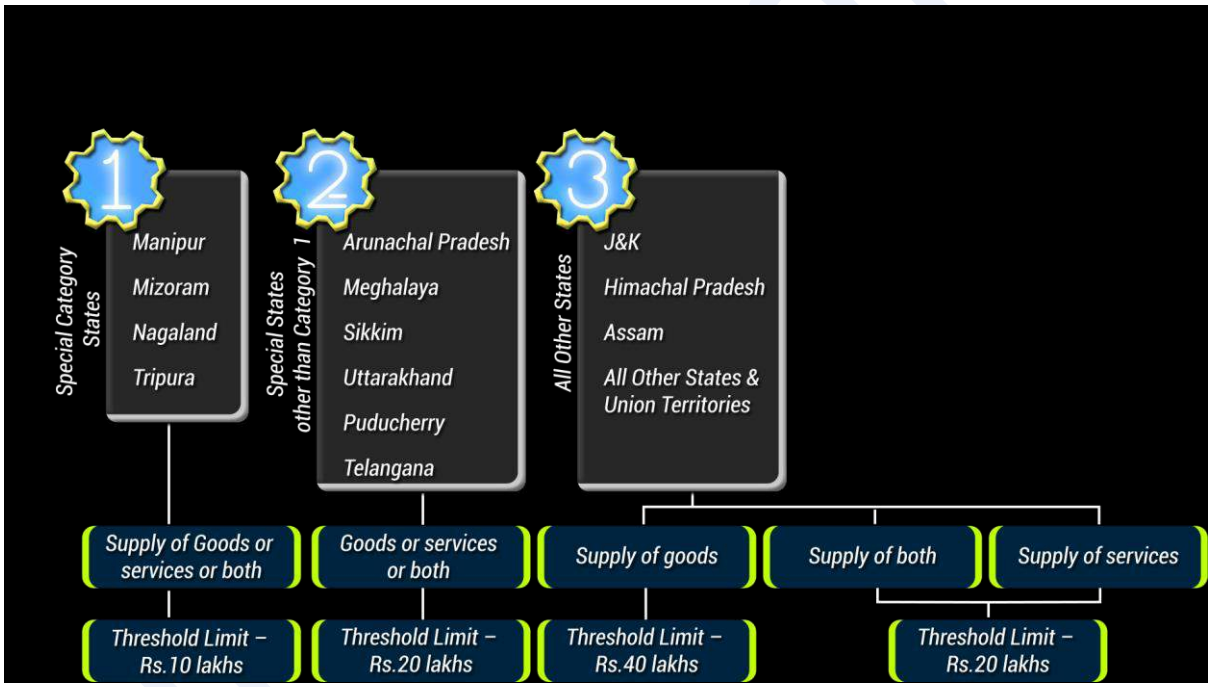
Proper officer: in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91)]Principal place of business: means the place of business specified as the principal place of business in the certificate of registration [Section 2(89)]

PERSONS LIABLE FOR REGISTRATION [Section 22 TO 24]

Persons liable for registration [Sec 22] -

- Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakh.
- However, if such person makes taxable supplies of goods or services or both from any of the special category States (North-east, Uttarakhand and Himachal), he shall be liable to be registered if his aggregate turnover in a financial year exceeds Rs. 10 lakh rupees. Limit for J&K is 20 lakhs
- Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

- Transfer of business — Fresh registration by buyer: Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
- In case of amalgamation etc. — Registration from Date of incorporation of new company : In a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.



"Aggregate turnover" to include job-work: The aggregate turnover shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals. However, supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal, and the value of such goods shall not be included in the aggregate turnover of the registered job worker.

Persons not liable for registration [Sec 23] -

The following persons shall not be liable to registration, namely:—

(a) **Non-taxable or exempted :** any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

(b) **Agriculturist:** an agriculturist, to the extent of supply of produce out of cultivation of land.

Power to exempt: The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

1. **Persons making only reverse charge supplies**
2. **Job workers making inter-State supply of services to a registered person**
   Job workers engaged in making inter-State supply of services to a registered person have been exempted from obtaining registration.

   However, nothing contained in this notification shall apply to a job-worker:

   (a) who is liable to be registered under sub-section (1) of section 22 or who opts to take registration voluntarily under sub-section (3) of section 25 of the CGST Act; or

   (b) who is involved in making supply of services in relation to jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71 of the Tariff).
3. **Casual Taxable Persons making taxable supplies of handicraft goods**

   As per section 24, a casual taxable person or a person making inter-State supplies are liable to be registered compulsorily under GST irrespective of the threshold limit.
   However, Casual Taxable Persons making taxable supplies of handicraft goods or persons making inter-State supplies of handicraft goods, have been exempted from obtaining registration.

   Conditions to be fulfilled for claiming exemption: The above exemption is available provided:

   a. the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of **20 lakh** or **10 lakh** in case of Special Category States, other than the State of Jammu and Kashmir in a FY.

b. the Casual Taxable Persons making taxable supplies of handicraft goods or persons making inter-State supplies of handicraft goods shall be required to **obtain a PAN and generate an e-way bill**

Compulsory registration in certain cases [Sec 24] -

Notwithstanding anything contained in section 22, the following categories of persons shall be required to be registered under Act:

- Persons making any inter-State taxable supply;
- Casual taxable persons making taxable supply;
- Persons who are required to pay tax under reverse charge;
- Person who are required to pay tax under sub-section (5) of section 9 [persons appointed by e-commerce operators]
- Non-resident taxable persons making taxable supply;
- Persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- Input Service Distributor, whether or not separately registered under this Act;
- Persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;
- **e-commerce operators who are required to collect tax at source under section 52 of the CGST Act**
- Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and
- Such other person or class of persons as may be notified by the Government on the recommendations of the Council.

PROCEDURE FOR REGISTRATION [Section 25 TO 27]

- **Application within 30 days -** Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within 30 days from date on which he becomes

liable to registration, in such manner and subject to such conditions as may be prescribed.

However, a casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to commencement of business.

- **Supplies from TWI** — Registration at nearest coastal State/UT: Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.
- **Single registration in each state -** A person seeking registration under this Act shall be granted a single registration in a State or Union territory. However, 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.
- **Voluntary registration -** A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.
- **Separate registration = separate person -** 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.
- **Premises in separate states — Separate person -** 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.

1. Separate registration for a person having multiple place of business in a State

   A person seeking registration under the GST law is granted a single registration in a State or Union territory. Separate GST registrations within the same State/UT were permitted only for separate business verticals. Accordingly, proviso to section 25(2) 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 prescribed conditions.

The requirement of having multiple business verticals to obtain separate registrations in a State has been dispensed with. Therefore, now a person having multiple places of business in a State or Union territory may be granted a **separate registration for each such place of business**, subject to such conditions as may be prescribed.

Example: Meethalal & Sons - a supplier in Delhi has three branches – two engaged in supply of garments and one engaged in supply of shoes. While as erstwhile provisions, Meethalal & Sons could obtain only registrations – one for business vertical of garments and another for business vertical of shoes, now it can obtain separate GST registration for each three branches

PAN or TAN mandatory –

Every person shall have a Permanent Account Number issued under the Income tax Act, 1961 in order to be eligible for grant of registration.

However, a person required to deduct tax u/s 51 may have, in lieu of a PAN, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

However, a non-resident taxable person may be granted registration without PAN on the basis of such other documents as may be prescribed.

Mandatory registration on failure to seek registration –

Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

Unique identifier –

Notwithstanding anything contained in sub-section {!),—

(a) Any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and

(b) Any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

Verification & Deemed grant, if no deficiency -

The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed. A registration or a Unique Identity Number is deemed to have been granted after the expiry of the period prescribed, if no deficiency has been communicated to the applicant within that period.

Certificate -

A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

The registered person is allowed to furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision, soon after obtaining certificate of registration and a GSTIN, but not later than 45 days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier

Registration under SGST etc. valid — Deemed registration [Sec. 26] -

The grant of registration or Unique Identity Number under SGST/ UTGST Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the prescribed time for verification under Section 25.

Any rejection of application for registration or the Unique Identity Number under the SGST/UTGST Act shall be deemed to be a rejection of application for registration under this Act.

Casual taxable person and nonresident taxable person [Sec 27] –

Registration valid upto period specified or 90 days:

The certificate of registration issued to a casual taxable person or a nonresident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration. However, proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of 90 days by a further period not exceeding 90 days.

Advance deposit of estimated tax prior to registration:

A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. However, if any extension of time is sought, such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought. The amount deposited shall be credited to the electronic cash ledger of such person and shall be utilized in the manner provided under section 49.

REGISTRATION — AMENDMENT, CANCELLATION, REVOCATION, ETC. [Sections 28 TO 30]

Amendment of registration [Sec 28]

(1) Intimation of changes: Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.

(2) **Approving or rejecting amendments:** The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:

However, approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed. Further, the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.

(3) **Rejection under SGST applies here also:** Any rejection or approval of amendments under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

Cancellation of registration [Sec 29]

(1) **Circumstances leading to cancellation :** 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—

(a) 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

(b) There is any change in the constitution of the business; or

(c) The taxable person [other than the person voluntarily registered], is no longer liable to be registered under section 22 or section 24.

****Period and manner of suspension of registration**

Further, **with effect from 01.02.2019,** new rule 21A of the CGST Rules has been inserted vide **Notification No. 03/2019 CT dated 29.01.2019** which lays down the period and manner of suspension of registration as follows:

1. **Where registered person has applied for cancellation of registration:** Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

(a) the date of submission of the application

or

(b) **the date from which the cancellation is sought,**

whichever is later,

pending the completion of proceedings for cancellation of registration.

2. **Where cancellation of the registration has been initiated by the Department on their own motion:** Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person **with effect from a date to be determined by him**, pending the completion of the proceedings for cancellation of registration.

3. A registered person, whose registration has been suspended as above:
   - shall not make any taxable supply during the period of suspension and
   - shall not be required to furnish any return under section 39.

The suspension of registration shall be deemed to be revoked upon completion of the cancellation proceedings by the proper officer. Such revocation shall be effective from the date on which the suspension had come into effect.

An explanation has been inserted to this sub-rule (3) to rule 21A clarifying that the expression **"shallnot make any taxable supply"** shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension

(2) **Registration may be cancelled from retrospective date in some cases:** 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) A person paying composite 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 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.

However, the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

(3) **Liability not affected:** The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(4) **Cancellation under SGST applies here also:** The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) **On cancellation, pay = credit reversal or output tax (higher) :** Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed.

However, in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to:

I. Input tax credit taken on said capital goods or plant and machinery, reduced by such percentage points as may be prescribed

or

II. Tax on the transaction value of such capital goods or plant and machinery under section 15,

Whichever is higher

Amount so payable shall be calculated in such manner as prescribed.

Revocation Of cancellation of registration [Sec 30]

(1) **Application for restoration of registration:** Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within 30 days from the date of service of the cancellation order.

(2) **Acceptance/Rejection of application:** The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application. However, the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) **Treatment under SGST to apply here:** The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

where the registration has been cancelled with effect from the date of order of cancellation of registration, (i) all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed and (ii) all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.

However, where the registration has been cancelled with

retrospective effect , the application for revocation of cancellation of registration can be filed, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.

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ILLUSTRATIONS

Illustration 1

Determine whether registration is required in each of the following cases:

I) Mr. Prithvi Raj from Assam exclusively engaged in supply of shoes. Turnover is Rs.22 lakhs. Is registration required u/s 22(1)?
II) Prithvi Raj from Assam exclusively engaged in supply of Pan Masala. Turnover is Rs.22 lakhs. Is registration required u/s 22(1)?
III) Prithvi Raj of Assam exclusively engaged in supply of services. Aggregate turnover is Rs.22 lakhs. Is registration required u/s 22(1)?
IV) Prithvi Raj of Assam is engaged in supply of both taxable goods and services. What is the threshold limit for registration?
V) Shivaji ofTelangana, exclusively engaged in supply of toys. Aggregate turnover is Rs.22 lakhs. Is registration required?
VI) Shivaji of Telangana exclusively engaged in the supply of ice-cream. Aggregate Turnover is Rs.22 lakhs. Is registration required u/s 22(1).
VII) Shivaji of Telangana exclusively engaged in the supply of services or in both, services and goods. Aggregate turnover is Rs.22 lakhs. Is registration of required?
VIII) Ashoka of Manipur exclusively engaged in supply of paper. Turnover is Rs.12 lakhs. Is registration required u/s 22(1)?

Illustration 2

Determine Effective date of registration in the following two cases:

(i) The aggregate turnover of Dhampur Industries of Delhi exceeds Rs. 20 Lakhs on 1st September. It submits the application for registration on 20th September. Registration certificate is granted on 25th September
(ii) Mehta Teleservices is an internet service provider in Lucknow. Its aggregate turnover exceeds Rs. 20 Lakhs on 25th October. It submits the application for registration on 27th November. Registration certificate is granted on 5th December

Illustration 3

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.

Illustration 4

State which of the following suppliers are liable to be registered:

(i) Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed ` 20 lakh during the financial year.
(ii) An agriculturist who is only engaged in supply of produce out of cultivation of land.

Illustration 5

If a person is operating in different States, with the same PAN number, can he operate with a single registration?

Illustration 6

Can a person having multiple business verticals in a State obtain separate registrations for each business vertical?

Illustration 7

Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Illustration 8

Can the Department, through the proper officer, Suo-moto proceed to register a person?

Illustration 9

Is it necessary for the UN bodies to get registration under GST?

Illustration 10

What is the responsibility of the taxable person making supplies to UN bodies?

Illustration 11

What is the validity period of the registration certificate issued to a casual taxable person and non- resident taxable person?

Illustration 12

What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Illustration 13

At the time of registration, will the assessee have to declare all his places of business?

Illustration 14

What will be the time limit for the decision on the online registration application?

Illustration 15

Luv & Kush pvt. Ltd. of Srinagar, Jammu & Kashmir engaged in the supply of gifts items provides you the following details-

S.no.	Particulars	Date
1	Commencement of the business of supplying goods	01.08.2018
2	Turnover exceeds Rs.10,00,000 on	15.08.2018
3	Turnover exceeds Rs.20,00,000	05.09.2018
4	Application for registration made on	28.09.2018
5	Registration certificate granted on	06.10.2018

The company seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers? Explain.

Illustration 16

The aggregate turnover of Priyank Services Ltd. exceeded Rs.20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Priyank 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.

Illustration 17

Determine the effective date of registration in the following instances:

(i) The aggregate turnover of Madhu Ltd, engaged in taxable supply of services in the state of Punjab, exceeded Rs.20 lakhs on 25th August 2018. It applies for registration on 19th September 2017 and is granted registration certificate on 29th September 2017.

(ii) What will be your answer, if in the above scenario, Madhu Ltd. Submits the application for registration on 27th September 2017 and is granted registration on 5th October 2017?

Illustration 18

State the persons who are not liable for registration as per provisions of **Section 23** of CGST Act, 2017

Illustration 19

Mr. Allan, a non-resident person, wishes to provide taxable supply of goods. He has no fixed place of business or residence in India. He seeks your advice on the following aspects, relating to CGST Act, 2017:

(i) When shall he apply for registration?
(ii) Is PAN mandatory for registration?
(iii) What is the period of validity of RC granted to him?
(iv) Will he be able to extend the validity of his registration? If yes, what will be the period of extension?

Illustration 20

State with brief reason, whether following suppliers of taxable goods are required to register under the GST law:

i) Mr. Raghav is engaged in wholesale cum retail trading of medicines in the state of Assam. His aggregate turnover during the financial year is Rs.9,00,000 which consists of Rs.8,00,000 as Intra-state supply and Rs.1,00,000 as Inter-state supply.
ii) Mr. S. N. Gupta of Rajasthan is engaged in trading of taxable goods on his own account and also acting as an agent of Mr. Rishi of Delhi. His turnover in the financial year 2017-18 is off Rs.12,00,000 on his own account and Rs.9,00,000 on behalf of principal. Both turnovers are Intra-state supply.

Illustration 21

Answer the following questions with respect to casual taxable person under the CGST Act, 2017:

(i) Who is a casual taxable person?
(ii) Can a casual taxable person opt for the composition scheme?
(iii) When is the casual taxable person liable to get registered?
(iv) What is the validity period of the registration certificate issued to a casual taxable person?
(v) Can the validity of registration certificate issued to a casual taxable person be extended? If yes, what will be the period of extension?

Illustration 22

Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

Illustration 23

Determine with brief reasons whether the following statement is True or False:

Registration under the CGST Act, can be cancelled by the proper officer, if the voluntarily registered person has not commenced the business within 3 months from the date of Registration.

Chapter 6 – Tax invoice, Debit Note Credit Note and other documents

Invoice

An invoice is a commercial instrument issued by a supplier of goods/services to a recipient. It identifies both the parties involved, and lists, describes the items sold/services supplied, quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and the delivery and payment terms (in case of supply of goods).

Invoicing is very crucial aspect for ensuring tax compliance under any indirect taxation system. In order to ensure transparency, issuance of invoice for every taxable transaction is a pre-requisite. In case of supply of goods or provision of services, an invoice is raised by the supplier of such goods or services to the recipient of the same. Tax invoice acts as a document evidencing the payment of the value of the goods or services or both as also the tax portion in the same. In certain cases, an invoice serves as a demand for payment and becomes a document of title when paid in full.

Credit note

Credit note means a document issued by a registered person under sub-section (1) of section 34 [Section 2(37)].

Debit note

Debit note means a document issued by a registered person under sub-section (3) of section 34 [Section 2(38)].

Document

Document includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information

Technology Act, 2000 [Section 2(41)]

Invoice or Tax invoice

Invoice or Tax invoice means the tax invoice referred to in section 31 [Section 2(66)].

11.1 TAX INVOICE [Section 31]

Goods - A registered person supplying taxable goods shall, before or at the time of

(a). Removal of goods for supply to the recipient, where the supply involves movement of goods; or

(b). Delivery of goods or making available thereof to the recipient, in any other case, issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed.

However, the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

Services - **A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:**

However, the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

(a) Any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(b) Tax invoice may not be issued.

Various issues -

(a)Revision : **A registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, 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;

(b) No bill if value is upto Rs. 200: **a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;**

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(a) **Normal bill for exempted/composite tax supplies:** a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed.

However, the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than Rs. 200 subject to such conditions and in such manner as may be prescribed;

(b) **Receipt voucher for advance:** a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

(c) **Refund voucher, if advance is returned:** where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

(d) **Buyer to raise invoice for purchases from unregistered supplier:** a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 [reverse charge] shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both; Further, such a registered person shall issue a payment voucher at the time of making payment to the supplier.

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.

Continuous supply of services - 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.

However, on receipt of advance, receipt voucher has to be issued. If supply of services ceases before completion of supply - The invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

Sale or approval - Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at time of supply or six months from date of removal, whichever is earlier.

As per **section 2(96) "removal"** in relation to goods, means—

(a) Dispatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or

(b) Collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

Tax invoice - For the purposes of this section, expression "tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier.

Illustration:

Rao & Shyam is a trader dealing in stationery items. It is registered under GST and has undertaken the following sales during the day:

S.NO.	Recipient of Supply	Amount (₹)
1	Meghana Traders – Registered retail dealer	190
2	Akhila Enterprises – an unregistered trader	358
3	Yeshwanth – A painter (Unregistered)	500
4	Jai Orphanage – an unregistered entity	188
5	Akash – a student (unregistered)	158

None of the recipients require a tax invoice (Meghana Traders, being a composition dealer.

Determine in respect of which of the above supplies, Rao & Shyam may issue a consolidated tax invoice instead of tax invoice at the end of the day?

Solution:

In the given illustration, Rao & Shyam can issue a consolidated tax invoice only with respect to supplies made to Jai orphanage (worth ₹188) and Akash (worth ₹158) as the value of goods supplied to these recipients is less than ₹200 as also, these recipients are unregistered and don't require a tax invoice.

As regards, the supplies made to Meghana traders, although the value of goods supplied to it is less than ₹200, Meghana 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 Akhila Enterprises and Yeshwanth, although both of them are not registered. The reason for the same is that the value of goods is less than ₹200.

11.2 UNREGISTERED PERSON CANNOT COLLECT TAX — REGISTERED PERSON CAN COLLECTED ONLY AS PER THIS ACT [Section 32]

(1) A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this act

(2) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

11.3 AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER

DOCUMENTS [Section 33]

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

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CONCEPT OF DEBIT NOTE AND CREDIT NOTE {Section 34}	
Point	**Provisions**
Credit note for excess value or deficient supply	Where a tax invoice has been issued for supply of any goods or services or both and taxable value or tax charged in that tax invoice is found to exceed taxable value or tax payable in respect of such supply, or Where the goods supplied are returned by the recipient, or Where goods or services or both supplied are found to be deficient, The registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.
Credit note is declared in return	Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the 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, and the tax liability shall be adjusted in such manner as may be prescribed. 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.

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Debit note or Supplementary invoice, if value under charged	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. 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 manner as may be prescribed.

RULES	
Point	**Provisions**

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1. Tax invoice	A tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars:— • Name, address and GSTIN of the supplier; • 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; • Date of its issue; • Name, address and GSTIN or UIN, if registered, of the recipient; • 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; • HSN code of goods or Accounting Code of services; • Description of goods or services; • Quantity in case of goods and unit or Unique Quantity Code thereof; • Total value of supply of goods or services or both; • Taxable value of supply of goods or services or both taking into account discount or abatement, if any; • Rate of tax (Central tax, State tax, integrated tax, Union territory tax, cess) • Amount of tax charged in respect of taxable goods or services (Central tax, State tax, Integrated tax, Union territory tax or cess); • Place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce; • Address of delivery where the same is different from the place of supply;

	• Whether the tax is payable on reverse charge basis; and Signature or digital signature of the supplier or his authorized representative • **HSN Code/Accounting Code:** Commissioner may, on the recommendations of the Council, by notification, specify— 1. The number of digits of HSN code for goods or the Accounting Code for services, that a class of registered persons shall be required to mention, for such period as may be specified in the said notification, and 2. The class of registered persons that would not be required to mention the HSN code for goods or the Accounting Code for services, for such period as may be specified in the said notification. **In case of exports of goods or services,** invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT ON PAYMENT OF IGST" or "SUPPLY MEANT FOR EXPORT UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF IGST", as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details:— I. Name and address of the recipient; II. Address of delivery; III. Name of the country of destination; and IV. Number and date of application for removal of goods for export • **No bill if value is upto Rs. 200 :** A registered person may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely:— (a) The recipient is not a registered person; and (b) The recipient does not require such invoice, and shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

2. Time limit for issuing tax invoice	**The invoice in case of taxable supply of services, shall be issued within a period of 30 days from the date of supply of service:** Where supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be 45 days from the date of supply of service: **Supply between establishments of same person:** Where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25 as referred to in Entry 2 of Schedule I, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.
3. Manner of issuing invoice	(1) The invoice shall be prepared in triplicate, in case of supply of goods, in the following manner:- (a) The original copy being marked as ORIGINAL FOR RECIPIENT; (b) The duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and (c) The triplicate copy being marked as TRIPLICATE FOR SUPPLIER. (2) The invoice shall be prepared in duplicate, in case of supply of services, in the following manner:— (a) The original copy being marked as ORIGINAL FOR RECIPIENT; and (b) The duplicate copy being marked as 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.**

4. Bill of supply	**Normal bill for exempted/composite tax supplies:** A bill of supply referred to in clause (c) of sub-section (3) of section 31 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 - 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) 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; and (h) Signature or digital signature of the supplier or his authorized representative: The other provisions of rule 1 shall, mutatis mutandis, apply to the bill of supply issued under this rule.

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5. Receipt voucher	A receipt voucher referred to in clause (d) of sub-section (3) of section 31 shall contain the following particulars:— (a) Name, address and GSTIN of the supplier; (b) A consecutive serial number 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 (Central tax, State tax, Integrated tax, Union territory tax or cess); (h) Amount of tax charged in respect of taxable goods or services (Central tax, State tax, Integrated tax, Union territory tax or 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; and (k) Signature or digital signature of the supplier or his authorized representative.

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6. Supplementary tax invoice and Credit or debit notes	(1) **Revised tax invoice or debit/credit note:** A revised tax invoice referred to in section 31 and credit or debit note referred to in section 34 shall contain the following particulars:— (a) The word "Revised Invoice", 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 -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; and (j) Signature or digital signature of the supplier or his authorized representative. (2) **Issuance of revised invoice for earlier period:** Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices 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

	However, the registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period: In case of inter-State supplies, where value of a supply does not exceed Rs. 2,50,000, a consolidated revised invoice may be issued separately in respect of all recipients located in a State, who are not registered under the Act. (3) **No credit declaration in matters of evasion, confiscation, etc. :** Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of section 74 or section 129 or section 130 (matters of evasion, confiscation, seizure) shall prominently contain the words "INPUT TAX CREDIT NOT ADMISSIBLE".

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7. Tax Invoice in special cases	(1) **ISD:** An ISD invoice or, as the case may be, an ISD credit note issued by an Input Service Distributor shall contain the following details:— (a) Name, address and GSTIN of the Input Service Distributor; (b) A consecutive serial number containing alphabets or numerals or special characters hyphen or dash and slash symbolised as , "/", respectively, and any combination thereof, unique for a financial year; (c) Date of its issue; (d) Name, address and GSTIN of the recipient to whom the credit is distributed; (e) Amount of the credit distributed; and (f) Signature or digital signature of the Input Service Distributor or his authorized representative **Where ISD is Banks, etc.:** Where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as prescribed above. (2) **Where supplier is Bank, FI, NBFC, insurer:** Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as prescribed. (3) **Goods Transport agency :** Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu

	thereof, by whatever name called, containing the gross weight of the consignment, name of the consignor and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, GSTIN of the person liable for paying tax whether as consignor, consignee or goods transport agency, and also containing other information as prescribed. (4) **Passenger Transport Service:** Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as prescribed. Further, a registered person who is 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 is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service

8. Transp-ortation of goods without issue of invoice	(1) **Delivery Challans:** For the purposes of— (a) Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known, (b) Transportation of goods for job work, (c) Transportation of goods for reasons other than by way of supply, (d) Such other supplies as may be notified by the Board, the consigner may issue a delivery challan, serially numbered, in lieu of invoice at the time of removal of goods for transportation, containing following details: (i) Date and number of the delivery challan, (ii) Name, address and GSTIN of the consigner, if registered, (iii) Name, address and GSTIN or UIN of the consignee, if registered, (iv) HSN code and description of goods, (v) Quantity (provisional, where the exact quantity being supplied is not known), (vi) Taxable value, (vii) Tax rate and tax amount - Central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee, (viii) Place of supply, in case of inter-State movement, and (ix) Signature. (2) **Copies:** The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner:- (a) The original copy being marked as ORIGINAL FOR CONSIGNEE; (b) Duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and (c) The triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

	(3) **Declaration:** Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in **FORM [WAY BILL].** (4) **Issuance of tax invoice:** Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods. (5) **CKD/SKD Condition:** Where the goods are being transported in a semi knocked down or completely knocked down condition, (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.

QUESTIONS:

1. Saharsh Industries Ltd, Hyderabad, entered into a contract with Shilpi Entrepreneurs, Hyderabad, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Saharsh Industries Ltd, removed the finished spare parts from its factory on 29th September. Determine, the date by which invoice must be issued by Saharsh Industries Ltd., under GST law.
2. M&M Cartakers, a registered person, provides the service of repair and maintenance of electrical appliances. On April 1st, it has entered into an annual maintenance contract with Q for its air-conditioner and washing machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service

is rendered. During the year, it provided the service on April 1st, July 1st, October 1st and January 1st in accordance with the terms of contract. When should M&M Caretakers issue the invoice for the services rendered?

3. The aggregate turnover of Sangria services Ltd, exceeded ₹20L on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advise Sangria Services Ltd as so what is the effective date of registration in its case. It has also sought your advice regarding period of issuance of revised tax invoice.
4. Kaira Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise them regarding the same.
5. Is a registered person liable to pay tax under reverse charge under sec 9(3)/9(4) of the CGST Act required to issue an invoice. Discuss the relevant provisions under CGST Act and rules thereunder.
6. Discuss the provisions relating to issuance of credit and debit notes under CGST Act and rules thereunder.
7. What is the time period within which invoice has to be issued for supply of services?
8. What is the time period within which invoice should be issued in a case involving continuous supply of goods?
9. What is the time period within which invoice should be issued in a case involving continuous supply of services?
10. What is the time period within which invoice should be issued where the goods being sent on sale/approval basis?

Illustration 1

Tirupati Traders, a registered supplier of goods, pays GST [CGST & SGST or IGST, as the case may be] under regular scheme. It has furnished the following particulars for a tax period:

Particulars	Amount (Rs.)
Value of intra-State supply of goods	12,000
Value of intra-State purchase of goods	10,000

Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

Both inward and outward supplies are exclusive of taxes, wherever applicable.

All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by Tirupati Traders during the given tax period assuming that there is no opening balance of input tax credit (ITC). Make suitable assumptions wherever required.

Illustration 2

Govind, a registered supplier, is engaged in providing services in the neighbouring States from his registered office located in Mumbai. He has furnished the following details in respect of the inward and outward supplies made during a tax period:-

Particulars	(Rs.)
Inter-State supply of services	1,80,000
Receipt of goods and services within the State	1,00,000

Assume the rates of taxes to be as under:

Particulars	Rate
CGST	9%

SGST	9%
IGST	18%

Both inward and outward supplies are exclusive of taxes, wherever applicable.

All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by Govind during the given tax period. Make suitable assumptions if required.

PAYMENT OF TAX

The introduction of E-ledgers is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register. Once a taxpayer is registered on common portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dash board at all times.

1 PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [Sec. 49]

(1) Cash payments in electronic cash ledger -

Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

OTC limit is 10,000 per challan, per tax period by cash, cheque or demand draft.

Date of credit in Govt. account is relevant: the date of credit to the account of the Government in the authorized bank shall be deemed to be the date of deposit in the electronic cash ledger

Payment by Challan:

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

CIN or Challan Identification Number is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code.

CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

BRN or Bank Reference Number is the transaction number given by the bank for a payment against a Challan

E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India transaction.

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

(2) ITC in electronic credit ledger –

The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.

(3) Use of cash ledger –

The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) Use of credit –

The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

Order of applying payment - Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in following order, namely:—

Self-assessed tax, and other dues related to returns of previous tax periods;

Self-assessed tax, and other dues related to the return of the current tax period;

Any other amount payable under this Act or rules made there under including the demand determined u/s 73 or section 74.

2 INTEREST ON DELAYED PAYMENT OF TAX [Sec. 50]

Sec.	Point	Provisions
(1)	**Interest upto 18%**	Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay tax or any part thereof to the Government within period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding 18% as may be notified by Government on recommendations of the Council.
(2)	**Calculation**	The interest shall be calculated, — In such manner as may be prescribed, From the day succeeding the day on which such tax was due to be paid.
(3)	**Interest upto 24% for deliberate excess claims**	A taxable person who makes under Section 42 or 43 — An undue or excess claim of input tax credit or Undue or excess reduction in output tax liability Shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding 24%, as may be notified by the Government on the recommendations of the Council.

The rate of interest shall be notified by the Government on the basis of recommendation of the Council. However, such rate to be notified shall not exceed-

18% in case of belated payment of tax i.e. on failure to pay tax (or part of tax) to the Government's account. Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum.

24% on undue or excess claim of ITC or on such undue or excess reduction in output tax liability. Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 24% per annum.

Electronic Cash Ledger:

It will reflect all deposits made in cash, and TDS/TCS made on account of the tax payer.

This ledger can be used for making **ANY PAYMENT** towards tax, interest, penalty, fees or any other amount on account of GST.

Electronic Credit Ledger:

It will reflect Input Tax Credit as self-assessed in monthly returns.

The credit in this ledger can be used to make payment of **TAX ONLY** i.e. output tax and not other amounts such as interest, penalty, fees etc.

Electronic Liability Register:

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

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Chapter 10 – Returns under GST

13.1 FURNISHING DETAILS OF OUTWARD SUPPLIES [Section 37]

Sec 37(1) Details of outward supplies & intimation to recipient - Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the 10th day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed.

"Details of outward supplies" shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

Extension:

- The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:
- Any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

Any registered person, who has furnished the details under this section for any tax period shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period. However, no rectification of error or omission in respect of the details furnished under this section shall be allowed after:

- Furnishing of the return under section 39 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.

Explanation - For the purposes of this chapter, the expression "details of outward supplies "shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

13.3 RETURNS AND ALLIED PROVISIONS [Section 39 TO 48]

Furnishing of returns (Sec 39) –

Sec 39(1) Monthly return of inward/outward supplies by 20th of next month : Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof. (GSTR 3B)

Sec 39(2) Quarterly return in case of composite tax by 18th: A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.

Quarterly payment in tax in form CMP – 08 and return to be filed on annual basis by 30Th April in form GSTR 4

Sec 39(4) & (5) Return by NR taxable person: Every registered non – resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within 20 days after the end of a calendar month or within 7 days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

Sec 39(6) Extension of time-limit: The commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein.

Any extension of time limit notified by the commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

Sec 39(7) Tax to be paid upto the date of filing of return: Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the government the tax due as per such return not later than the last date on which he is required to furnish such return.

Sec 39(8) Return to be filed even if no taxable supplies: Every registered person who I required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

Sec 39(9) Revision on suo motu discovery of mistake:

- Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act;
- However, no such rectification of any omission or incorrect particulars shall be allowed 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.

Sec 39(10) No return for subsequent period, if return of earlier period is still unfiled: A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by them.

SPECIAL RETURNS

As discussed above, a regular taxpayer has to file GSTR-1, GSTR-2 and GSTR -3. However, there are certain specified category of taxpayers for whom a simplified

return iS specified owing to the nature of their activities namely, composition taxpayer, NRTP, ISD, person deducting tax at source, person collecting tax at source, supplier of OIDAR services.

These Special Returns are discussed below.

(i) FILING OF RETURNS BY COMPOSITION SUPPLIER [SECTION 39(2) READ WITH RULE 62 OF CGST RULES]

(a) Person eligible to file return, periodicity and form of return

Every registered person paying tax under section 10 i.e., composition supplier will file a quarterly return in FORM CMP -08 electronically through the common portal either directly or through a notified Facilitation Centre.

(b) Due date for filing GST CMP 08

GST CMP -08 should be furnished by 18th of the month succeeding the relevant quarter.

(c) Statements/returns for the period prior to opting for composition scheme

If a registered person opts for composition scheme from the beginning of a financial year, he will, where required, furnish normal returns relating to the period prior to opting for composition levy till the

- Due date of furnishing the return for the month of September of the succeeding financial year, or
- Furnishing of annual return of the preceding financial year, whichever is earlier.

The composition supplier will not be eligible to avail of ITC on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme.

(ii) FILING OF RETURNS BY NON-RESIDENT TAXABLE PERSONS [SECTION 39(5) READ WITH RULE 63 OF CGST RULES]

A. <u>Monthly return</u>

A registered NRTP is not required to file separately the Statement of Outward Supplies, Statement of Inward Supplies and Return for a normal tax payer. In place of the same, a simplified monthly tax return has been prescribed in **Form GSTR-5** for a NRTP for every calendar month or part thereof. NRTP shall incorporate the details of outward supplies and inward supplies in GSTR-5.

B. **Last date of filing return**

The details in GSTR-5 should be furnished within **20 days after the end of the calendar month** or **within 7 days after the last day of validity period of the registration**, whichever is earlier.

C. **Payment of interest, penalty, fees or any other amount payable**

NRTP shall pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or the provisions of the Returns Chapter under CGST Rules, 2017 till the last date of filing return.

(iii) DETAILS OF INWARD SUPPLIES OF PERSONS HAVING UIN [RULE 82 OF CGST RULES, 2017]

1. **UIN issued for claiming refund of taxes paid on his inward supplies of a person**

   Such person shall furnish the details of those inward supplies of taxable goods and/or services on which refund of taxes has been claimed in Form GSTR-11, **along with application for such refund claim**

2. **UIN issued for purposes other than refund of taxes paid**

   Such person shall furnish the details of inward supplies of taxable goods and/or services as may be required by the proper officer in Form GSTR-11.

   Non-Resident Taxable Persons (NRTPs) are those suppliers who do not have a business establishment in India and have come for a short period to make supplies in India. They would normally import their products into India and make local supplies.

First return (Sec 40) - 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.

Annual return (Sec 44) -

Sec 44(1) Annual return by 31st Dec.: Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before 31st day of December following the end of such financial year.

Sec 44(2) Audit report to be furnished along with reconciliation statement : Every registered person who is required to get his accounts audited in accordance with the provisions of section 35(5) 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

Filing of annual return (GSTR- 9) under section 44(1) of CGST Act read with rule 80(1) of CGST Rules, in respect of financial years 2017-18 and 2018-19, has been made voluntary for the registered persons whose turnover is less than Rs. 2 crore and who have not furnished the said annual return before the due date. The annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

Final return (Sec 45) - 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.

Notice to Return Defaulters (Sec 46) - Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed

Levy of late fee (Sec 47)

Sec 47(1) Late fee of Rs. 100 per day upto Rs. 5,000 for belated filing of periodical return: Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

Sec 47(2) Annual return —Late fee of Rs. 100 per day upto 0.25% of turnover: Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent, of his turnover in the State or Union territory.

GST practitioners (Sec 48)

Sec 48(1) Qualifications: The manner of approval of goods and services tax practitioners,

their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.

Sec 48(2) Filing of returns through GSTP: A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.

Sec 48(3) Responsibility lies only on registered person: Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return, and details are furnished.

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Chapter 13 - E- Way bill {Section 68 read with Rules}

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.

The details of such prescribed documents required to be carried shall be validated in such manner as may be prescribed.

Where any conveyance referred above is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

(A) Information to be furnished prior to commencement of movement of goods and generation of e-way bill [Rule 138]

(1) Every registered person who causes movement of goods of consignment value exceeding ` 50,000:

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods in Part-A of a prescribed form, electronically, on the common portal.

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the **recipient may generate the e-way bill** electronically on the common portal after furnishing information in Part-B of such prescribed form.

(3) Where the e-way bill is not so generated and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in Part B of the prescribed form 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 of the prescribed form.

However, the registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than ` 50,000.

Further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the

e-way bill in prescribed form on the common portal in the manner specified in this rule.

Moreover, where the goods are transported for a distance of less than 10 km within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of the prescribed form.

Explanation 1- For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

Explanation 2-The information in Part A of the prescribed form shall be furnished by the consignor or the recipient of the supply as consignee where the goods are transported by railways or by air or by vessel.

(4) Unique E-Way Bill Number: Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

(5) Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in prescribed form.

However, where the goods are transported for a distance of less than 10 km within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill.

(6) Multiple consignments transported in one conveyance: After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill maybe generated by him on the said common portal prior to the movement of goods.

(7) Where the consignor or the consignee has not generated E-Way Bill in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than ` 50,000, the transporter shall generate E- way Bill on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a Consolidated E-Way Bill on the common portal prior to the movement of goods.

(8) The information furnished in Part A of the prescribed form shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in FORM GSTR-1.

However, when the information has been furnished by an unregistered supplier in prescribed form, he shall be informed electronically, if the mobile number or the email is available.

(9) Cancellation of E-way bill: Where an e -way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

(10)Validity of E-way bill: An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance the goods have to be transported, as mentioned in column (2) of the said Table.

S. No.	Distance	Validity
1	Upto 100 km	One day
2	For every 100 km or part thereof thereafter	One additional day

However, the Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein.

Further where, under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of prescribed form.

Explanation— For the purposes of this rule, the **"relevant date"** shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as 24 hours.

(11) Acceptance/rejection of E -way bill: The details of e -way bill generated under sub- rule (1) shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

(12) Where the recipient referred to in sub-rule (11) does not communicate his acceptance or rejection within 72 hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

(13) The e- way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory.

(14) E-way bill not required to be generated: Notwithstanding anything contained in this rule, no e-way bill is required to be generated—

(a) In case of certain specific goods;
(b) where the goods are being transported by a non-motorised conveyance;
(c) where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and
(d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the GST Rules of the concerned State.

(B) Documents and devices to be carried by a person-in-charge of a conveyance [Rule 138A]

(1) The person in charge of a conveyance shall carry—

(a) the i**nvoice or bill of supply or delivery challan**, as the case may be; and

(b) a **copy of the e-way bill or the e-way bill number**, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

(2) A registered person may obtain an **Invoice Reference Number** from the common portal by uploading, on the said portal, a tax invoice issued by him in a prescribed form and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of 30 days from the date of uploading.

(3) Where the registered person uploads the invoice under sub-rule (2), the information in Part A of the form prescribed for E-way Bill shall be auto-

populated by the common portal on the basis of the information furnished in prescribed form.

(4) The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

(5) Notwithstanding anything contained clause (b) of sub-rule (1), 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.

(C) Verification of documents and conveyances [Rule 138B]

(1) The Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intraState movement of goods.

(2) The Commissioner shall get Radio Frequency Identification Device 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 eway bill has been mapped with the said device.

(3) 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.

However, on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

(D) Inspection and verification of goods [Rule 138C]

(1) 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 such form shall be recorded within three days of such inspection.

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

(E) Facility for uploading information regarding detention of vehicle [Rule 138D]

Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in prescribed form on the common portal.

ILLUSTRATIONS

Illustration 1

Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Sultan Industries Ltd. under GST law.

Illustration 2

MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

Illustration 3

The aggregate turnover of Sangri Services Ltd. exceeded Rs. 20 lakhs on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Sangri 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.

Illustration 4

Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.

Illustration 5

Determine whether the following statements are true or false:

(i) A registered person shall issue separate invoice for taxable and exempted goods, when supplying both taxable as well as exempted supplies to an unregistered person

(ii) A NBFC can issue a consolidated tax invoice at the end of every month for the supply made during that month