

INDEX

S. No	Chapter Name	Starting page No.	Ending page No.
1.	INTRODUCTION TO GST	1.1	1.21
2.	SUPPLY UNDER GST	2.1	2.24
3.	CHARGE OF GST	3.1	3.28
4.	COMPOSITION LEVY	4.1	4.17
5.	TIME OF SUPPLY & VALUE OF SUPPLY	5.1	5.68
6.	INPUT TAX CREDIT UNDER GST	6.1	6.45
7.	REGISTRATION	7.1	7.49
8.	TAX INVOICE CREDIT AND DEBIT NOTES	8.1	8.29
9.	PAYMENT OF TAX	9.1	9.24
10.	RETURNS	10.1	10.13
11.	EXEMPTIONS	11.1	11.45



1. INTRODUCTION TO GST

CHAPTER OVERVIEW

1. Meaning and purpose of imposing tax
2. Direct tax vs indirect tax
3. Concept and features of indirect taxes
4. Background of erstwhile indirect taxes
5. Need for GST in India & tax that are subsumed in GST
6. Benefits of GST
7. Salient features of GST
8. Constitutional provisions
9. GST network (GSTN)
10. Salient features of GSTN
11. Goods and services tax Compensation Cess

1. MEANING AND PURPOSE OF IMPOSING TAX

Meaning of Tax

- ✎ Tax is a financial burden laid upon individuals or property owners to support the govt. through Separate Act
- ✎ Tax is not a voluntary payment or Donation, but it is an Enforceable Contribution made by a person in pursuance of the legislative authority.
- ✎ In Simple Words Tax is nothing but money that people have to pay to the govt. to provide public Services

Purpose of Imposing Tax:

It is the primary Responsibility of the government to fulfill

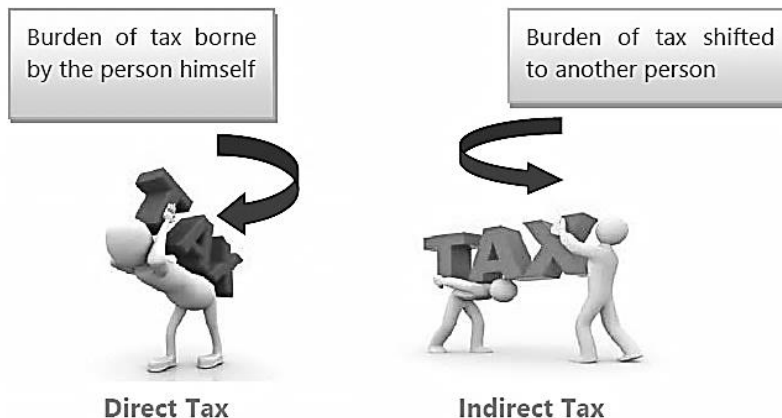
- ✎ The Increasing development needs of the Country & people.
- ✎ To provide Basic needs of public
- ✎ Socio- Economic objectives.

To provide all the above Services for the public government need a fund, hence such Amount Collected in the form of tax.

2. DIRECT TAX VS INDIRECT TAX

Basis	Direct Tax	Indirect Tax
Meaning	Direct tax is referred to as the tax, levied on person's income and wealth and is paid directly to the government	Indirect Tax is referred to as the tax, levied on a person who consumes the goods and services and is paid indirectly to the government.
Nature	Progressive in nature i.e., higher tax is levied on a person earning higher income and vice versa.	Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.

Incidence and Impact	Falls on the same person. Assessee, him-self bears such taxes. Thus, it pinches the tax payer.	Falls on different person. Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer.
Example	Income Tax	GST, Custom Duty
Basis	Direct Tax	Indirect Tax
Evasion	Tax evasion is possible	Tax evasion is hardly possible because it is included in the price of the goods and services.
Inflation	Direct tax helps in reducing the inflation.	Cost of goods and services increases due to levy of indirect tax thus indirect taxes promote inflation. However, sometimes it is useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.
Imposition and collection	Imposed on and collected from the same person	Imposed on and collected from consumers of goods and services but paid and deposited by the assessee.
Burden	Cannot be shifted	Can be shifted
Event	Taxable income of the assessee	Supply of goods and services



3. CONCEPT AND FEATURES OF INDIRECT TAXES

- ❖ **Tax on goods and services:** Indirect tax is levied at the time of supply or manufacture or purchase or sale or import or export of goods. Further, it is also levied on supply.
- ❖ **Burden:** Tax, being indirect tax paid by the seller, shall be recovered by the seller from the buyer. Thus, one can say that burden of indirect tax is shifted from seller to buyer and ultimately borne by consumers of such goods or services.
- ❖ **Inflationary in nature:** Cost of goods and services increases due to levy of indirect tax thus indirect taxes promote inflation.
- ❖ **Social welfare:** It is useful tool to promote social welfare by checking the consumption of harmful goods or in goods through higher rate of tax.

- ❖ **Wider Tax Base:** Majority of goods and services are liable to indirect tax with very low threshold limits, so tax base is much wider in case of indirect tax in compare to direct tax.
- ❖ **Regressive in Nature:** All persons (rich or poor) will bear equal wrath of tax on goods or service consumed by them irrespective of their ability. In other words, indirect tax does not create any difference between rich and poor. Poor people are also required to pay equal percentage of tax on certain goods and service of mass consumption. Thus, it may increase the disparities between rich and poor.
- ❖ **No pinch:** Seller (the person on which indirect tax is levied) does not perceive a direct pinch of tax as it is recovered by him from the buyer and then he is paying to the Government. On the other hand, since it is built in the price of the goods, the ultimate payer (i.e., buyer) pay it without knowing that he is paying any tax to the Government.

4. BACKGROUND OF ERSTWHILE INDIRECT TAXES

The Constitution of India is the supreme law of India. Any tax law, which is not in conformity with the Constitution, is called ultra vires the Constitution and held as illegal and void. Article 246 read with Schedule VII divides subject matter of law made by legislature into three categories:

List I	Union list (only Central Government has power of legislation on subject matters covered in the list)
List II	State list (only State Government has power of legislation on subject matters covered in the list)
List III	Concurrent list (both Central & State Government can pass legislation on subject matters).

Following major entries in the respective listenable the legislature to make law on the matter:

Union List(List I)	State List (List II)
Entry 82 - Taxes on income other than agricultural income i.e. Income-tax	Entry 54 -Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I i.e., State Level VAT
Entry 83 -Duties of customs including export duties i.e., Customs Act	Entry 46 – Taxes on agricultural income.
Entry 84 - Duties of excise on tobacco and other goods manufactured or produced in India except: <ul style="list-style-type: none"> a. alcoholic liquors for human consumption. b. opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol/opium/ Indian hemp / 	Entry 60 - Taxes on professions, trades, callings and employments i.e., Professional Tax

narcotic drugs / narcotics i.e., Central Excise Act	
Entry 86 -Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies ;taxes on the capital of companies i.e., Wealth Tax	Entry 51 -Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India: a. alcoholic liquors for human consumption; b. opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol/opium/Indian hemp/narcotic drugs / narcotics
Entry 92A - Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce i.e., Central Sales Tax	
Entry 92C -Tax on services	
Entry 97 - Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.	

5. NEED FOR GST IN INDIA & TAX THAT ARE SUBSUMED IN GST



A) Deficiency in the existing IDT system:

1. Cascading effect of taxes an account of

- Levy of non-VAT able CST.
- Inclusion of excise duty in value, while imposing VAT

2. Double taxation of a transaction has both goods and services.

E.g.: Restaurant (under earlier indirect tax)

Value of food	=	10,000	
Service tax @ 15%	=	<u>600</u>	(taxable value is 40%) i.e. 10,000
x 40% x 15%			
Total	=	10,600	
VAT @ 14.5%	=	<u>1,537</u>	
Total	=	<u>12,137</u>	



3. Non – integration of vat and service tax

E.g.: Readymade garments business

a) Readymade garments	=	5,00,000
Excise@ 12.5%	=	<u>62,500</u>

b) Building rent = 1,00,000
S.T.@ 15% = 15,000



Total **5, 62,500**
 Vat @ 5% = 28,125
Total **5,90,625**

c) Brand ambassador = 2,00,000 d) TV Advertisement = 50,000
 S.T.@ 15% = 30,000 S.T.@ 15% = 7,500
Total **2,30,000**

Value of the goods sold = 20,00,000
 Vat @ 5% = 1,00,000
21,00,000

Computation of Net Vat Payable

Particulars	Amount
VAT on sale	1,00,000
Less: ITC	
a) Vat on purchase	(28,125)
b) E.D on purchase	N.A
c) S.T on Rent	N.A
d) S.T on advertisement	N.A
e) S.T on Brand Advertise	<u>N.A</u>
Net VAT payable	<u>71,875</u>

4. No Cenvat credit after manufacturing stage

5. Non – inclusion of several local levies in state vat such as luxury tax, entertainment tax etc.

E.g.: movie theatre

a) Building rent = 5,00,000
 Service tax @ 15% = 75,000
5,75,000

b) Cleaning material = 3,00,000
 Vat @ 14.5% = 43,500
= 3,43,500

c) Furniture = 4,00,000
 vat@ 5% = 20,000
= 4,20,000

Movie collection = 50,00,000
 Entertainment tax @20% = 10,00,000
 Entertainment tax payable = 10,00,000

Less: service tax

on building @ 15% = -
 Vat @ 14.5% on cleaning = -

Vat on Furniture @ 5% = _____ -
Net payable = **10,00,000**






B) Taxes that are subsumed in GST

Central levies	State levies
<ol style="list-style-type: none"> 1) Central excise duty and additional excise duty 2) Service tax 3) Excise duty under medicinal and toilet preparation act 4) CVD and special CVD 5) Central sales tax 6) Central surcharges and cesses in so far as they related to supply goods or services 	<ol style="list-style-type: none"> 1) VAT / sales tax 2) Entry tax and purchase tax 3) Entertainment tax (except those levied by local bodies) 4) Tax on lottery betting and gambling 5) Luxury tax 6) Taxes on advertisements 7) State surcharges, cesses in so far as they related to supply of goods or services

Note points:

Even after introducing of GST

- 1) Alcoholic liquor for human consumption on which state Govt. has a right to impose state excise duty and VAT/CST (not subsumed in GST)
- 2) Tobacco products are covered under GST as well as under central excise
- 3) In relating to following goods GST council has to notify the effective date for imposing GST those are

-  Petroleum crude
-  High speed diesel
 -  Motor spirit (commonly known as petrol)
 -  Natural gas
 -  Aviation turbine fuel

PAN HM



That means above goods are liable for payment of central excise and vat until effective date notified by Govt.

- 4) Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.



6. BENEFITS OF GST

The benefits of GST can be summarized as under:

A. For business and industry

- ❖ **Easy compliance:** A robust and comprehensive IT system would be the foundation of the GST regime in India. Therefore, all tax-payer services such as registrations, returns, payments, etc. would be available to the taxpayers online, which would make compliance easy and transparent.

- ❖ **Uniformity of tax rates and structures:** GST will ensure that indirect tax rates and structures are common across the country, thereby increasing certainty and ease of doing business. In other words, GST would make doing business in the country tax neutral, irrespective of the choice of place of doing business.
- ❖ **Removal of cascading:** A system of seamless tax-credits throughout the value-chain, and across boundaries of States, would ensure that there is minimal cascading of taxes. This would reduce hidden costs of doing business.
- ❖ **Improved competitiveness: Reduction** in transaction costs of doing business would eventually lead to an improved competitiveness for the trade and industry.
- ❖ **Gain to manufacturers and exporters :** The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

B. For Central and State Governments

- ❖ **Simple and easy to administer: Multiple** indirect taxes at the Central and State levels are being replaced by GST. Backed with a robust end-to-end IT system, GST would be simpler and easier to administer than all other indirect taxes of the Centre and State levied so far.
- ❖ **Better controls on leakage: GST** will result in better tax compliance due to a robust IT infrastructure.
Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an inbuilt mechanism in the design of GST that would incentivize tax compliance by traders.
- ❖ **Higher revenue efficiency :** GST is expected to decrease the cost of collection of tax revenues of the Government, and will therefore, lead to higher revenue efficiency.
- ❖ **Boost to 'Make in India' initiative :** GST will give major boost to the 'Make in India' initiative of government of India by making goods and services produced in India competitive in the national as well as international market.

C. For the consumer

- ❖ **Single and transparent tax proportionate to the value of goods and services:** Due to multiple indirect taxes being levied by the Centre and State, with incomplete or no input tax credits available at progressive stages of value addition, the cost of most goods and services in the country today are laden with many hidden taxes. Under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer.
- ❖ **Relief in overall tax burden: Because** of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which will benefit consumers.

7. SALIENT FEATURES OF GST

- ❖ **Destination Based Tax:** GST is a value added destination-based tax on consumption of goods and services.

It is levied 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. Benefit of tax (STCG/ UTGST) will accrue to the consuming state which will benefit the poor states.

Example 1 : If A in Gujarat produces the goods and sells the goods to B in Rajasthan, then in such case the tax should be levied and collected and should accrue to the State of Rajasthan and not to the State of Gujarat³.

- ❖ **One Nation One Tax:** GST is levied on supply of goods and services across India (including Jammu and Kashmir). It is a single tax on the supply of goods and services, right from the manufacturer to the consumer.

- ❖ **Dual GST Model:** Centre and states will impose tax on goods and services simultaneously.

- a. Intra-State supply of goods and services

- CGST: Payable to Central Government
 - SGST/ UTGST: Payable to State Government/ Union Territory (as applicable) where they are consumed

- b. Inter-States Supply of goods and services

- IGST: Payable to Central Government

Centre will levy and administer CGST and IGST while respective States/ UTs will levy and administer SGST/UTGST

- ❖ **Import and Export:** Import will be treated as inter-States supply and IGST will be chargeable along with basic Customs duty. However, in GST Export will be treated as Zero rated supplies and no IGST is payable.

- ❖ **Rates of GST:** The rates of GST⁴ are 0.5%, 3%, 5%, 12%, 18% and 28%. In addition, compensation cess will be payable on pan masala, tobacco & tobacco product, coal, lignite, aerated water and motor-cars.

- ❖ **Tax on value of supply:** GST will be calculated on value of supply of goods and services, which is transaction value. (subject to some exceptions)

- ❖ **Registration:** Under GST, every suppliers who have made taxable supply (subject to certain threshold limits) shall required to get himself registered under GST Law.

- ❖ **Input Tax Credit :** A registered person is entitled to take credit (deduction) of input tax paid from the output tax (if any) subject to following restriction:

- a. **Utilisation of IGST:** First utilized for the payment of IGST then the balance, if any, shall be utilized towards payment of CGST and SGST/UTGST

- b. **Utilisation of CGST:** First utilized for the payment of CGST then the balance, if any, may be utilized towards payment of IGST.

c. **Utilisation of SGST/UTGST:** First utilized for the payment of SGST/UTGST then the balance may be utilized towards payment of IGST.

❖ **Free flow of the credit:** Under GST regime there is a seamless (without any obstruction) credit flow in case of inter-state supplies, which was not possible in pre-GST period. No credit was available for CST paid by the buyer. Under GST regime the seamless credit will flow as follows:

- a. The inter-state supplier in exporting state is allowed to set off the available credit in IGST, CGST and SGST/UTGST against the IGST payable on inter-state supply made by him.
- b. The buyer of importing state in inter-state supply can avail the credit of IGST paid on purchase from the output tax payable.
- c. The exporting state transfers to the centre the credit of SGST/ UTGST utilised for the payment of IGST.
- d. The Centre transfers to the importing state the credit of IGST used in payment of SGST/UTGST.

❖ **Acts and Rules:** For implementation of the GST, following Acts and major Rules are there :




Act	Rules
The Central Goods and Services Tax Act, 2017	Central Goods and Services Tax Rules, 2017
The Integrated Goods and Services Tax Act, 2017	Integrated Goods and Services Tax Rules, 2017
The Goods and Services Tax (Compensation to States) Act, 2017	Goods and Services Tax Compensation Cess Rules, 2017

❖ **Other features**

- a. In specified situation, self-supply is also treated as taxable supply and hence liable for tax
- b. Even in few cases, supply without consideration is also liable for GST
- c. The law has also notified the list of exempted goods and services
- d. Alcoholic liquor for human consumption, petroleum crude, high speed diesel, motors spirits (commonly known as petrol), natural gas and aviation turbine fuel has been kept out of the purview of the GST
- e. Procedure for collection of GST is uniform across the States.
- f. Common return would serve the purpose of both Centre and State Government

8. CONSTITUTIONAL PROVISIONS

a) **Article no 246A [power to make laws with respective GST]**

-  This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.
-  Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.
-  However, in respect to the following goods, the aforesaid provisions shall apply from the date recommended by the GST Council:

- ✍ petroleum crude
- ✍ high speed diesel
- ✍ motor spirit (commonly known as petrol)
- ✍ natural gas
- ✍ aviation turbine fuel

✍ The provisions of Article 246A are notwithstanding anything contained in Articles 246 and 254. Article 254 deals with the supremacy of the laws made by Parliament

b) Article 269A: (levy and collection of GST on interstate supply)

- ✍ Article 269A stipulates that 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.
- ✍ In addition to above, import of goods or services or both into India will also be deemed to be supply of goods and / or services in the course of Inter-State trade or Commerce.
- ✍ This will give power to Central Government to levy IGST on the import transactions which were earlier subject to countervailing duty under the Customs Tariff Act, 1975.
- ✍ Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India. This is to facilitate transfer of funds between the Centre and the States.

c) Article no 279 A: (Power to the President)

- ✍ Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (**GST Council**).
- ✍ The provisions relating to GST Council came into force on 12th September 2016. President constituted the GST Council on 15th September 2016
- ✍ The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance / Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member.
- ✍ The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- ✍ It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.
- ✍ Every decision of the GST Council is taken by a majority of not less than three-fourths of the weighted votes of the members present and voting. Vote of the Centre has a weightage of one-third of total votes cast and votes of all the State Governments taken together has a weightage of two-thirds of the total votes cast, in that meeting
- ✍ **Weightage of votes:**
 - ✍ To the C.G – $1/3^{\text{rd}}$ of total votes
 - ✍ To the S.G – $2/3^{\text{rd}}$ of total votes.

9. GST NETWORK (GSTN)

A common portal or platform is needed which could act as a clearing house and verify the claims and inform the respective government to transfer the funds. This is possible with the help of a strong IT infrastructure. Accordingly, Government has established common GST Electronic Portal (www.gst.gov.in), a website managed by Goods and Services Network (GSTN) for the tax payer and common IT infrastructure for Central and States. GSTN (a non - profit Government owned organisation) is a Special Purpose Vehicle. The functions of the GSTN would, inter alia, include:

- a. facilitating registration;
- b. forwarding the returns to Central and State authorities;
- c. computation and settlement of IGST;
- d. matching of tax payment details with banking network;
- e. providing various MIS reports to the Central and the State Governments based on the tax payer return information;
- f. providing analysis of tax payers' profile; and
- g. running the matching engine for matching, reversal and reclaim of input tax credit.

The GSTN is developing a common GST portal and applications for registration, payment, return, assessment and MIS/reports.

On registration on the common portal (www.gst.gov.in), each taxpayer will receive 15 alpha numeric PAN based unique Goods and Service Tax Identification Number (GSTIN).

10. SALIENT FEATURES OF GSTN

Incorporated in March 2013 as sec. 25 100% government owned company with paid up capital of Rs.10 crore

- ❖ To function as a Common Pass-through portal for taxpayers
 - Submit registration application
 - File returns
 - Make tax payments
- ❖ To develop back-end modules for States
- ❖ Infosys Ltd. appointed as Managed Service Provider (MSP)
- ❖ Appointed more than 70 GST Suvidha Providers (GSPs)

11. GOODS AND SERVICES TAX COMPENSATION CESS

- ❖ Goods and Services Tax (Compensation to States) Act, 2017 was enacted to levy Compensation cess for providing compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force (01/07/2017), for a period of five years or for such period as may be prescribed on the recommendations of the GST Council.

Taxable persons selling notified goods are liable to collect and pay GST Cess. Notified goods are:

- a. Pan masala,
- b. Tobacco & tobacco product,

- c. Cigarettes, cigar
- d. Coal, lignite,
- e. Aerated water; and
- f. Motor-cars

- ❖ Cess shall be computed on the value of taxable supply. Cess is levied in addition to CGST + SGST/UTGST incase of intra-state sales and IGST in case of inter-state sales including import of goods.
- ❖ Taxpayer can use Input Tax Credit of Cess for payment of Cess liability on outward supply made by him. Hecannot use Input Tax Credit of Cess for payment of output CGST, SGST or IGST
- ❖ Where a taxpayer is registered under composition levy, Cess is not applicable on outward supplies made byhim
- ❖ Cess is not levied on export made from India. The exporter can claim a refund of the input tax credit of cesspaid on purchases
- ❖ The amount of compensation to be distributed to each state shall be calculated as follows:
 Step 1 : Base revenue = Tax revenue of the State in financial year 2015-16.
 Step 2 : Assume growth rate as 14% and calculate projected revenue for each financial year.
 The implication of projected revenue is that this would be the revenue that a state could have earned if GST were not implemented.
 If the base year revenue for 2015-16 for a concerned State, calculated as per section 5 is one hundred rupees, then the projected revenue for financial year 2018-19 shall be:
 Projected Revenue for 2018-19=100 (1+14/100)³
 Step 3 : Calculate the Compensation payable for each FY as follows :

Projected Revenue for that particular financial year	xxx
(–) Actual Revenue earned by the State including share in IGST	xxx
Compensation payable to the State	xxx

50% of the amount remaining unutilised in the Fund at the end of the transition period shall be transferred tothe Consolidated Fund of India as the share of Centre, and the balance 50% shall be distributed amongst theStates in the ratio of their total revenues from the State tax or the Union territory goods and services tax, as thecase may be, in the last year of the transition period.

TEST YOUR KNOWLEDGE

- Which of the following taxes have been subsumed in GST?
 - Central Sales Tax
 - Central Excise Duty
 - VAT
 - All of the above
- List-I of the Constitution contains matters in respect of which _____ has the exclusive right to make laws.
 - Central Government
 - State
 - Both Centre and State Governments
 - None of the above
- GST is levied on supply of all goods and services except:
 - Alcoholic liquor for human consumption
 - Tobacco
 - Health care services
 - All of the above
- On Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel:
 - GST will not be levied at all
 - GST will be levied from a date to be notified on the recommendations of the GST Council
 - GST is levied, but exempt
 - None of the above
- The functions of Goods and Services Network (GSTN) include:
 - Facilitating registration
 - Forwarding the returns to Central and State authorities
 - Computation and settlement of IGST
 - All of the above
- Which article of the Constitution outlines the composition and functions of the GST Council?
 - 270
 - 279A
 - 246A
 - 269A

HINTS

- 1. (d)** **2. (a)** **3. (a)** **4. (b)** **5. (d)** **6. (b)**

Exercise

MULTIPLE CHOICE QUESTIONS

- Who is empowered to make law for matters containing in List II of Schedule VII of the Constitution of India
 - State Government
 - Central Government
 - Both Central and State Government
 - None of the above
- Power to make laws with respect to goods and services tax has been given by the Constitution wide Article
 - 279A
 - 246A
 - 246
 - 365
- Indirect tax is
 - Regressive in nature
 - Progressive in nature
 - Suppressive in nature
 - None of these

4. One of the following is not an example of indirect types
 - a. GST
 - b. Customs Duty
 - c. Income tax
 - d. None of these
5. In case of indirect tax, impact and incidence of tax fall on
 - a. One person
 - b. Different persons
 - c. State Government
 - d. None of these
6. Levy of indirect tax on goods and services may leads to
 - a. Inflation
 - b. Deflation
 - c. Reflection
 - d. None of the above
7. Levy and collection of Central indirect tax are dealt by
 - a. CBIC
 - b. CBDT
 - c. NIC
 - d. UGS
8. In pre-GST regime, excise duty has been levied by Government whereas VAT has been levied by State Government on goods
 - a. Central, State
 - b. State, Central
 - c. Central, Central
 - d. State, State
9. Cascading effect of tax means
 - a. Tax on goods
 - b. Tax on services
 - c. Tax on Tax
 - d. None of these
10. Who is empowered to make law for matters containing in List I of Schedule VII of the Constitution of India
 - a. State Government
 - b. Central Government
 - c. Both Central and State Government
 - d. None of the above

[Answer: 1-a; 2-b ; 3 - a; 4 - c; 5- b; 6 - a ; 7 - a; 8 - a; 9 - c; 10 - b]

STATE TRUE OR FALSE

1. Burden of indirect tax is shifted from seller to buyer and ultimately borne by consumers of such goods or services
2. Any tax law, which is in the conformity with the Constitution, is called ultra vires
3. Goods and Services Tax (GST) was introduced in the system with the idea of One Nation One Tax
4. Imposition of tax on tax was serious problem in the pre-GST regime
5. GST is an example of direct tax

[Answer: 1. True ; 2. False ; 3. True ; 4. True; 5. False]

FILL IN THE BLANKS

1. Tax, of which incidence and impact fall on two different persons, is known as _____
2. Cost of goods and services increases due to levy of indirect tax thus indirect taxes promote _____
3. Article 246 read with Schedule _____ divides subject matter of law made by legislature into three categories
4. Various indirect tax levied by Central and State Government was subsumed into one tax called _____

5. _____ is known as cascading effect of tax

[Answer : 1. Indirect Tax ;2. inflation; 3. VII ;4. GST ;5. Tax on tax]

SHORT ESSAY TYPE QUESTIONS

1. State the features of indirect tax.
2. What are the differences between direct tax and indirect tax?
3. What were the issues in the pre-GST regime, which were addressed by the GST law?

References:

<https://www.cbic.gov.in/>

<https://cbic-gst.gov.in/>

<https://gstcouncil.gov.in/>

Q 1. What is Goods and Services Tax (GST)?

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

Q 2. What exactly is the concept of destination based tax on consumption?

Answer :The tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

Q 3. Which of the existing taxes are proposed to be subsumed under GST?

Answer :The GST would replace the following taxes:

- i. 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 so far as they relate to supply of goods and services
- ii. 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.

Q 4. What principles were adopted for subsuming the above taxes under GST?

Answer : The various Central, State and Local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

- a. Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- b. Taxes or levies to be subsumed should be part of the transaction chain which commences with import/manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- c. The subsumation should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.
- d. Revenue fairness for both the Union and the States individually would need to be attempted.

Q 5. Which are the commodities which have been kept outside the purview of GST?

Answer : 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 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.

Q 6. What is the status in respect of taxation of above commodities after introduction of GST?

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

Q 7. What is the status of Tobacco and Tobacco products under the GST regime?

Answer : Tobacco and tobacco products is leviable to GST. In addition, the Centre has the power to levy Central Excise duty on these products.

Q 8. What type of GST was implemented?

Answer: It would be a dual GST with the Centre and States simultaneously levying it on a common tax base.

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.

Q 9. Why is Dual GST required?

Answer: India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources.

A dual GST will, therefore, be in keeping with the Constitutional requirement of fiscal federalism.

Q 10. Which authority will levy and administer GST?

Answer :Centre will levy and administer CGST & IGST while respective states /UTs will levy and administer SGST/ UTGST.

Q 11. Why was the Constitution of India amended recently in the context of GST?

Answer: Currently, the fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the States. As for services, it is the Centre alone that is empowered to levy service tax.

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India has been amended by the Constitution (one hundred and first amendment) Act, 2016 for this purpose. Article 246A of the Constitution empowers the Centre and the States to levy and collect the GST.

Q 12. How a particular transaction of goods and services would be taxed simultaneously under Central GST(CGST) and State GST (SGST)?

Answer: The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services made by registered persons except the exempted goods and services, goods and services which are outside the purview of GST. Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of CENVAT. While the location of the supplier and the recipient within the country is immaterial for the purpose of CGST, SGST would be chargeable only when the supplier and the recipient are both located within the State.

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, 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, 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.

Q 13. What are the benefits which the Country will accrue from GST?

Answer: Introduction of GST would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax and allowing set-off of prior-stage taxes, it would mitigate the ill effects of cascading and pave the way for a common national market. 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%. Introduction of GST would also make our products competitive in the domestic and international markets. Studies show that this would instantly spur economic growth. 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. Last but not the least, this tax, because of its transparent character, would be easier to administer.

Q 14. What is IGST?

Answer: 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.

Q 15. Who will decide rates for levy of GST?

Answer: 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.

Q 16. What would be the role of GST Council?

Answer : A GST Council would be 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

- a. the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;
- b. the goods and services that may be subjected to or exempted from the GST;
- c. 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;
- d. model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
- e. the threshold limit of turnover below which the goods and services may be exempted from GST;
- f. the rates including floor rates with bands of GST;
- g. any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
- h. special provision with respect to the North- East States, J&K, Himachal Pradesh and Uttarakhand; and
- i. any other matter relating to the GST, as the Council may decide.

Q 17. What is the guiding principle of GST Council?

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

Q 18. How are decisions be taken by GST Council?

Answer : The Constitution (one hundred and first amendment) Act, 2016 provides that every decision of the GST Council shall be taken at a meeting by a majority of not less than 3/4th of the weighted votes of the Members present and voting. The vote of the Central Government shall have a weightage of 1/3rd of the votes cast and the votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in that meeting. One half of the total number of members of the GST Council shall constitute the quorum at its meetings.

5.1.8 Major chronological events that have led to the introduction of GST

GST is being introduced in the country after a 13 year long journey since it was first discussed in the report of the Kelkar Task Force on indirect taxes. A brief chronology outlining the major milestones on the proposal for introduction of GST in India is as follows:

- a) In 2003, the Kelkar Task Force on indirect tax had suggested a comprehensive Goods and Services Tax (GST) based on VAT principle.
- b) A proposal to introduce a National level Goods and Services Tax (GST) by April 1, 2010 was first mooted in the Budget Speech for the financial year 2006-07.
- c) Since the proposal involved reform/ restructuring of not only indirect taxes levied by the Centre but also the States, the responsibility of preparing a Design and Road Map for the implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC).

- d)** Based on inputs from Govt. of India and States, the EC released its First Discussion Paper on Goods and Services Tax in India in November, 2009.
- e)** In order to take the GST related work further, a Joint Working Group consisting of officers from Central as well as State Government was constituted in September, 2009.
- f)** In order to amend the Constitution to enable introduction of GST, the Constitution (115th Amendment) Bill was introduced in the Lok Sabha in March 2011. As per the prescribed procedure, the Bill was referred to the Standing Committee on Finance of the Parliament for examination and report.
- g)** Meanwhile, in pursuance of the decision taken in a meeting between the Union Finance Minister and the Empowered Committee of State Finance Ministers on 8th November, 2012, a 'Committee on GST Design', consisting of the officials of the Government of India, State Governments and the Empowered Committee was constituted.
- h)** This Committee did a detailed discussion on GST design including the Constitution (115th Amendment Bill and submitted its report in January, 2013. Based on this Report, the EC recommended certain changes in the Constitution Amendment Bill in their meeting at Bhubaneswar in January 2013.
- i)** The Empowered Committee in the Bhubaneswar meeting also decided to constitute three committees of officers to discuss and report on various aspects of GST as follows:-
- Committee on Place of Supply Rules and Revenue Neutral Rates;
 - Committee on dual control, threshold and exemptions;
 - Committee on IGST and GST on imports.
- j)** The Parliamentary Standing Committee submitted its Report in August, 2013 to the Lok Sabha. There commendations of the Empowered Committee and the recommendations of the Parliamentary Standing Committee were examined in the Ministry in consultation with the Legislative Department. Most of there commendations made by the Empowered Committee and the Parliamentary Standing Committee were accepted and the draft Amendment Bill was suitably revised.
- k)** The final draft Constitutional Amendment Bill incorporating the above stated changes were sent to the Empowered Committee for consideration in September 2013.
- l)** The EC once again made certain recommendations on the Bill after its meeting in Shillong in November 2013.
- Certain recommendations of the Empowered Committee were incorporated in the draft Constitution (115th Amendment) Bill. The revised draft was sent for consideration of the Empowered Committee in March, 2014.
- m)** The 115th Constitutional (Amendment) Bill, 2011, for the introduction of GST introduced in the Lok Sabha in March 2011 lapsed with the dissolution of the 15th Lok Sabha.
- n)** In June 2014, the draft Constitution Amendment Bill was sent to the Empowered Committee after approval of the new Government.

- o) Based on a broad consensus reached with the Empowered Committee on the contours of the Bill, the Cabinet on 17.12.2014 approved the proposal for introduction of a Bill in the Parliament for amending the Constitution of India to facilitate the introduction of Goods and Services Tax (GST) in the country. The Bill was introduced in the Lok Sabha on 19.12.2014, and was passed by the Lok Sabha on 06.05.2015. It was then referred to the Select Committee of Rajya Sabha, which submitted its report on 22.07.2015.

THE END

SHRESHTA

CHAPTER OVERVIEW:

Section 7: Meaning and scope of supply

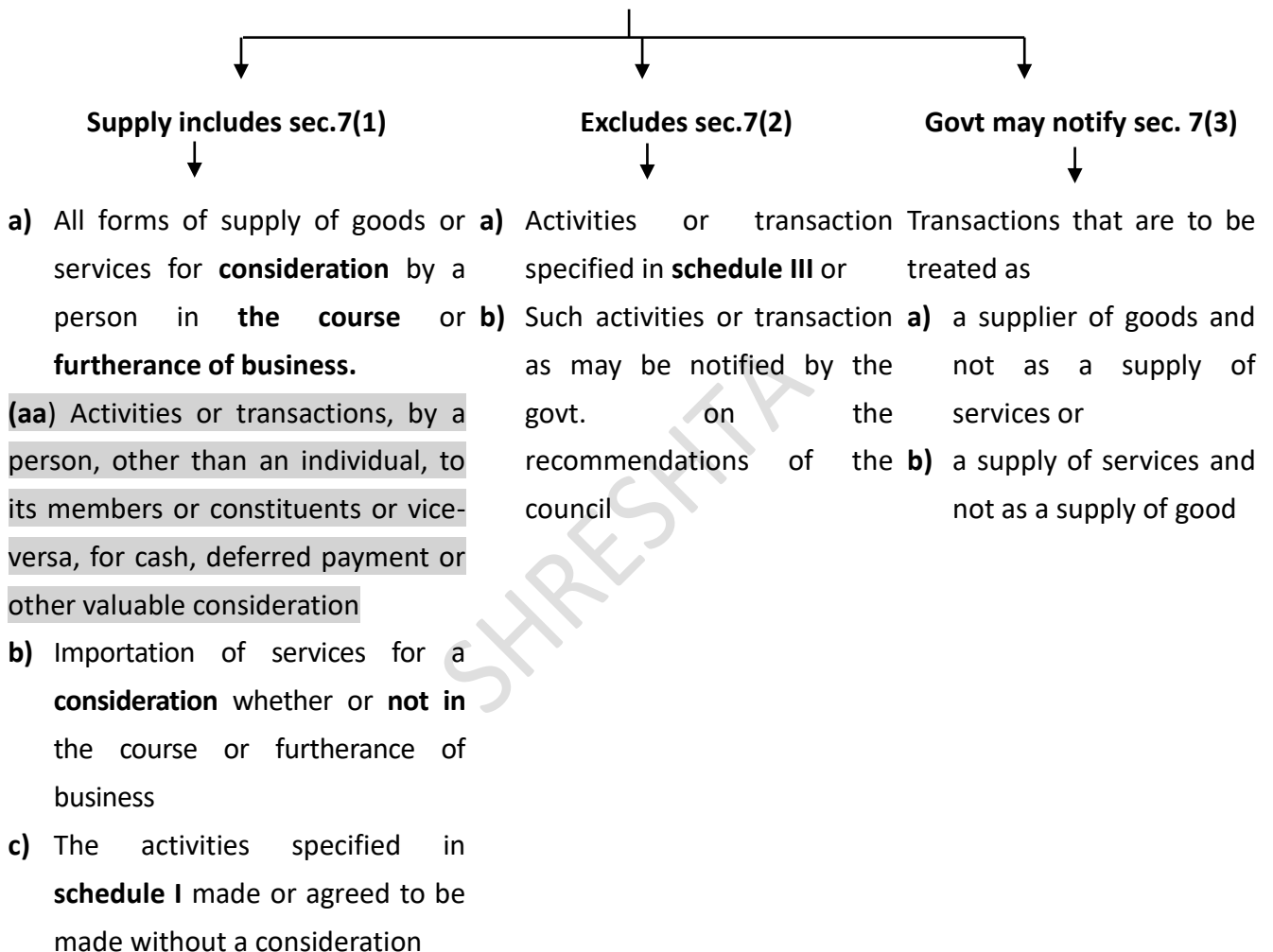
Section 8: Taxability of matters composite and mixed supplies

Schedule I: Matters to be treated as supply even if made without consideration

Schedule II: Matters to be treated as supply of goods or as supply of service

Schedule III: Matters or transactions which shall be treated neither as supply of goods nor supply of services (Negative list)

SECTION 7: MEANING AND SCOPE OF SUPPLY



Sec 7(1A): Where certain activities or transactions, constitute a supply in accordance with the provisions of sub section (1), they shall be treated either as supply of goods or service as referred in Schedule II

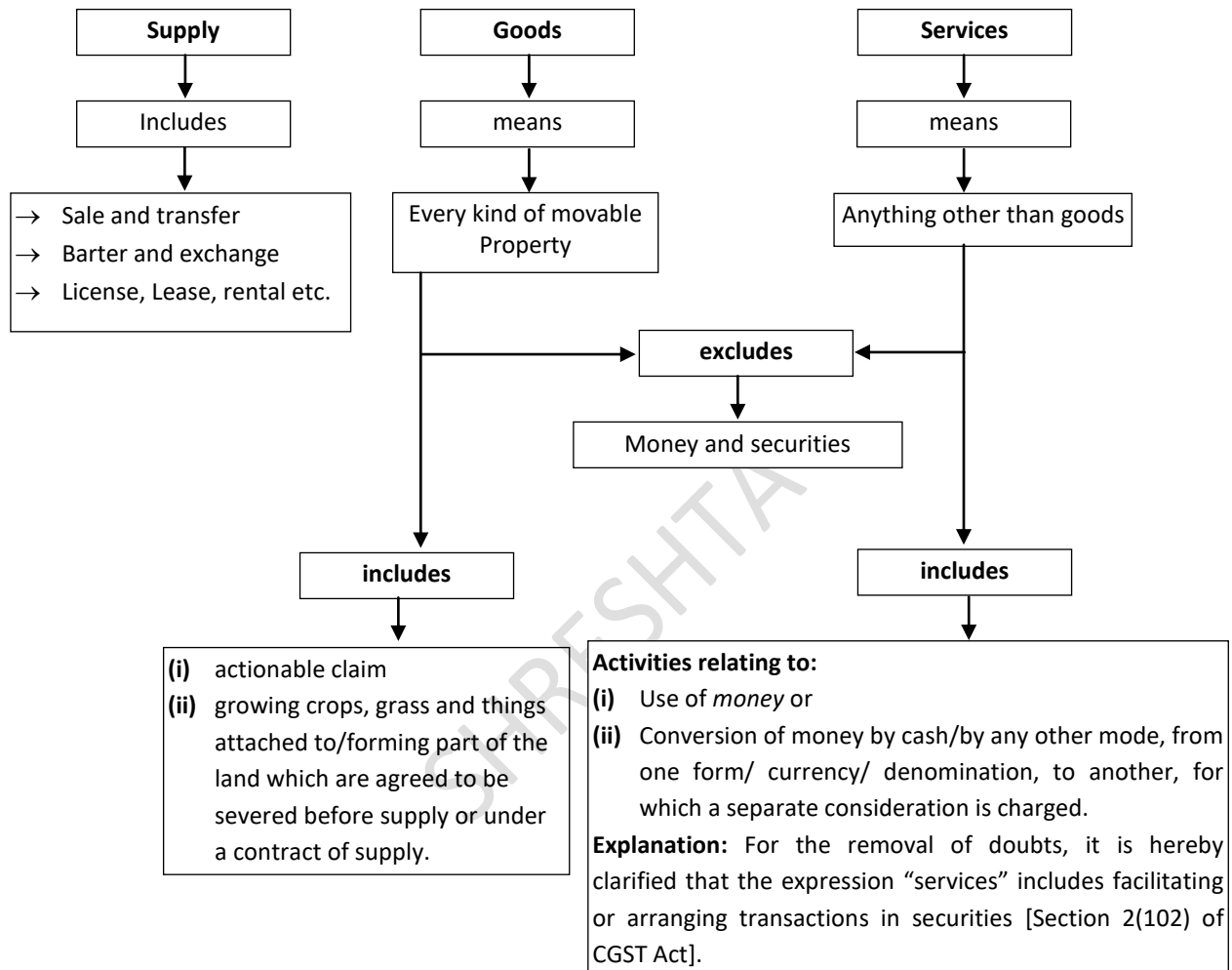
Supply includes sec 7(1)(a):

All forms of supply of goods or services for consideration by one person in the course or furtherance of business

1. Supply should be of **goods** or **services** or both
2. Supply should be made for a **consideration**
3. Supply should be made in the **course of furtherance of business**
4. Supply should be made by a **taxable** person
5. Supply should be a **taxable** supply.

Explanation 1:

Supply includes ALL FORMS of SUPPLY OF GOODS OR SERVICES or both



Modes of supply

I. Sale and Transfer: Earlier, VAT was levied by the State on the sale of goods which was defined under most State VAT laws as transfer of property in goods for consideration. Under the CGST Act, although sale has been treated as a form of supply leviable to GST, the definition of ‘sale’ has not been provided.

Further, the term ‘transfer’ which has also been included as a form of supply is also not defined.

II. Barter and Exchange:

☐ While barter may deal with a transaction which only includes an exchange of goods/services, exchange may cover a situation where the goods are partly paid for in goods and partly in money.

☐ When there is a barter of goods or services, same activity constitutes supply as well as consideration.

- Y By making a specific inclusion in the definition of supply, all barter and exchanges would be leviable to GST

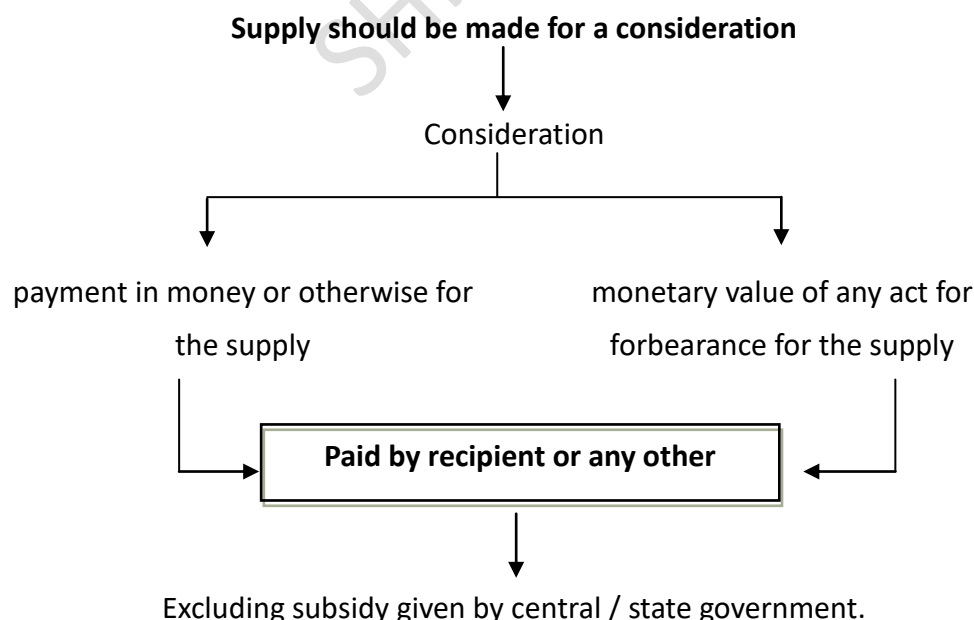
III. Licence, Lease, Rental etc:

- Y Licenses, leases and rentals of goods were earlier treated as services where the goods were transferred **without** transfer of right to use (effective possession and control over the goods) and were treated as sales where the goods were transferred **with** transfer of right to use.
- Y Under the GST regime, such licenses, leases and rentals of goods **with or without** transfer of right to use are covered under the supply of service because there is no transfer of title in such supplies.
- Y Such transactions are specifically treated as **supply of service in Schedule-II** of CGST Act.

Explanation 2: Supply should be made for a consideration

- ✎ The dictionary meaning of word 'consideration' is payment.
- ✎ Consideration need not always be in the form of money. It can be in money or in kind.
- ✎ It covers anything which might be possibly done, given or made in exchange for something else.
- ✎ a consideration need not always flow from the recipient of the supply. It can also be made by a third person.
- ✎ However, any subsidy given by the Central Government or a State Government is not considered as consideration.

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.



Note 1: Deposit is in returnable nature hence it is not a consideration otherwise it is consideration.

Note 2: Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.

It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply [Circular No. 22/22/2017 GST dated 21.12.2017]

Explanation 3: Supply should be made in the course or furtherance of business, business include

GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of 'business'.

- | | Any activity |
|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Any trade / commerce, manufacture, profession etc., even if there is no monetary benefits | <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <div style="border-left: 1px solid black; height: 40px; margin-bottom: 5px;"></div> <div style="border-left: 1px solid black; height: 40px; margin-bottom: 5px;"></div> </div> <div> <p>Any activity incidental / ancillary to it.</p> <p>Any activity of same nature even if no volume / continuity.</p> </div> </div> |
| 2. Supply /acquisition of goods including capital goods and services | <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <div style="border-left: 1px solid black; height: 40px; margin-bottom: 5px;"></div> </div> <div> <p>in connection with commencement / closure of business (refer schedule-I)</p> </div> </div> |
| 3. Provision of facilities by club association etc. | <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <div style="border-left: 1px solid black; height: 40px; margin-bottom: 5px;"></div> </div> <div> <p>to its members for consideration (mutuality)</p> </div> </div> |
| 4. Admission for consideration | <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <div style="border-left: 1px solid black; height: 40px; margin-bottom: 5px;"></div> </div> <div> <p>to any premises (entrance)</p> </div> </div> |
| 5. Services as holders of office | <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <div style="border-left: 1px solid black; height: 40px; margin-bottom: 5px;"></div> </div> <div> <p>accepted in the course / furtherance of the business (trade / profession)</p> </div> </div> |
| 6. Activities of a race club including | <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <div style="border-left: 1px solid black; height: 40px; margin-bottom: 5px;"></div> </div> <div> <p>by way of totalisator or a license to book maker or activities club including of a licensed book maker in such club</p> </div> </div> |
| 7. Any supply of goods or services by the government/local authority as public authority would amounts to a business | |

Explanation 4: Supply should be made by a taxable person

Meaning of taxable person:

- Υ A "taxable person" is a person
- Υ Who is registered or
- Υ Liable to be registered
- Υ Under sec 22 or sec 24

Hence, even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

Explanation 5: Supply should be a taxable supply.

1. For a supply to attract GST, the supply must be taxable
2. Taxable supply has been broadly defined and means any supply of goods or services or both which is liveable for tax under the GST law.

Sec 7(1) (b) Supply Includes

Importation of services for a consideration whether or not in the course or furtherance of business sec 7(1)(b)

1. sec7(1)(b) which brings with in the ambit of ' supply' the importation of services for a consideration **whether or not** in the course or furtherance of business
2. This is the only **exception** to the condition of supply to be made **in the course or furtherance of business**.

Example 1:

- 1) Mr. A received architecture services from USA based company for construction of building which will be used for business the consideration given through electronical remittances, is it would amount to a supply.
- 2) Whether your answer will change if architecture services has been received for construction a building which will be used for residential purpose.

Example 2:

Online information and database access or retrieval services, where import of free services from google and Facebook by Mr. Ram located in India, without any consideration. Is it subject to GST?

A: These are not considered as supply because there is no consideration, hence not attract GST.

Note: GST will be levied only when services are provided with consideration.

Example 3: Import (Downloading) of a song for consideration for personal use by Mr. Bharath. Is it supply of service?

A: Yes it is supply of service and IGST will be levied.

Note: Irrespective of in the course of furtherance business import of services will be treated as supply of as per sec 7(1) (b) if there in a consideration.

Supply includes 7(1)(c)

Activities to be treated as supply even if made without consideration

Schedule – I

1. Permanent transfer or disposal of business assets where **input tax credit** has been availed on such assets.
2. Supply of goods or services or both between **related persons** or between **distinct persons** as specified in **section 25**, when made in the course or furtherance of business.
Provided that **gifts not exceeding** 50,000 rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
3. **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
4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the **course** or furtherance **of business**.

EXPLANATION 1: Permanent transfer / disposal of business assets:

- a) Any kind of disposal or transfer of business assets made by an entity on permanent basis even though without consideration qualifies as supply.
- b) However, it is Importance to note that this provision would apply **only** if input tax credit has been availed on such assets

Example 1:

M/S X. Ltd intended to purchase new computer and existing computers and laptops are donated to a trust. This amounts to permanent transfer of business assets. The same will be treated as supply of goods and liable to GST in the hands of X Ltd., provided if company availed input tax credit on such computers and laptops.

Example 2:

M/S peter England Pvt Ltd being a trader in clothes permanently transfers 50% of its stock to a society free of cost. In this case, transfer of business stock would amount to supply if the company had availed input tax credit on purchase of clothes.

Explanation 2:

Supply of goods or services or both between 'related persons' or between 'distinct persons' as specified in section 25, will qualify as supply even if made without consideration provided it is made in the course or furtherance of business.

2(a) – Related person

Person shall be deemed to be "related person" if

- 1) Such persons are officers or directors of one another's businesses.
- 2) Such persons are legally recognised partners.
- 3) Such persons are employer and employee.

Note:

Employer and employee relationship covered under schedule III not liable for GST however any services made by employee to employer which is not in the course of employment would amounts to a supply being those persons are related persons as per schedule-1

Exception:

Provided that gifts not exceeding **50,000** rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

E.g. 1:

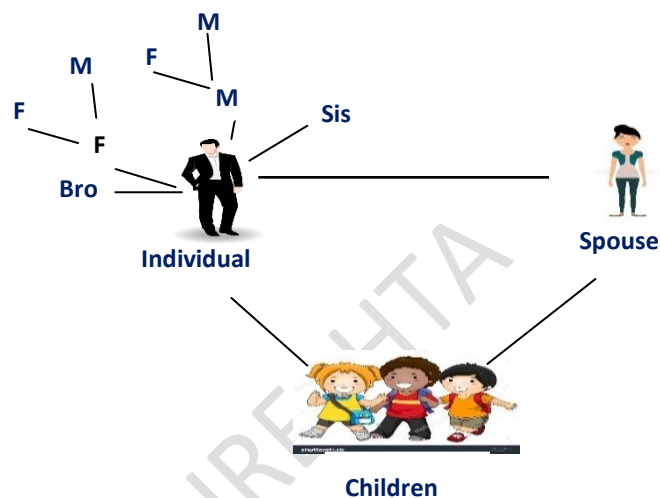
Particulars	Supply
1) Salary given by the employer to the employee for his service	No (as per schedule III)
2) Laptop Rs. 35,000 given as gift to Employee by employer	No (being amount < 50K not chargeable to GST).
3) Employer given a car as gift to the employee (worth 2,00,000/-)	yes

- 4) A third person controls/ own/ holds (directly/ indirectly) $\geq 25\%$ voting stock/shares of both of them

Example 3:

ABC Ltd. and XYZ. Ltd are holding and subsides companies, on 10th Jan 2021 holding company given information technology services to the subsidiary company for without consideration. Is it would amount to a supply?

- a) Yes (Being a related persons)
- 5) One of them controls (directly/indirectly) the other
- 6) A third person controls (directly/indirectly) both of them
- 7) Such persons together control (directly/indirectly) a third person
- 8) Such persons are members of the same family



- 9) One of them is the sole agent/sole distributor/sole concessionaire of the other

Explanation 2(b): Distinct Person

1. A person who has obtained/ is required to obtain
 - a) more than one registration
 - b) whether in on state/union territory or more than one state/union territory
 - c) in respect of **each such** registration
 - d) be treated as distinct persons
2. Further, where a person who has obtained or is required to obtain registration in a state or union territory in respect of an establishment, then such establishments shall be treated as establishments of distinct persons

Example 1:

Haldhiram's company have head office in Nagpur, supplying moong dhal to the AP branch for further distribution without consideration would amounts to a supply.

Explanation 3: Principal to his agent

Principal agent:

- a) Supply of goods by a principal to his agent without consideration where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

- b) Similarly, supply of goods by an agent to his principal without consideration, where the agent undertakes to **receive** such goods on behalf of the principal is considered as supply.
- c) Points which merit consideration, in this regard, are as follows:
- ✓ Only supply of **goods** and **not supply of services** is covered here.
 - ✓ Supply of goods between principal and agent without consideration is also supply.
- Thus, the supply of services between the principal and the agent and vice versa would therefore require “consideration” to be considered as supply and thus, to be liable to GST.

Note:

In order to determine whether a particular principal- agent relationship the deciding factor is whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not?

- a) Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para 3. above.
- b) Where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Para 3. above.

The above clarification can be understood with the help of following scenario-based examples:

Ex 1: Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A.

In this scenario, Mr. B is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr. B is not an agent of Mr. A for supply of goods in terms of Para 3. of Schedule I.

Ex 2: M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders.

The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder. In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr. B is not an agent of M/s XYZ for the supply of goods in terms of Para 3. of Schedule I.

Ex 3: Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder.

In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Para 3. of Schedule I.

Ex 4: A C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F commission agent is an agent of the principal for the supply of goods in terms of Para 3. of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

Ex 5: Mr A sells agricultural produce by utilizing the services of Mr B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A.

As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Para 3. of Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Para 3.

Explanation 4: Importation of services by any person

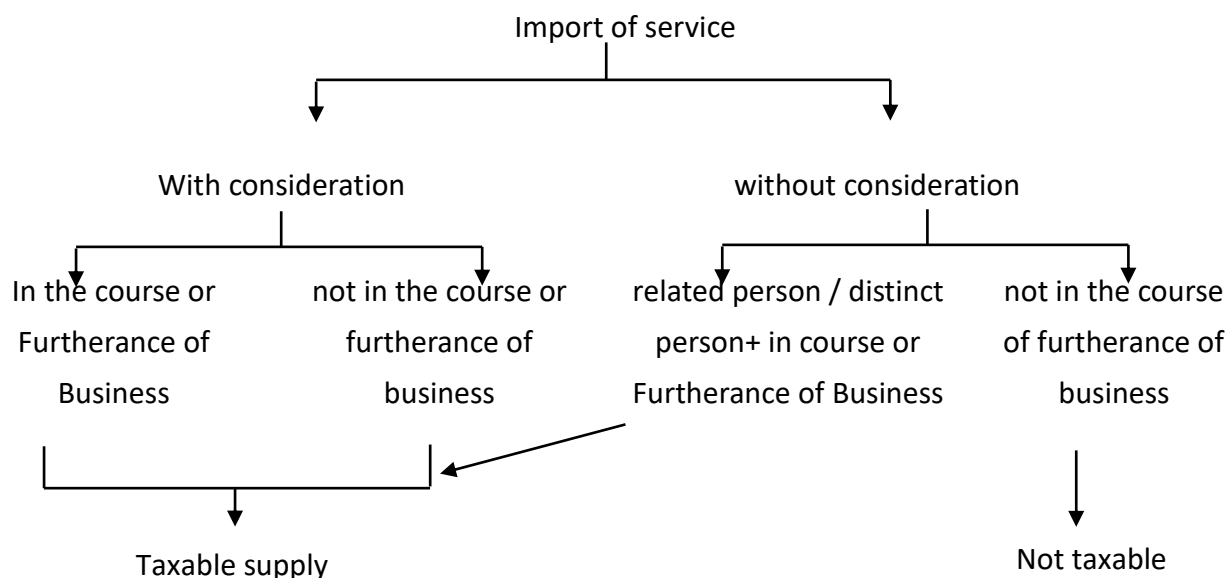
Importation of services:

- Υ Import of service by any person
- Υ From a related person or
- Υ From his establishments located outside India,
- Υ Without consideration,
- Υ In the course or furtherance of business
- Υ Shall be treated as "supply"

Analysis b/w:



Particulars	7(1) (b)	7(1) (c)
Importation of service	Yes	Yes
Consideration	Required	Not required
Furtherance of business	Not required	Required
Related person	Need not	Yes they must be related.

Taxability of import of service



Sec 7 (1A) Supply includes:**Activities to be treated as supply of goods or supply of services****(Sec 7(1A) read with schedule II)**

S.no	Activity / Transaction	Type	Nature of supply
1.	Transfer	Title in goods Ex: Rohan sells ready-made garments to its customers.	Supply of goods
		Right in goods / undivided share in goods without transfer of title in goods. Ex: Genius Equipment's Ltd. gives a machinery on rent to Suhaasi Manufacturers.	Supply of service
		Title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed. (i) Dhruva Capital supplied goods on hire purchase basis to customers. (ii) Optima Manufacturers supplies toys to retailers on 'sale or return basis'.	Supply of goods
2.	Land and Building	Lease, tenancy, easement, license to occupy land. Ex: Lease agreement for land.	Supply of service
		Lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly. Ex: A shop let out in a busy market area.	Supply of service
3.	Treatment or Process	Applied to another person's goods Ex: Damani Dying House dyes the clothes given by Shubham Textiles Ltd. On job work basis.	Supply of service
4.	Transfer of Business Assets	Goods forming part of business assets are transferred or disposed off by / under directions of person carrying on the business so as no longer to form part of those assets, whether or not for consideration.	Supply of goods
		Goods held / used for business are put to private use or are made available to any person for use for any purpose other than business, by / under directions of person carrying on the business, whether or not for consideration. Ex: Arunodhya, a sole proprietor, owns a laptop used for making office presentations. He transfers said laptop to his son for making school projects.	Supply of service

		<p>Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, 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.</p> <p>Ex: Arun, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him.</p> <p>Exceptions:</p> <ul style="list-style-type: none">  Business is transferred as a going concern to another person.  Business is carried on by a personal representative who is deemed to be a taxable person. 	Supply of goods
5.	<p>(a) Renting of immovable property</p> <p>Ex:</p> <ul style="list-style-type: none"> (i) Renting of a commercial complex. (ii) Renting of precincts of a religious place. (iii) Renting of property to an educational institution. (iv) Permitting use of immovable property for placing vending/dispensing machines. 		
	<p>(b) Construction of complex, building, civil structure, etc.</p> <p>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.</p> <p>Ex: Rathi Builders has constructed individual residential units for agreed consideration of Rs.1.2 crore per unit. Rs.90 lakhs per unit were received before issuance of completion certificate by the competent authority and balance after completion</p>		
	<p>The term construction includes additions, alterations, replacements, or remodeling of any existing civil structure.</p> <p>The expression 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, namely:</p> <ul style="list-style-type: none"> (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 		Supply of service

	<p>(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority</p> <p>(c) Temporary transfer or permitting use or enjoyment of any intellectual property right Temporary transfer of patent.</p> <p>(d) Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of IT software. Ex: ABC Solutions develops an accounting software for a business.</p> <p>(e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. Ex: Cable operator - A has entered into an agreement with Cable operator - B that A will not provide cable connections in the specified areas where B is providing the connections. Non-compete agreements constitute supply of service.</p> <p>(f) Transfer of right to use any goods for any purpose. Ex: Machinery given on hire.</p>	Supply of service
6.	<p>Following composite supplies: Works contract services.</p> <p>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 [Section 2(119) of CGST Act].</p> <p>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</p>	Supply of service
7.	<p>Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.</p> <p>Ex: RWA of Sanskriti Society supplies air- conditioners to its members at a concessional price.</p>	Supply of goods

Negative list under GST (section 7(2) (a) read with schedule(III))

I. Activities/transactions specified under Schedule III in the CGST Act: Activities specified under Schedule III can be termed “Negative list” under the GST regime. This schedule specifies transactions/ activities which shall be neither treated as supply of goods nor a supply of services.

S. No	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services
1.	<p>Services by an employee to the employer in the course of or in relation to his employment.</p> <p>(i) Amounts received by an employee from the employer on premature termination of</p>

	<p>contract of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment.</p> <p>(ii) Services provided by casual worker to employer who gives wages on daily basis to the worker are services provided by the worker in the course of employment.</p> <p>(iii) Casual workers are employed by a contractor, like a building contractor or a security services agency, who deploys them for execution of a contract or for provision of security services to a client, respectively are services in the course of employment</p> <p>Only services that are provided by the employee to the employer in the course of employment are outside the ambit of supply. Services provided outside ambit of employment for a consideration would qualify as supply.</p> <p>For example, if an employee provides his services on contract basis to an associate company of the employer, then these are not services provided in the course of employment and thus, it would be treated as supply.</p> <p>Similarly, services provided on contract basis i.e. principal-to- principal basis are not services provided in the course of employment.</p> <p>Any amount paid for not joining a competing business would be liable to be taxed being paid for providing the service of forbearance to act</p>
2.	<p>Services by any court or Tribunal established under any law for the time being in force.</p> <p>Explanation: The term "Court" includes District Court, High Court and Supreme Court</p>
3.	<p>(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.</p> <p>(b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.</p> <p>Ex: Duties performed by President of India, Vice-President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attorney General of India, in that capacity</p> <p>(c) 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.</p>
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building

6.	<p>Actionable claims, other than lottery, betting and gambling.</p> <p>‘Actionable claims’ are specifically included in the definition of goods under section 2(52) of the CGST Act [Refer the definitions of ‘actionable claims’ and ‘goods’ given under heading ‘Relevant Definitions’].</p> <p>However, this para of Schedule III specifically excludes actionable claims, other than lottery, betting and gambling from the ambit of definition of supply.</p> <p>Co-joint reading of said provisions implies that only lottery, betting and gambling are treated as supply. All other actionable claims are outside the ambit of definition of supply.</p> <p>Some of the examples of actionable claims are: Lottery, gambling, betting, right to benefit of a contract, debentures, bills of exchange, promissory notes, bank guarantee, Fixed Deposit Receipt, arrears of rent, etc.</p>
7.	<p>Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory</p> <p>without such goods entering into India i.e., merchant trading or Out and Out transactions.</p>
8.	<p>a. Supply of warehoused (i.e. customs bonded) goods to any person before clearance for home consumption</p> <p>b. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption i.e., high sea sale</p>

NON-SUPPLIES NOTIFIED VIDE NOTIFICATION:

Government is empowered to notify the activities/ transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as the activities/transactions which shall be treated neither as supply of goods nor as supply of services. Till now, following activities/transactions have been notified under said clause

- 1) Activity in relation to Panchayat/Municipality functions: Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article, 243W of the Constitution are treated neither as a supply of goods nor as a supply of service.
- 2) Grant of alcoholic liquor licence: Services by way of grant of alcoholic liquor licence by the State Governments are treated neither as a supply of goods nor as a supply of service

NON-SUPPLIES CLARIFIED BY CBIC:

Inter-State movement of various modes of conveyance, between distinct persons including- Trains, Buses, Trucks, Tankers, Trailers, Vessels, Container Aircrafts, carrying goods or passengers or both; or for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] shall be treated ‘neither as a supply of goods or supply of service’ and

therefore not be leviable to IGST25.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance

SEC.8 TAX LIABILITY ON COMPOSITE AND MIXED SUPPLIES

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

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**

b) A mixed supply comprising of two or more supplies shall be treated as supply of that particular **supply that attract highest rate of tax**

Principal supply: means the supply of goods and services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

In order to determine whether the supplies are composite supplies or mixed supplies one needs to determine whether the supplies are naturally bundled or artificially in ordinary course of business.

Analysis:

GST is payable on individual goods or services or both at the notified rates. The application of rates poses no problem if the supply is of individual goods or individual services, which is clearly identifiable and such goods or services are subject to a particular rate of tax.

However, in certain cases, supplies are not such simple and clearly identifiable supplies. Some of the supplies are a combination of goods or combination of services or combination of goods and services both and each individual component of such supplies may attract a different rate of tax.

In such a case, the rate of tax to be levied on such supplies may be a challenge. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

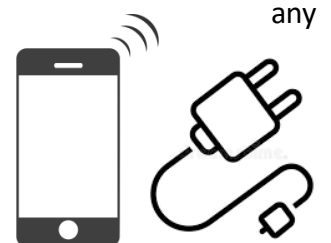
In order to determine whether the supplies are 'composite supplies' or 'mixed supplies', one needs to determine whether the supplies are naturally bundled or not naturally bundled in ordinary course of business.

Composite supply means a supply made by a taxable person to a recipient and:

✓ comprises two or more taxable supplies of goods or services or both, or combination thereof.

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

✓ one of which is a principal supply [Section 2(30) of the CGST Act].



This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. [Section 2(90) of CGST Act]

How to determine the tax liability on composite supplies?

A **composite supply** comprising of two or more supplies, one of which is a principal supply, shall be treated as a **supply of such principal supply**.

How to determine whether the services are bundled in the ordinary course of business?

Whether the services are bundled in the ordinary course of business, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:

- ✎ **The perception of the consumer or the service receiver** - If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
- ✎ Majority of service providers in a particular area of business provide similar bundle of services
For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
- ✎ **The nature of the various services in a bundle of services** will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.
For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.
- ✎ **Other illustrative indicators**, not determinative but indicative of bundling of services in the ordinary course of business are:
 - Υ There is a single price, or the customer pays the same amount, no matter how much package they actually receive or use.
 - Υ The elements are normally advertised as a package.
 - Υ The different elements are not available separately.
 - Υ The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

Mixed supply means:

- Υ two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person
- Υ for a single price where such supply does not constitute a composite supply [Section 2(74) of the CGST Act].



The individual supplies are independent of each other and are not naturally bundled.

How to determine if a particular supply is a mixed supply?

In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply.

A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a mixed supply.

Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of supply of goods or services attracting highest rate of tax.

How to determine the tax liability on mixed supplies?

A mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax.

For instance, in case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, CBIC has clarified that the goods and services would be liable to tax at the rates as applicable to such goods and services separately [Circular No. 47/21/2018 GST dated 08.06.2018]

Further, given below is the illustrative list determining what constitutes the principal supply in the given composite supplies:

Activity / transaction	Principal supply
Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods	<p>In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.</p> <p>In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods. [Circular No. 11/11/2017 GST dated 20.10.2017]</p>
Activity of bus body building	The principal supply may be determined on the basis of facts and circumstances of each case [Circular No. 34/8/2018-GST dated 01.03.2018].
Retreading of tyres	Pre-dominant element is process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply.

Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods [Circular No. 34/8/2018-GST dated 01.03.2018].

ILLUSTRATIONS

Illustration 1: What is the taxable event under GST?

Ans: Taxable event under GST is **supply of goods or services or both**. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

Illustration 2: What is the tax treatment of composite supply and mixed supply under GST?

Ans: Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.

Illustration 3: Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods? (MTP – Mar 19)

Ans:

Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

Illustration 4: Examine whether the following activities would amount to supply under section 7 read with Schedule I of the CGST Act:

- (a) 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.**
- (b) 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.**

Ans:

- (a)** Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons** [Section 25(4) of the CGST Act].

In view of the same, factory and depot of Sulekha Manufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I of the CGST Act.

(b) Section 7 of the CGST Act, inter alia, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of clothes and toys to children living in slum area would not amount to supply under section 7 of the CGST Act.

Illustration 5: State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

- (a) Renting of immovable property.**
- (b) Goods forming part of business assets are transferred or disposed of by/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.**

Ans:

- (a)** Supply of services
- (b)** Supply of goods
- (c)** Supply of services
- (d)** Supply of goods

Illustration 6: Determine whether the following supplies amount to composite supplies:

- (a) 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.**

Ans:

Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are naturally bundled and supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act]. In view of the same,

- (a)** Since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.
- (b)** Since supply of toothbrush along with the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

Illustration 7: Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.

Ans: Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Illustration 8: Supply of all goods and/or services is taxable under GST. Discuss the validity of the statement.

Ans: The statement is incorrect. Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly

known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

Illustration 9: Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.

Ans: Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Illustration 10: Importation of services: Mrs. Pragati received legal advice for the personal problems & paid 1,000 pound as a legal fees to Miss. Unnati of U.K. (London). Explain whether the above activity of import of service would amount to supply under section 7 of the CGST Act, 2017? If in above case both of them are real sisters & no consideration is paid then will it change your answer? Further in the above case both of them are real sisters & Mrs. Pragati receives legal advice for her business & she didn't paid any consideration then what will be your answer?

Ans: As per Section 7(1)(b), the term 'supply' includes import of services for a consideration whether or not in the course or furtherance of business. Thus, legal advice received by Ms. Pragati for her personal services for a consideration will be covered under the ambit of supply.

In case Pragati and Unnati are real sisters & no consideration is paid: As per Section 7(1)(c) read with Schedule I, Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business will be treated as supply.

In this case though Pragati and Unnati are related person, legal service received will not be covered under the ambit of supply, since the said services are not received by her in course or furtherance of business.

In case Mrs. Pragati receives legal advice from her sister for her business without consideration, since it is in course or furtherance of business, it will be covered under the ambit of supply as per Section 7(1)(c) read with Schedule I of CCST Act, 2017.

Illustration 11: Business dealings- Section 7(1)(a): An electronics dealer sells a laptop for 50,000 to earn a profit. Does it qualify as a supply?

Ans: Yes. As per Section 7(1)(a) of CGST Act, 2017, Supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Hence, in the above case it will be treated as supply and liable to GST.

Illustration 12: Import of service: Mr. X (an unregistered person) plans to pursue his higher education in US. He receives career consultancy services from a US based consultant for 5,00,000. Does it qualify as a supply?

Ans: Yes. As per Section 7(1)(b) of CGST Act, 2017, Supply includes import of services for a consideration whether or not in the course or furtherance of business. Hence, in the above case it will be treated as supply.

Illustration 13: Permanent transfer of business assets: XYZ & Co. a manufacturer of goods donated old computers to Charitable Schools on account of renovation of office. The company has taken input tax credit on the computers so donated. Does it qualify as a supply?

Ans: Yes. As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Permanent transfer or disposal of business assets where input tax credit has been availed shall be treated as supply even if made without consideration. Hence, donation of old computers to charitable schools shall qualify as supply since input tax credit has been availed by XYZ & Co.

Illustration 14: Transactions between related persons: Happy Ltd. provides management consultancy services without charge to Joy Ltd in which Happy Ltd. has controlling rights. The said consultancy has been provided for benefit of entire group. Does it qualify as a supply?

Ans: Yes. As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Supply of goods or services between related persons is treated as supply even if it is without consideration. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "related persons" if "one of them directly or indirectly controls the other". Since Happy Ltd. has controlling rights of Joy Ltd., they will be treated as related person and the said transaction will qualify as supply.

Illustration 15: Transaction between employer and employee: XYZ Ltd. gives gift worth Rs.5,00,000 to an employee. Does it qualify as a supply? Would your answer be different if gifts of Rs.45,000 has been given to the employee?

Ans: As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Supply of goods or services between related persons is treated as supply even if it is without consideration when made in course or furtherance of business. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "related persons" if such persons are employer and employee. Thus, gift to an employee worth Rs.5,00,000 will qualify as supply and such supply would be leviable to GST.

If gift of Rs.45,000 is given instead of Rs.5,00,000, the same will not qualify as supply since it has been specifically provided that gifts not exceeding 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.

Illustration 16: Transaction between Principal & Agents: ABC Motors Ltd. engages Sunshine Cars Ltd. as an agent to sell cars on its behalf. For the purpose, ABC Motors Ltd. has supplied 200 cars to the showroom of Sunshine Cars Ltd. located in Rajasthan. Does it qualify as supply?

Ans: As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal shall be treated as supply even if made without consideration. In view of the same supply of cars by ABC Motors Ltd. to Sunshine Cars Ltd. will qualify as supply.

Illustration 17: Import of service from HO: ABC Associates received management consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Does it qualify as supply?

Ans: As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or

furtherance of business will be treated as supply even if made without consideration. Thus, management consultancy services received by ABC Associates will qualify as supply even though the head office has not charged anything from it and will be liable to GST.

Illustration 18: Import of service for personal use: Archean Constructions Ltd. (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential house to be built in Hyderabad for a consideration of Rs.50,00,000. Does it qualify as supply?

Ans: As per Section 7(1)(b) of CGST Act, 2017, Importation of services for a consideration whether or not in the course or furtherance of business is covered under supply. In the above case it will be treated as supply and will be liable to GST.

Illustration 19: Business: Mr. B, a famous actor, recorded a song sung by him for a music company and sold the audio CD. The consideration for such sale was to be donated to a Charitable Trust - 'Being Human'. Will the sale of CD to music company by the actor qualify as supply?

Ans: Any activity undertaken in course / for furtherance of business would constitute a supply. Since 'business' includes vocation, sale of goods or service even **as a vocation** is a supply under GST. Hence, the sale of CD to music company by the actor will qualify as supply.

Illustration 20: Transaction in Securities: XYZ Ltd. was amalgamated with ABC Ltd. On account of amalgamation Mr. X a shareholder received 10,000 shares of ABC Ltd. in exchange of 5,000 shares of XYZ Ltd. Does it qualify as supply?

Ans: Transaction in securities is neither supply of goods nor services. Securities are excluded from the definition of both goods as well as services. Hence, such transaction will not qualify as supply.

Illustration 21: Actionable claims: Sahara Ltd., an NBFC transfers bad loans (unsecured) to Vasooli Capital Advisors Ltd. Does it qualify as supply?

Ans: Actionable claims are covered in definition of goods. However, Schedule III excludes actionable claims other than lottery, gambling and betting from the scope of supply. Transfer of unsecured loans, therefore, would not amount to supply.

Illustration 22: Inter branch transaction: XYZ Ltd. having head office in Mumbai (Maharashtra) supplied goods worth Rs. 10,00,000 to its branch office in Jaipur (Rajasthan). Does it qualify as supply?

Ans: As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Supply of goods or services or both between distinct persons as specified in Section 25, when made in the course or furtherance of business will be treated as supply even if made without consideration As per Section 25(5) of CGST Act, 2017, 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.

Hence, branch transfer of goods worth Rs.10,00,000 from Maharashtra to Rajasthan will qualify as supply.

Illustration 23: Raman is an architect 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 regard to his family dispute. Examine whether the said activity would amount to supply under section 7 read with Schedule I of the CGST Act

Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai? (MTP – OCT19)

Ans:

Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be “related persons” if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, —

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman’s brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman’s brother to him would not be treated as supply under section 7 read with Schedule I of the CGST Act.

In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman’s brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

Illustration 25: The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated Rs.10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating “Donated by Mr. Aman Goel upon birth of his first child”.

You are required to examine the levability of GST on the donation received from Mr. Aman Goel? (RTP –MAY 20)

Ans: It has been clarified vide Circular No. 116/35/2019 GST dated 11.10.2019 that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, 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.

In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

TEST YOUR KNOWLEDGE

1. Which of the following is not a supply as per section 7 of the CGST Act?
 - a) Management consultancy services not in course or furtherance of business
 - b) Import of service for consideration not in course or furtherance of business
 - c) Both (a) and (b)
 - d) None of the above
2. _____ specifies the activities to be treated as supply even if made without consideration.
 - a) Schedule I of CGST Act
 - b) Schedule II of CGST Act
 - c) Schedule III of CGST Act
 - d) All of the above
3. Which of the following activity is outside the scope of supply and not taxable under GST?
 - a) Services by an employee to the employer in the course of or in relation to his employment
 - b) Services of funeral
 - c) Actionable claims, other than lottery, betting and gambling.
 - d) All of the above
4. Which of the following supplies are naturally bundled?
 - a) Rent deed executed for renting of two different floors of a building-one for residential and another for commercial purpose to same person
 - b) Pack of watch, tie and belt
 - c) Package of canned food such as burger, chocolates, sweets, cake etc.
 - d) None of the above
5. A _____ supply comprising of two or more supplies shall be treated as the supply of that particular supply that attracts highest rate of tax.
 - a) Composite
 - b) Mixed
 - c) Both (a) and (b)
 - d) None of the above
6. Which of the following activities is a supply of services?
 - a) Transfer of right in goods/ undivided share in goods without transfer of title in goods
 - b) Transfer of title in goods
 - c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.
 - d) All of the above

HINTS

1. (a) 2. (a) 3. (d) 4. (d) 5. (b) 6. (a)

THE END

3. CHARGE OF GST

EXTENT AND COMMENCEMENT

1. Extent and Commencement of CGST Act/ SGST Act/ UTGST Act/ IGST Act:

Applicability	CGST	SGST	UTGST	IGST
	Intra-State supply			Inter-State supply
States of India	Yes	Yes		Yes
Union Territories with State Legislature (i.e. Delhi, Jammu and Kashmir & Puducherry)	Yes	Yes		Yes
Union Territories without State Legislature (i.e. Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, Ladakh, Chandigarh and other territory)	Yes		Yes	Yes

1. **STATE** : Sec.2(103) “State” includes a Union territory with Legislature.

2. **Union Territory Goods and Services Tax Act, 2017** extends to the Union territories** of the Andaman and Nicobar Islands, Lakshadweep, ***Dadra and Nagar Haveli and Daman and Diu, Ladakh***

****Union territory:** means the territory of—
means the territory of—

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) ***Dadra and Nagar Haveli and Daman and Diu;***
- (d) ***Ladakh***
- (e) Chandigarh; and
- (f) other territory.

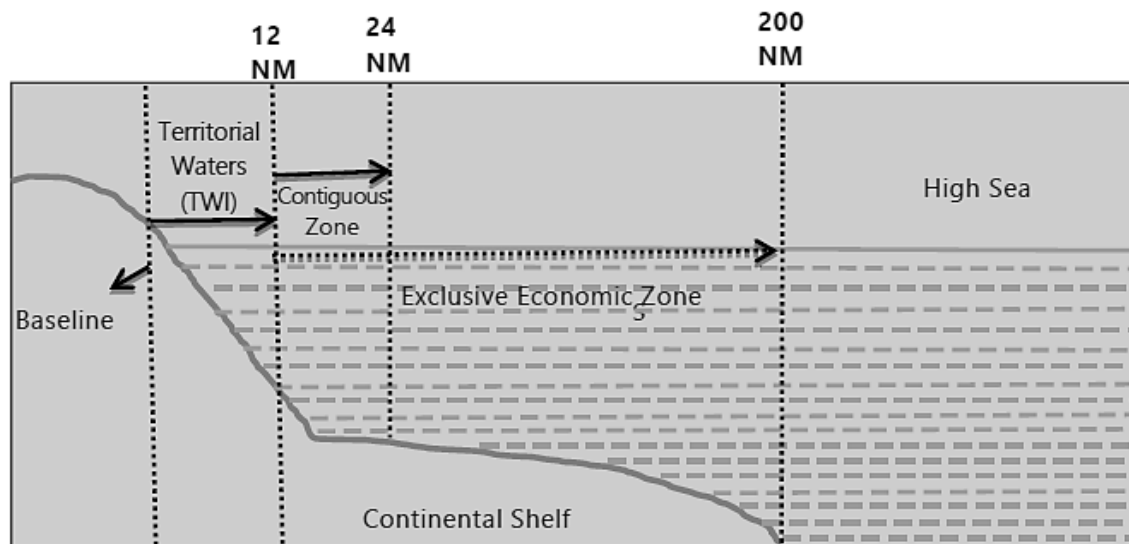
Explanation—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory [Section 2(114) of CGST Act].

3. **Other territory: Sec. 2(81)** “other territory” includes

- territories other than those comprising in a State and
- those referred to in sub-clauses (a) to (e) of clause (114) ;

4. **INDIA:** Sec.2(56) India” means

- the territory of India
- its territorial waters, seabed and sub-soil underlying such waters,
- continental shelf,
- exclusive economic zone or
- any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and
- the air space above its territory and territorial waters;



SUPPLIER: sec .2(105) “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;

Recipient: of supply of goods and/or services 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)]

INTER-STATE SUPPLY SECTION 7 OF THE IGST ACT]

Section 7	Inter-State Supply
Sub-section	Particulars
(1)	Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in— <ol style="list-style-type: none"> a) two different States; b) two different Union territories; or c) a State and a Union territory, shall be treated as a supply of goods in the course of inter State trade or commerce.
(2)	Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.

(3)	Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in— a) two different States; b) two different Union territories; or c) a State and a Union territory, shall be treated as a supply of services in the course of inter-State trade or commerce.
(4)	Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter- State trade or commerce.
(5)	Supply of goods or services or both,— a) when the supplier is located in India and the place of supply is outside India; b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

INTRA-STATE SUPPLY [SECTION 8 OF THE IGST ACT]

Section 8	Intra-State Supply
Sub-section	Particulars
(1)	Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply: Provided that the following supply of goods shall not be treated as intra-State supply, namely:- i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit; ii) goods imported into the territory of India till they cross the customs frontiers of India; or iii) supplies made to a tourist referred to in section 15.
(2)	Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply. Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.
	Explanation 1. - For the purposes of this Act, where a person has, - i) an establishment in India and any other establishment outside India; ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or iii) an establishment in a State or Union territory and any other establishment

	registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons
	<p>Explanation 2. -</p> <p>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.</p>

Services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ developer/SEZ unit – whether to be treated as an inter- State supply or an intra-State supply

As discussed earlier, as per section 7(5)(b) of the IGST Act, the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply in the course of inter-State trade or commerce.

However, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located [Please refer Chapter 5 – Place of Supply for detailed discussion of said provisions]. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply.

It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision.

In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies.

It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply [Circular No. 48/22/2018 GST dated 14.06.2018].

SUPPLIES IN TERRITORIAL WATERS [SECTION 9 OF THE IGST ACT]

Section 9	Supplies in territorial waters
Notwithstanding anything contained in this Act	
<p>(a) where the location of the supplier is in the territorial waters, the location of such supplier; or</p> <p>(b) where the place of supply is in the territorial waters, the place of supply, shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.</p>	

Section 9 of the IGST Act provides that where the location of the supplier is in the territorial waters, it shall be deemed that location of such supplier is in the coastal State or Union Territory where the nearest point of the appropriate baseline is located. Similarly, in case where the place of supply is in territorial waters, the place of supply shall be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

After understanding the terms – inter-State supply, intra-State supply and supplies in territorial waters, we shall discuss hereunder the chargeability of CGST and IGST and related provisions.

- **Credit of input tax** (subject to block credit specified u/s 17(5) of the CGST Act) may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.
- **Refund of unutilized credit:** A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of sec. 54 of the CGST Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed.


The registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received along with the applicable interest u/s 50 of the CGST Act within 30 days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

- The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify
 - i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;
 - ii) a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.

LEVY AND COLLECTION OF CGST/IGST

1. Levy and collection of CGST / IGST:

Particulars	CGST	IGST
Statutory Provision	Section 9 of CGST Act	Section 5 of IGST Act
Levied on Sec 9(1)	Intra-State supplies of goods / services/ both	Inter-State supplies of goods / services / both
Collected and paid by	Taxable person	
Supply outside purview of tax	Alcoholic liquor for human consumption	
Value for levy	Transaction value under section 15 of the CGST Act	
Rates %	<p>Rates as notified by Government. Maximum rate of CGST will be 20%.</p> <p>❖ CGST Rates - Goods: 0.05%, 0.125%, 1.5%, 2.5%, 6%, 9%, and 14%.</p> <p>❖ CGST Rates — Services: 2.5%, 6%, 9% and 14%.</p>	<p>IGST rate = CGST rate + SGST rate Maximum rate of IGST will be 40%.</p> <p>❖ IGST Rates - Goods: 0.1%, 0.25%, 3%, 5%, 12%, 18% and 28%.</p> <p>❖ IGST Rates — Services: 5%, 12%, 18% and 28%.</p>
Supplies on which tax to be levied w.e.f. a notified date	<p>➤ Petroleum crude</p> <p>➤ High speed diesel</p>	

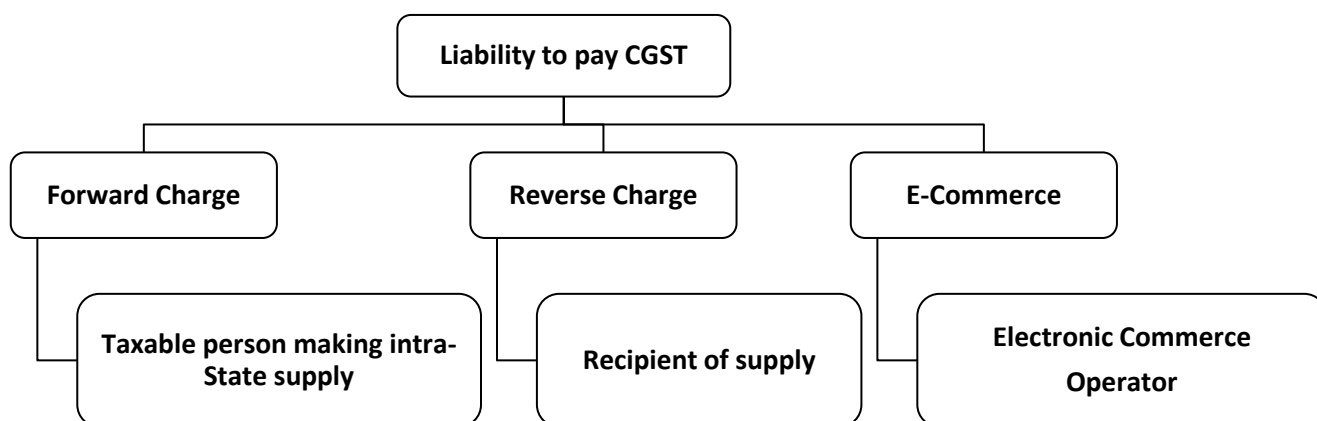
(Sec 9(2))	<ul style="list-style-type: none"> ➤ Motor spirit (commonly known as petrol) ➤ Natural gas and ➤ Aviation turbine fuel 	
Tax payable under reverse charge (Sec 9(3))	<p>Supply of goods or services or both, notified by the Government on the recommendations of the GST Council.</p> <p>The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.</p>	
Sec 9(4)	Before amendment	After amendment
	As per the earlier provision , tax under reverse charge was payable by ALL registered persons on ALL intra-State supplies of goods and/or services received by such registered persons from any unregistered supplier. However, such tax liability had been deferred vide an exemption notification.	Under the amended provision , tax under reverse charge is payable by the NOTIFIED class of registered persons on NOTIFIED categories of intra-State supplies of goods and/or services received by such registered persons from any unregistered supplier.
<p>Tax payable by the electronic commerce operator (Sec 9(5))</p> 	The Government may notify specific categories of services the tax on supplies of which shall be paid by electronic commerce operator (ECO) as if such services are supplied through it. [Refer Note 1 below]	
	If the ECO is located in taxable territory Person liable to pay tax is the ECO	Person liable to pay tax is the ECO
	If the ECO does not have physical presence in the taxable territory	Person liable to pay tax is the person representing the ECO
	If the ECO has neither the physical	Person liable to pay tax is

	presence nor any representative in the taxable territory	the person appointed by the ECO for the purpose of paying the tax
	No CGST and SGST / UTGST payable.	IGST shall be levied and collected on import of goods as per the Section 3 of the Custom Tariff Act, 1975. [Refer Note 2 below]

Note:


1. Categories of services the tax on intra / Inter-State supplies of which shall be paid by the Electronic Commerce Operator : In case of the following categories of services, the tax on intra-State/ inter-state supplies shall be paid by the electronic commerce operator —


- a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- b) 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 u/s 22(1) of CGST Act, 2017.
- c) 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 section 22(1) of CGST Act, 2017.
- d) Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
 - Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above Rs.7,500 per unit per day or equivalent.






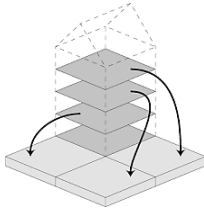

REVERSE CHARGE MECHANISM



2. Categories of services on which tax will be payable under reverse charge mechanism under CGST Act, 2017 [Notification No. 13/2017-CT (Rate) dated 28-06-2017 w.e.f. 01-07-2017]: The Central Government has notified the following categories of supply of services wherein the whole of central tax leviable under section 9 of the said CGST Act, shall be paid on reverse charge basis by the recipient of the such services :-

S.No.	Category of Supply of Services	Supplier of service	Recipient of Service
1.	<p>Supply of Services by a Goods Transport Agency (GTA) in respect of transportation of goods by road to —</p> <p>a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>c) any co-operative society established by or under any law; or</p> <p>d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>e) anybody corporate established, by or under any law; or</p> <p>f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>g) any casual taxable</p>	<p>Goods Transport Agency (GTA) who has not paid CGST @ 6%</p> 	<p>a) Any factory registered under or governed by the Factories Act, 1948; or</p> <p>b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>c) any co-operative society established by or under any law; or</p> <p>d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>e) anybody corporate established, by or under any law; or</p> <p>f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>g) any casual taxable person; located in the taxable territory.</p>


	<p>person.</p> <p>RCM not applicable if recipient registered only for TDS: However, nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to,</p> <p>a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>b) local authority; or</p> <p>c) Governmental agencies, which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.</p>		
2.	<p>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. "Legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p> 	<p>Any business entity located in the taxable territory.</p> <p>Business entity being Litigant, applicant or petitioner located in Taxable territory</p> <p>➤ Deemed Recipient: The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who</p>

	authority. [Explanation].		receives the legal services for the purpose of this notification.
3.	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal, 	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person 	Any body corporate or partnership firm located in the taxable territory.
5.	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, — (1) renting of immovable property, and (2) services specified below— i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; ii) services in relation to an aircraft or a vessel, inside or outside the precincts	Central Government, State Government, Union territory or local authority 	Any business entity located in the taxable territory.

	<p>of a port or an airport;</p> <p>iii) transport of goods or passengers.</p> <p>“Renting of immovable property” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.</p>		
5A.	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017.	Central Govt. State Govt. Union territory or local authority	Any person registered under the CGST Act, 2017.
5B.	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person 	Promoter
5C.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as	Any person 	Promoter

	premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.		
6.	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7.	Services supplied by an insurance agent to any person carrying on insurance business, "Insurance agent" means an insurance agent licensed u/s 42 of the Insurance Act, 1938 who receives agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance [Section 2(10) of the Insurance Act, 1938].	An insurance agent 	Any person carrying on insurance business, located in the taxable territory.
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent 	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9.	Supply of services by a music composer,	Music composer, photographer, artist, or the	Music company, producer or the like, located in the

	photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like	like	taxable territory.
9A.	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under Section 13(1) (a) of the Copyright Act, 1957 relating to original literary works to a publisher,	Author	<p>Publisher located in the taxable territory:</p> <p>However, nothing contained in this entry shall apply where, -</p> <p>i) the author has taken registration under the CGST Act, 2017, and filed a declaration, in the specified form before the commencement of financial year with the jurisdictional CGST or SCST commissioner, as the case may be, that he exercises the option to pay central tax on such services in accordance with Section 9(1) of the CGST Act, 2017 under forward charge, and to comply with all the provisions of CGST Act, 2017 as they apply to a person liable for paying the tax in relation to the Supply of any goods or services or both and</p>

			<p>that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>ii) the author makes a declaration regarding payment of tax on forward charge on the invoice issued by him in Form GST mv-I to the publisher.</p>
10.	Supply of services by the members of Overseeing Committee to RBI	Members of Overseeing Committee constituted by the RBI	<p>RBI</p> 
11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs)	Individual DSAs other than a body corporate, partnership or LLP firm.	A banking company or a non-banking financial company, located in the taxable territory.
12.	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory.
13.	Services provided by an agent of business correspondent (BC) to business correspondent (BC)	An agent of business correspondent	A business correspondent, located in the taxable territory
14.	Security services (services provided by way of supply of security personnel) provided to a registered person.	Any person other than a body corporate	A registered person, located in the taxable territory.
	RCM not applicable if recipient registered only for TDS and in case composition suppliers: However, nothing contained in this entry shall apply to, —		

	<p>(i)</p> <p>a) a Department or Establishment of the Central Government or State Government or UT; or</p> <p>b) local authority; or</p> <p>c) Governmental agencies, which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 of the said Act and not for making a taxable supply of goods or services; or</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p>		
15.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax @ 6% to the service recipient	Any body corporate located in the taxable territory.
16.	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of SEBI as amended.	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

3. List of services taxable under reverse charge under IGST Act, i.e. the services where tax is payable by the recipient: Following two services are additionally included for IGST purposes.

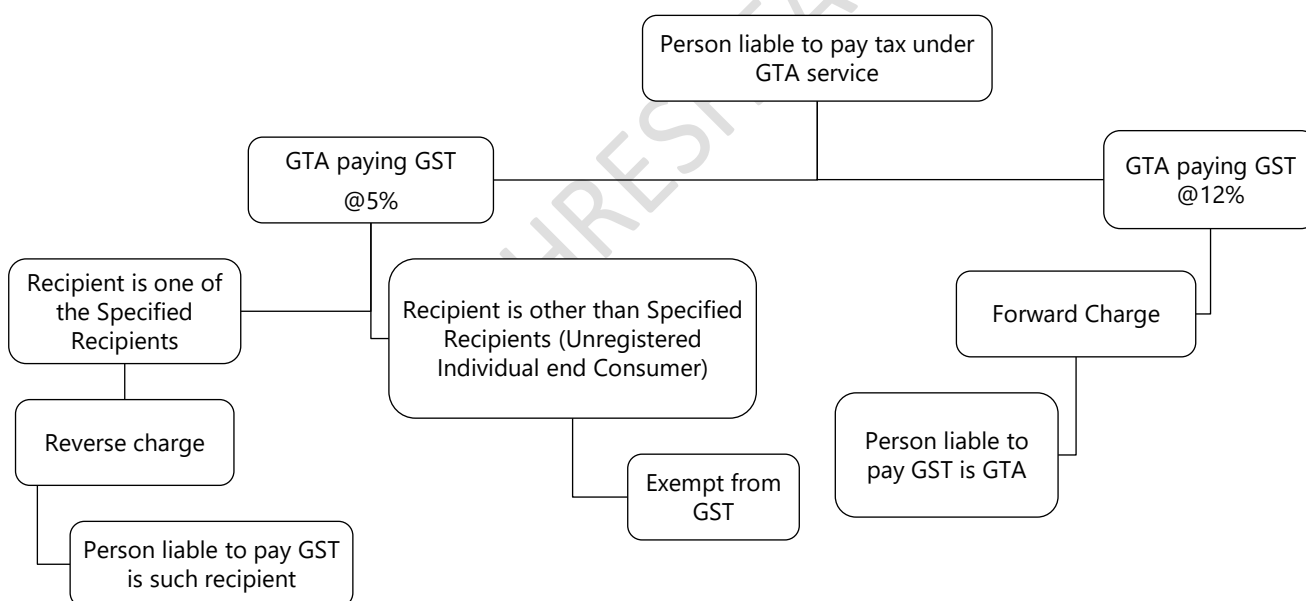
S.No.	Category of supply of service	Supplier of Service	Recipient of Service
1.	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than nontaxable online recipient.
2.	Services supplied by a person located in non-	A person located in	Importer, as defined in Section 2(26) of the Customs Act, 1962, located in the

	taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	nontaxable territory	taxable territory. Importer, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer. [Section 2(26) of the Customs Act, 1962].
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GTA services are taxable:

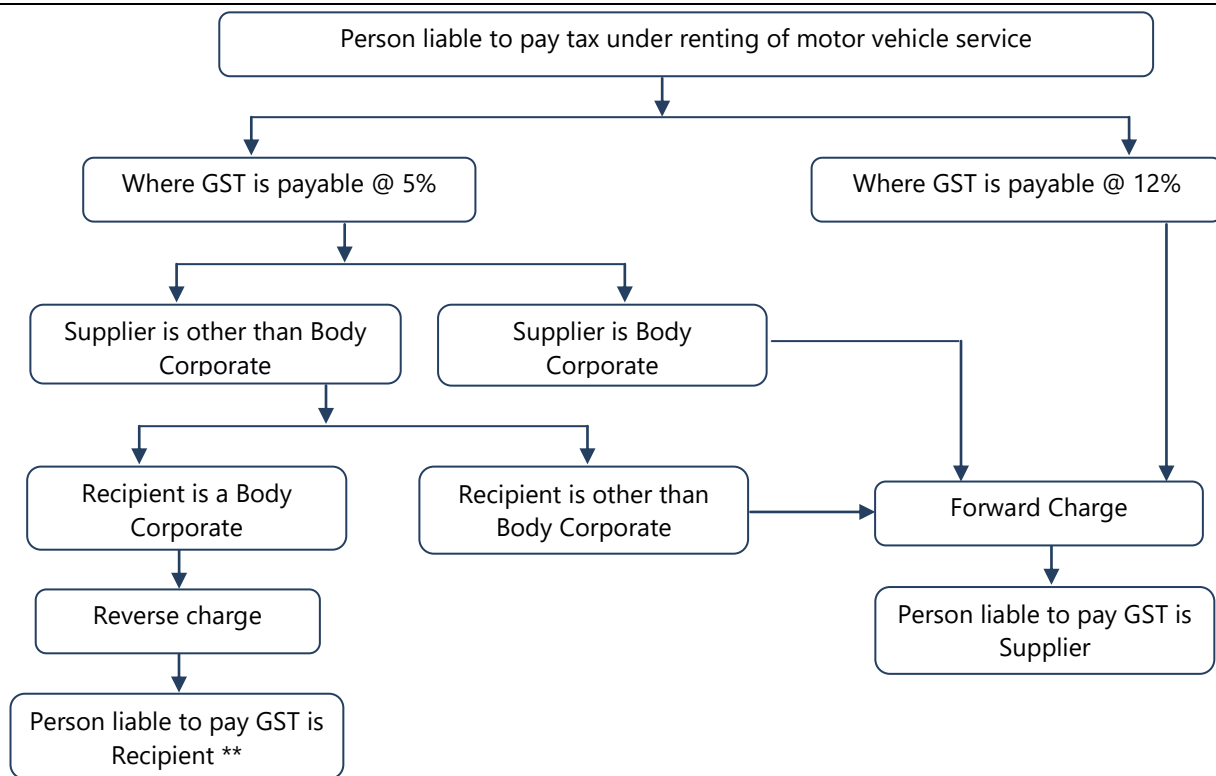


- (i) @ 5% (2.5% CGST + 2.5% SGST/UTGST) provided GTA has not taken the Input tax credit (ITC) on goods and services used in supplying GTA service; or
- (ii) @ 12% (6% CGST + 6% SGST/UTGST) provided GTA pays GST under forward charge. There is no restriction on availing ITC on goods and services used in supplying CIA service by GTA.



**** Recipient of GTA service is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.**

Circular No. 130, 2019 dated 31-12-2019	Reverse Charge Mechanism (RCM) on renting of motor vehicles designed to carry passengers: RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier is other than a body-corporate and does not issue an invoice charging GST @ 12% from the service recipient; and supplies the service to a body corporate.
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****** It is important to note here that when any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. Thus, in this case, the supplier does not issue an invoice charging GST @ 12% (6% CGST+6% SGST/UTGST or 12% IGST) from the service recipient.

Sec. 9(3) of CGST/Sec. 5(3) of IGST: Govt. will decide who is liable to pay GST under Reverse Charge.

The following goods on which GST shall be levied under Reverse Charge have been notified (vide Notification No. 04/2017 dt. 28th July 2017):

S.No.	Description of supply of goods	Supplier of goods	Recipient of Goods
1	Cashew nuts not shelled or peeled.	Agriculturist	Any registered person. Recipient of goods is liable to pay GST.
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person. Recipient of goods is liable to pay GST.
3	Tobacco leaves	Agriculturist	Any registered person. Recipient of goods is liable to pay GST.
4	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent. Distributor or selling agent is liable to pay GST.

5	Silk yarn	Any person who manufactures silk yarn from raw silk or silkworm cocoons for supply of silk yarn.	Any registered person. Recipient of goods is liable to pay GST.
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap. Notification No. 36 /2017- Central Tax (Rate) Dated 13.10.2017 Notification No. 37/2017- Integrated Tax (Rate) Dated 13.10.2017	Central Government, State Government, Union territory or a local authority.	Any registered person. Recipient of goods is liable to pay GST.
7	Raw Cotton Notification No. 43/2017- Central Tax (Rate) dated 14th November 2017. Notification No. 45/2017- Integrated Tax (Rate) dated 14th November 2017.	Agriculturist	Any registered person
8.	w.e.f. 25 th May 2018: Priority Sector Lending Certificate vide Notification No. 11/2018-Central Tax (Rate) dated 28th May 2018.	Any registered person	Any registered person

ADDITIONAL PRACTICE QUESTIONS

Question 1. Senior Advocate supplied services of Rs.1,50,000/- to business entity for Legal services. Business entity has ITC of Rs. 7,000. Senior Advocate has registered office in Chennai. Business entity is located in Madurai.

Find the following:

- a) Who is liable to pay GST?**
- b) Net GST liability?**

Note:

- i) all services rendered in the month of Oct 20XX.**
- ii) Turnover of business entity in the previous year Rs. 43 lakh.**
- iii) Applicable rate of GST @18%**

Ans:

- a) Business entity being recipient of service is liable to pay GST.
- b) Net GST liability of the business entity: CGST 9% on Rs.1,50,000 = Rs.13,500/- SGST 9% on Rs.1,50,000 = Rs.13,500/-

Note: recipient is not allowed to utilize ITC against his GST liability. However, after payment of GST under RCM, the same can be availed as ITC against his outward supplies.

Question 2. Sponsorship service - Reverse Charge: Mr. Vivek sponsored a dance competition organized by 'Taal Academy', a dance school run by an individual. The dance competition was named as 'Mr. Vivek's Dance Show' by 'Taal Academy'. Who is liable to pay GST in this case? Will your answer be different if 'Taal Academy' is run by a partnership firm?

Ans: In case of taxable service provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory, person liable to pay GST is the recipient of such service. However, since in the given case sponsorship service is provided to an individual, the person liable to pay GST will be supplier of service i.e., 'Taal Academy'.

Further, since the status of recipient of service is relevant for determining as to who would pay GST, status of service supplier is immaterial. Therefore, as long as sponsorship service is rendered to an individual, GST will be payable by supplier of service i.e., 'Taal Academy' irrespective of whether the same is run by an individual or a partnership firm.

Question 3. Sponsorship service — Reverse Charge: Rosserie Private Limited agrees to sponsor a sports event organized by Pink City Club in Jaipur. Rosserie Private Limited has paid an amount of Rs.50,00,000 for such sponsorship of the sports event. Consequently, said event was named after the brand name of Rosserie Private Limited. Examine who is the person liable to pay tax in the given case.

Ans: Notification No. 13/2017-CT (R) dated 28-06-2017 as amended (hereinafter referred to as reverse charge notification), provides that sponsorship services provided by any person to a body corporate or partnership firm located in the taxable territory, shall be liable to GST under reverse charge in the hands of recipient.

In the present case, Pink City Club is the supplier of sponsorship services which is receiving the consideration in the form of sponsorship fee of Rs.50,00,000 from Rosserie Private Limited, against the provision of sponsorship service. Since the recipient of sponsorship services - Rosserie Private Limited is a body corporate, the tax on said services is payable by the recipient - Rosserie Private Limited, under reverse charge.

Question 4. Directors remuneration — Reverse Charge: Darshan Iambi is a director in Mozica Limited. The company paid him the sitting fee amounting to Rs.25,000, for the month of January. Further, salary was paid to Darshan Tambi amounting to 1.5 lakh for the month of January on which TDS was also deducted as per applicable provisions under Income-tax law. Vikram & Associates, in which Darshan Tambi is a partner, supplied certain professional services to Mozica Limited in the month of January for an amount of Rs.2 lakh. Discuss the person liable to pay tax in each of the supplies involved in the given case.

Ans: The person liable to pay GST in respect of different services are as under —

- Sifting fee paid to director — As per reverse charge notification, tax on services supplied by a director of company/ body corporate to the said company / body corporate, located in the taxable territory, is payable under reverse charge. Hence, in the present case, the sitting fee amounting to 25,000, payable to Darshan Tambi b-. Mozica Limited, is liable to GST under reverse charge and thus, recipient of service - Mozica Limited — is liable : pay GST on the same.
- Salary paid to director - As per Circular No. 140/10/2020-GST dated 10-06-2020, the part of director remuneration which is declared as salary in the books of a company and subjected to TDS under section 192 of the Income-tax Act, are not taxable being consideration for services by an employee to the employer in the course of yr in relation to his employment in terms of Schedule III. Therefore, in the given case, the salary received by Darshan Tambi of 1.5 lakh is not liable to GST.
- Services provided by Vikram & Associates — Vikram & Associates have rendered certain professional services t Mozica Limited. The fact that Darshan Tambi is a partner in Vikram & Associates and a director in Mozica Limited does not have any impact on the taxability of the professional services supplied by Vikram & Associates to Mozi Limited. The professional services provided by Vikram & Associates to Mozica Limited are liable to GST under forward charge and thus, supplier - Vikram & Associates - is liable to pay GST on the same.

Question 5. Rashtriya Ispat Nigam Ltd. v. Dewan Chand Ram Saran 2012 (260) S.T.R. 289 (S.C.):

Point of dispute: Whether the service tax liability created under law can be shifted by a clause entered in the contract?

Decision: Yes. Assessee can contract to shift their liability.

Regarding transferring of service tax liability by way of contract was correct. It means service provider will bear all the taxes, and service receiver can shift the burden of service tax payable by him to service provider by deducting the same from the bills raised by service provider.

Question 6. Person liable to pay GST under reverse charge: From the following information pertaining to month December 2020, determine the person liable to pay GST and extent of GST payable (Rate of GST is 18% and in case of Goods transport agency is 5%), if all sums are exclusive of taxes and both service supplier and service recipient are located in India

1. Mr. Kanha is an agent of General Insurance Co. The insurance company pays commission (excluding tax) lakh to him. Mr. Kanha claims that no GST is leviable on services provided by him as his value of taxable service does not exceed Rs.20 lakhs.
2. ABC Ltd. availed services of Kamal Goods transport agency for transportation of goods by road from factory located in New Delhi to its Jaipur depot and paid freight of Rs.1,00,000.
3. PC Jewellers Ltd. paid Rs.50 lakhs for sponsorship of Miss India beauty pageant for sponsorship services.
4. Legal services provided by PDS & Co., a partnership firm of New Delhi to Hindustan Unilever Ltd. Mumbai. Rs.75,00,000.

Solution: As per Notification No. 13/2017-CT (R) dated 28-6-2017 w.e.f. 1-7-2017, the GST shall be payable as follows —

1. In this case General Insurance Company will be liable to pay GST on reverse charge basis. It cannot claim threshold exemption as it is receiver of service.
Hence, GST shall be $\text{Rs.}8,00,000 \times 18\% = \text{Rs.}1,44,000$. The same shall be paid by the General Insurance Company.
2. In this case GST shall be paid by ABC Ltd. under reverse charge mechanism, since it is liable to pay freight for transportation of goods. The GST liability shall be $\text{Rs.}1,00,000 \times 5\% = \text{Rs.}5,000$.
3. In this case sponsorship services are received by PC Jewellers Ltd. Hence, it will be liable to pay GST under reverse charge mechanism. The GST liability shall be $\text{Rs.}50,00,000 \times 18\% = \text{Rs.}9,00,000$.
4. In this case GST shall be paid by Hindustan Unilever Ltd. under reverse charge mechanism. The GST liability shall be $\text{Rs.}75,00,000 \times 18\% = \text{Rs.}13,50,000$.

Question 7. Person liable to pay GST under RCM: From the following information for the month of March 2021, determine the person liable to pay GST and extent of GST payable (applicable GST rate is 18%), if all sums are exclusive service supplier and service recipient are located in India -

1. Services supplied by a director of a company (not in capacity of employee) to the company: Rs.15 lakh;
2. Business support services supplied by Government to a business entity: Rs.12 lakh;
3. Renting of immovable property services supplied by Government to XYZ Ltd. registered under CGST Act, 2017: Rs.18 lakh

Solution: As per Notification No. 13/2017-CT (R) dated 28-6-2017 w.e.f. 1-7-2017, the GST shall be payable as follows —

Particulars	Value	GST Rate @ 18%	Amount payable by supplier of service		Amount payable by recipient of service	
	Rs.	Rs.	%	Rs.	%	Rs.
1. Services provided by Director to the company [GST payable by company under reverse charge mechanism]	15,00,000	2,70,000	-	-	100%	2,70,000
2. Business support services by Government to Business entity [Person liable to pay GST is business entity]	12,00,000	2,16,000	-	-	100%	2,16,000

3. Renting of immovable property by Government to XYZ Ltd. [Person liable to pay GST is recipient of service i.e. XYZ Ltd.] [Entry 5A]	18,00,000	3,24,000	-	-	100%	3,24,000
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Question 8. Person liable to pay GST: Determine the person liable to pay GST and extent of GST payable (applicable GST rate is 18%) in following cases (all sums are exclusive of taxes) (both service supplier and service recipient are located in India and service is provided during the month of February, 2021) -

1. Manpower supply services by partnership firm to business entity being a company : Rs.12 lakh;
2. Security service by an individual to business entity being a company: Rs.11 lakh;
3. Manpower Supply by a company to business entity being a company: Rs.12 lakh;
4. Works contract services provided by an individual to business entity being a company: Rs.14 lakh.

Solution: As per Section 9 of CGST Act, 2017 read with Notification No. 13/2017-CT (Rate) dated 28-06-2017 w.e.f 1-07-2017, the GST shall be payable as follows

Particulars	Value	GST Rate @ 18%	Amount payable by supplier of service		Amount payable by recipient of service	
	Rs.	Rs.	%	Rs.	%	Rs.
1. Manpower supply services by partnership firm to business entity being a company [Entire GST is payable by service supplier]	12,00,000	2,16,000	100%	2,16,000	-	-
2. Security services by an individual to business entity being a company [Entire GST is payable by service recipient] [Entry 14]	11,00,000	1,98,000	-	-	100%	1,98,000
3. Manpower Supply services provided by a company [Entire GST is payable by service supplier]	12,00,000	2,16,000	100%	2,16,000	-	-
4. Works contract services provided by an individual to business entity being a company [Entire GST is payable by service supplier]	14,00,000	2,52,000	100%	2,52,000	-	-

Question 9. Person liable to pay GST - Reverse charge/Forward Charge: Mr. Vicky Frankyn, an unregistered famous author, received 3 crore of consideration from Shiv Bhawan Publications (SBP) located in Indore for supply of services by way of temporary transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book. He finished his work & made available the book to the publisher, but has yet not raised the invoice. Mr. Vicky Frankyn is of the view that SBP is liable to pay tax under reverse charge on services provided by him. SBP does not concur with his view and is not ready to deposit the tax under any circumstances. Examine whether the view of Mr. Vicky Frankyn is correct Further, if the view of Mr. Vicky Frankyn is correct, what is the recourse available with Mr. Vicky Frankyn to comply with the requirements of GST law as SBP has completely refused to deposit the tax.

Solution: Yes, the view of Mr. Vicky Frankyn is correct. GST is payable under reverse charge in case of supply of services by an author by way of transfer/permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary work to a publisher located in the taxable territory in terms of reverse charge Notification No. 13/2017-CT(R) dated 28-06-2017. Therefore, in the given case, person liable to pay tax is the publisher - SBP. However, since SBP has completely refused to deposit the tax on the given transaction, Mr. Vicky Frankyn has an option to pay tax under forward charge on the same. For the purpose, he needs to fulfill the following conditions:

- i) since he is unregistered, he has to first take registration under the CGST Act, 2017
- ii) he needs to file 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;
- iii) he has to make a declaration on the invoice, which he would issue to SBP, in prescribed form.

Question 10. Person liable to pay GST: ABC & Co., a goods transportation agency located in Delhi transports a consignment of new motorcycles from the factory of XYZ Ltd. in Gurgaon (Haryana), to the premises of a dealer in Jammu (taxable territory). As per mutually agreed terms between ABC & Co. and XYZ Ltd., the dealer in Jammu is the person liable to pay freight. The amount of freight exclusive of taxes is Rs.4,50,000. State the person liable to pay GST and amount of tax payable by him if the services are provided in December, 2020. Assume rate of GST 5% and ABC & Co. does not avail input tax credit.

Solution: As per Section 2(56) of CGST Act, 2017, goods and service tax extends to whole of India including Jammu and Kashmir. So, As per Notification No. 13/2017-CT (Rate) dated 28-06-2017 w.e.f. 01-07-2017, Supply of Service by Goods Transport Agency (GTA) in respect of transportation of goods by road to any person located in taxable territory recipient of service would be liable to pay GST under reverse charge mechanism. As premises of dealer is in taxable territory and he is liable to pay freight for transportation So, dealer in Jammu would be liable to pay GST. GST liability payable by dealer $\text{Rs.4,50,000} \times 5\% = \text{Rs.22,500}$.

Question 11. Mr. X being an agent of cashew nuts (peeled) in the State of Kerala registered under GST. These goods are sold to M/s Raj Industries for Rs.2,50,000 a registered person in the State of Kerala. Applicable rate of GST 5%. Mr. X has input tax credit CGST Rs.5,250 and SGST Rs.7,250.

You are required to answer the following:

(a) Who is liable to pay GST.

(b) Net liability of GST.

Ans:

(a) GST is liable to pay by supplier of goods. In the given case Mr. X is liable to pay GST.

(b) Net liability of GST:

Particulars	CGST (Rs.)	SGST (Rs.)	Remarks
Output tax	6,250	6,250	Excess credit of SGST is not allowed to adjust against CGST and viz a versa
Less: Input Tax Credit (ITC) CGST SGST	(5,250)	(7,250)	
Net tax liability of Mr. X	1,000	Nil	
Excess credit c/f	Nil	2,000	

Question 12. Mr. X being a farmer cultivated Bidi wrapper leaves (tendu) in the State of Telangana. These goods are sold to M/s Sri Vijaya Industries for Rs.2,12,500 a registered person in the State of Kerala. Applicable rate of GST 5%.

You are required to answer the following:

(a) Who is liable to pay GST.

(b) Net liability of GST.

Ans:

(a) GST is liable to pay by recipient of goods. In the given case M/s Sri Vijaya Industries.

(b) Net liability of M/s Sri Vijaya Industries:

Particulars	IGST (Rs.)	Remarks
Output tax	10,625	ITC is not allowed to utilize by recipient while paying GST under RCM.
Less: Input Tax Credit (ITC)	NA	
Net tax liability of M/s Sri Vijaya Industries	10,625	

Question 13. Person liable to pay GST under reverse charge: From the following information pertaining to month of December 2020, determine the person liable for pay GST and extent of GST payable Mr. Laxman is an author of book named "My Biography". Mt. Laxman transfer rights to use copyright of his book to M/s. APPL publisher, located in New Delhi for 10 lath (excluding Taxes). Mr. Laxman claims that no GST is payable since his aggregate turnover does not exceed 20 lakhs. Rate of GST is 12%.

Solution: As per Notification No. 13)2017-CT (Rate) dated 28-06-2017 w.e.f. 1-07-2017, the GST shall

be payable as follows — In this case publisher will be liable to pay GST on reverse charge basis irrespective of aggregate turnover of Mr. Laxman. Hence, GST shall be $\text{Rs.}10,00,000 \times 12\% = \text{Rs.}120,000$. The same shall be paid M/s. APPL.

Question 14. Legal services: Vakil & Vakil, a firm of lawyers rendered legal advice to Mr. B, an architect, and MNO an advertising agency during December, 2020. Both Mr. B and MNO Ltd. aggregate turnover in financial year 2019-20 exceeded Rs.20 lakhs. Who is liable to pay GST in this case? Will your answer be different if Mr. B and MNO Ltd. sought legal advice from Mr. A, a lawyer?

Ans: In case of taxable services provided or agreed to be provided to any business entity located in the taxable territory i individual advocate including a senior advocate or a firm of advocates by way of legal services, person liable to pay GST is the recipient of service.

Further, services provided by an individual advocate or a partnership firm of advocates by way of legal services to inter alia a business entity with a turnover up to Rs.20 lakh (Rs.10 lakh in case of special category states) in the preceding financial year are exempt from GST vide Entry No. 45 Notification No. 12/2017-CT (Rate).

In the given case, turnover of services of both Mr. B and MNO Ltd. exceeded 20 lakh in the preceding financial year, legal services provided by Vakil and Vakil (firm of advocates) or Mr. A (individual lawyer) during December, 2020 will not be exempt from GST.

Therefore, GST will be payable by service receiver, Mr. B and MNO Ltd. irrespective of whether the legal advice is :t from a firm of lawyers or from Mr. A, an individual lawyer.

Question 15. Can any person other than the supplier or recipient be liable to pay tax under GST?

Ans: Yes. As per provisions of Section 9(5) of CGST Act, 2017, the Government can specify categories of services the tax on which shall be paid by the Electronic Commerce Operator, if such services are supplied through it and all the provisions of the GST law shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

For this purpose the following services have been notified:

- i) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- ii) 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 u/s 22(1) of CGST Act, 2017.
- iii) 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 section 22(1) of CGST Act, 2017.

Question 16. Concept of e-commerce operator: Navya Technologies is in the business of development of ecommerce platforms for various customers. Annu Creations obtained the

ownership rights of an e-commerce platform developed by Navya Technologies by paying a specified amount against ownership rights of said portal. Annu Creations also entered into an annual maintenance contract with Navya Technologies for technical maintenance of the said portal. Annu Creations supplies its own goods and services through the said portal to ultimate customers. Examine who is the e-commerce operator in the given case as per the provisions of the GST law.

Ans: As per section 2(44), electronic commerce means the supply of goods or services or both, including digital products over digital or electronic network. Further, as per section 2(45), electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

In the given transaction, the e-commerce platform is developed by Navya Technologies. However, the ownership of the electronic platform is sold by Navya Technologies to Annu Creations. Thus, Annu Creations is the owner of the ecommerce platform and is also operating/managing the said platform for supply of its own goods and services. In view of the definition of e-commerce operator, it is Annu Creations which owns, operates or manages digital or electronic facility or platform for electronic commerce. Navya Technologies is merely providing the annual management services of the electronic platform, but the ownership rights lie with Annu Creations. Thus, Navya Technologies cannot be termed as electronic commerce operator in the given case and Annu Creations is the e-commerce operator.

Question 17.A hotel owner provided accommodation in Rajasthan. through an electronic commerce operator - MMT Trips. The hotel owner is not liable to get registered as per the provisions of Section 22(1) of the CGST Act. Who is the person liable to pay GST in this case? Would your answer be different if the Electronic Commerce Operator MMT Trips does not have a physical presence in India?

Ans: As per Section 9(5) of the CGST Act, 2017, Government may notify specific 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. Services by way of providing accommodation in hotels through electronic commerce operator is a specified service for said purpose.

Thus, person liable to pay GST in this case is the Electronic Commerce Operator MMT Trips. All the provisions of the GST law 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.

If MMT Trips does not have a physical presence in India, person liable to pay tax is the person representing the Electronic Commerce Operator - MMT Trips for any purpose in India.

Question 18.ECO - GST liability: Mr. Sanjay of New Delhi made a request for a Motor cab to “Super ride” for travelling from New Delhi to Gurgaon (Haryana). After Mr. Sanjay pays the cab charges

using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

“Super ride” is a mobile application owned and managed by DT. Ltd. located in India. The application “Super ride” facilitates a potential customer to connect with the persons providing cab service under the brand name of “Super ride”.

D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST under the provisions of Goods and Services tax laws.

With reference to the provisions of JGST Ad, 2017, determine who is liable to pay GST in this base? Would your answer be different, if D.T. Ltd. is located in New York (USA)? Also briefly state the statutory provisions involved. (5 Marks, Nov. 2018-NS) (ICAI P.Q.)

Solution: As per Section 5(5) of the IGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-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.

As per Section 2(45) of the CGST Act, 2017, “Electronic commerce operator” (ECO) means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

The Central Government has notified services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle; the tax on inter-State supplies shall be paid by the electronic commerce operator.

Thus, in the above case D.T. Ltd. is liable to pay GST in respect of supply of the said service. Thus, the contention of D.T. Ltd. that Mr. Jorawar Singh should pay GST on the same as he is provider of service is not correct.

Further proviso to Section 5(5) of the IGST Act provides 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.

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.

Thus, even if D.T. Ltd. is located in non taxable territory its liability to pay GST will not be extinguished. The representative of D.T. Ltd. or the person appointed by D.T. Ltd. will be required to discharge the GST liability on behalf of D. T. Ltd.

Question 19. Define ‘intrastate supply’ and ‘inter-state supply under GST law. Is it correct to say that inter-State supply attracts both CGST and SGST? (3 Marks, Nov. 2017)

Ans: The relevant provisions are discussed as under —

- (i) Where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as intra-State supply of goods or services respectively.
- (ii) Where the location of the supplier and the place of supply of goods or services are in —
 - (a) two different States; or
 - (b) two different Union Territories; or
 - (c) a State and a Union territory, it is treated as inter-State supply of goods or services respectively.

No it is not correct to say that inter-State supply attracts both CGST and SGST as inter-State supply attracts IGST.

However, IGST is the sum total of CGST and SGST/ UTGST.

THE END

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4. COMPOSITION LEVY

COMPOSITION LEVY

By considering various administrative and financial reasons government given benefit to the small business persons under composition levy.

1. "Composition scheme under CGST Act, 2017 [Section 10 (1)]:

- a) **Optional Scheme:** Tax payment under this scheme is an option available to the taxable person. This scheme would be available only to certain eligible taxable persons.
- b) **Eligibility:** If aggregate turnover is upto Rs.1.5 crore in the preceding financial year, such person will be eligible to opt for payment of tax under the composition scheme.

However, the aggregate turnover in the preceding financial year shall be Rs.75 lakh in the case of an eligible registered person, registered under Section 25 of the said Act, in any of the following States, namely:

Special Category States		
<ul style="list-style-type: none">• Arunachal Pradesh,• Mizoram,• Tripura,	<ul style="list-style-type: none">• Manipur,• Nagaland,• Uttarakhand.	<ul style="list-style-type: none">• Meghalaya,• Sikkim,
Note: In case of Assam, Himachal Pradesh and Jammu and Kashmir, the turnover limit will be 1.5 crore.		

While computing the threshold limit of 1.5 crore, inclusions, in and exclusions from 'aggregate turnover' are as follows –

Value of all outward supplies i.e.- <ul style="list-style-type: none">➤ Taxable supplies➤ Exempt supplies➤ Exports➤ Inter-State supplies of persons having same PAN to be computed on all India basis.	<ul style="list-style-type: none">➤ CGST➤ SGST➤ UTGST➤ IGST➤ Cess➤ Value of inward supplies on which tax is payable under reverse charge.
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Computation of aggregate turnover for the purpose of eligibility under this scheme

[Explanation 1]:

For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression "aggregate turnover" -




- shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for registration under this Act,
- but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.



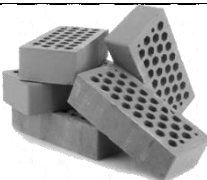
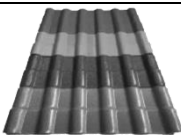
Note: The value of exports and inter-State supplies are relevant only while determining the aggregate turnover of the preceding financial year. These values are not relevant for determining the aggregate turnover of the current financial year in which the composition supplier has opted for composition levy as he is not permitted to make inter-State supplies and exports in the said financial year.

- c) **Rates of composite tax:** As per Section 10(1), the rates of tax under composition scheme are as under a composition supplier may opt to pay, in lieu of the tax payable by him under section 9(1), an amount of tax calculated at under mentioned rates —

S. No	Eligible Person	Rate of Tax cannot exceed (% of turnover)		Total rate of tax cannot Exceed
		CGST	SGST	
(a)	Manufacturer	0.5% of the turnover in the State or Union territory	0.5% of the turnover in the State or Union territory	1% of the turnover in the State or Union territory
(b)	Restaurant service	2.5% of the turnover in the State or Union territory	2.5% of the turnover in the State or Union territory	5% of the turnover in the State or Union territory
(c)	Other Suppliers	0.5% of the turnover of taxable supplies of goods and services in the State or Union territory	0.5% of the turnover of taxable supplies of goods and services in the State or Union territory	1% of the turnover of taxable supplies of goods and services in the State or Union territory

Ineligible supplies

Tariff item, subheading, heading or Chapter*		Description
2105 00 00		Ice cream and other edible ice, whether or not containing cocoa
2106 90 20 2202 1010		Pan masala Aerated water
24		All goods, i.e. Tobacco and manufactured tobacco substitutes

6815		Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks
6901 00 10		Bricks of fossil meals or similar siliceous earths
6904 10 00		Building bricks
6905 10 00		Earthen or roofing tiles

Services can be supplied by the composition suppliers [Second Proviso to Section 10(1)1: A person who opts to pay tax under (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II i.e. restaurant services), of value —

- a) not exceeding **10%** of turnover in a State or Union territory in the preceding financial year; or
- b) **5,00,000**, whichever is higher.

Explanation: The value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.

“Turnover in State” or “turnover in Union territory” 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) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess. [Section 2(1 72)] Supplies to be excluded for determining turnover in State! UT for determining payment of tax (Explanation 2): “Turnover in State or turnover in Union territory” shall not include the value of following supplies, namely:

- i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and
- ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

- d) Persons not eligible to opt for composition scheme [Section 10(2)]:** Broadly, 6 categories of registered person are not eligible to opt for the composition scheme. These are:
- i) supplier of services other than those mentioned in point no. (c) above.
 - ii) supplier of goods which are not taxable under the CGST Act/SGST Act/UTGST Act;
 - iii) an inter-State supplier of goods; (Note: There is no restriction on Composition Supplier to procure goods from inter-State suppliers.)
 - iv) person supplying goods through an electronic commerce operator who is required to collect tax at source under section 52;
 - v) manufacturer of certain notified goods i.e. ice cream and other edible ice, whether or not containing cocoa, Pan masala, Aerated waters, and Tobacco and manufactured tobacco substitutes;
 - vi) casual taxable person or a non-resident taxable person.
- e)** Composition scheme is applicable for all transactions of registered person with same PAN. [Section 10(2)]
- f)** Option to pay composition tax lapses if aggregate turnover exceeds 1.5 crore/ 75 lakh. [Section 10(3)]
- g)** **Composition** tax cannot be collected from recipients. [Section 10(4)]
- h)** **Input** tax credit cannot be availed by composition supplier. [Section 10(4)]
- i)** In case of irregular availment of the composition scheme, registered person shall be liable to pay tax and shall also be liable for penalty. [Section 10(5)]
- j)** **Composition scheme not applicable for tax payable under Reverse Charge Mechanism (RCM).** Rate of tax payable on supplies taxable under RCM will be regular rates and not the composition rate.
- k)** Customer not entitled to take credit of composition tax.

COMPOSITION SCHEME FOR SERVICES SUPPLIERS

2. Composition scheme for service suppliers under CGST Act, 2017 [Section 10(2A)] :

- i)** Composition scheme for services suppliers — Optional scheme: Section 10(2A) 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 section 10(1), to pay tax @ 6% (3% CGST and 3% SGST/UTGST).
- Thus, traders and manufacturers of goods and restaurant service providers who are eligible for composition scheme (even if not opted) will not enter this facility.
- ii) Conditions:** A registered person can claim the benefit of this scheme provided he complies with the following conditions:
- a)** His aggregate turnover in the preceding financial year must not exceed 50 lakh.

Computation of aggregate turnover for the purpose of eligibility under this scheme **[Explanation 1]:**

For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this scheme, the expression aggregate turnover —

- shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for registration under this Act,
 - but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
- b) He is not engaged in making any supply of goods or services which are not leviable to tax under this Act;
- c) He is not engaged in making any inter-State outward supply - neither of goods nor of services.
- d) He is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;
- e) He is not a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council i.e. Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Aerated Water, All goods, i.e. Tobacco and manufactured tobacco substitutes.
- f) He is not a casual taxable person or a non-resident taxable person.

iii) **Applicable for all transactions of registered person with same PAN.**

iv) **Rates of tax :** The rate of tax under this scheme levy is as under —

Eligible Person	Rate of Tax cannot exceed (% of turnover)		Total rate of tax cannot exceed
	CGST	SGST	
Service suppliers	3% of the aggregate turnover in the State or Union territory	3% of the aggregate turnover in the State or Union territory	6% of the aggregate turnover in the State or Union territory

Supplies to be excluded for determining turnover in State/ UT for determining payment of tax [Explanation 2]: The tax payable by a person under this section, “Turnover in State or turnover in Union territory” shall not include the value of following supplies, namely: —

- (i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

- v) Option lapses if aggregate turnover exceeds 50 lakh. [Section 10(3)]
- vi) Composition tax not to be collected from Recipients. [Section 10(4)]
- vii) Input tax credit cannot be Availed [Section 10(4)]
- viii) In case of irregular availment of the composition scheme, registered person shall be liable to pay tax and shall also be liable for penalty. [Section 10(5)]
- ix) Composition scheme not applicable for tax payable under Reverse Charge Mechanism (RCM)
- x) Customer not entitled to take credit of Composition Tax.

xi) Rules for composition scheme applicable: The CGST Rules, 2017, as applicable to a person paying tax under section 10 of the said Act shall, mutatis mutandis, apply to a person paying tax under this notification.

3. Intimation and effective date for composition levy [Rule 3 and Rule 4]:

- i) Option to pay composite tax along with application for registration shall be deemed intimation for Composition Scheme. In such case composition levy shall be effective from the date from which registration is effective.
- ii) In other cases intimation for option to avail composition scheme is to be filed before the beginning of Financial Year. In such case the option to pay tax under composition levy shall be effective from the beginning of the Financial Year.
- iii) ITC declaration is to be furnished within 60 days from the commencement of the relevant financial year.
- iv) Details of stock to be furnished within 90 days from the date of option
- v) One intimation applicable for all places in case of same PAN.

4. Conditions and restrictions for composition levy [Rule 5]:

- i) The person exercising the option to pay tax u/s 10 shall comply with the following conditions, namely:
 - a) he is neither a casual taxable person nor a non-resident taxable person;
 - b) the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under section 9(4);
 - c) he shall pay tax under section 9(3)/(4) (reverse charge) on inward supply of goods or services or both;
 - d) he was not engaged in the manufacture of goods as notified under section 10(2)(e) i.e. ice cream, aerated waters, pan masala, and tobacco, during the preceding financial year;
 - e) he shall mention the words 'composition taxable person, not eligible to collect tax on supplies' at the top of the bill of supply issued by him; and
 - f) 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.
- ii) Composition supplier is not required to file fresh intimation every year.'

5. Validity of composition levy [Rule 61]:

- a) Mandatory cessation of Composition levy will be there on violation of conditions of Section 10 read with rules made there under.
- b) Registered person can make application electronically on the common portal for withdrawal from scheme.
- c) Issuance of SCN by Proper Officer for cessation of composition scheme on violation of conditions.
- d) Reply is to be filed within 15 days of receipt of SCN.

- e) The proper officer shall issue an order within a period of 30 days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.
- f) Details of stock is to be furnished on opting out of such scheme within a period of 30 days of withdrawal of composition scheme.

Circular No.77/51/2018 GSTdated 31-12- 2018	Effective date in case of denial of composition option by tax authorities: In case of denial of option to pay tax under composition levy by the tax authorities, it has been clarified that the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act! CGST Rules.
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6. Form and manner of submission of statement and return [Rule 62 of CGST Rules, 2017]:

- i) **Composition Presumptive scheme taxpayers to file return annually and make payment quarterly:** Every registered person paying tax under section 10 or paying tax by availing the benefit of Notification No. 02/2019-CT (R) dated 07-03-2019 shall electronically furnish -
 - a) a statement in the prescribed form i.e. GST CMP-08 containing details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18 day of the month succeeding such quarter; and
 - b) a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.
- ii) **Payment of tax, interest, etc. by electronic cash ledger [Rule 62(2)1:** Every registered person furnishing the statement under Rule 62(1) shall discharge his liability towards tax or interest payable by debiting the electronic cash ledger.
- iii) **Contents of information [Rule 62(3)] :** The return furnished shall include the —
 - (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and
 - (b) consolidated details of outward supplies made.
- iv) **Obligation to furnish additional returns by composition presumptive scheme supplier who opts under the scheme from beginning of Financial Year [Rule 62(4)]:** A registered person who has opted to pay tax u/s 10 or by availing the benefit of Notification No. 02/2019-CT (R) dated 07-03-2019 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rule 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns 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.

ITC not available [Explanation]: Here, the person shall not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme or paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07-03-2019.

- v) Furnishing of details on opting out of composition scheme [Rule 62(5)] :** A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax under the composition scheme till the day of the month succeeding the quarter in which the date of withdrawal falls and furnish GSTR 4 for the said period till the 30 day of April following the end of the financial year during which such withdrawal falls.
- vi) Furnishing of details on cessation of presumptive scheme [Rule 62(6)]:** A registered person who ceases to avail the benefit of Notification No. 02/2019-CT (R) dated 07-03-2019, shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax by availing the benefit under the said notification till the 18th day of the month succeeding the quarter in which the date of cessation takes place and furnish GSTR 4 for the said period till the 30th day of April following the end of the financial year during which such cessation happens.

ADDITIONAL PRACTICE QUESTIONS

Question 1. Examine whether the suppliers are eligible for composition levy under section 10 in the following independent cases in the beginning of the current financial year.

- (a) Neon Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing computer systems. Its aggregate turnover in the preceding financial year is 125 lakh. Neon Enterprises supplies the computersystems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in the current financial year.
- (b) M/s. Rajesh & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of 112 lakh in the preceding financial year. In view of the growing customer demand, it will also start intra-State trading of juices in Delhi.
- (c) Ghanshyam Associates, registered in Sikkim, is engaged in running a food chain 'Veg Kitchen' in the State. It has a turnover of 73 Lakh in the preceding financial year. In the current financial year, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra
- (d) Kirti Services Ltd., registered in Uttarakhand, is exclusively providing hair styling services. It has turnover of 34 Lakh in the preceding financial year.

Will your answer be different, if Kirti Services Ltd. also start supplying beauty products alongwith providing hair styling services in the current financial year? (Similar RTP Nov. 2020)

Ans: Eligibility for composition levy of suppliers is as under —

(a) The turnover limit for being eligible for composition scheme under section 10(1)/(2) for Jalandhar (Punjab) is Rs.1.5 crore in the preceding financial year. Thus, Neon Enterprises can opt for said composition scheme as its aggregate turnover does not exceed Rs.1.5 crore in the preceding financial year and it is making intra-State supplies. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or Rs.5 Lakh, whichever is higher. Thus, Neon Enterprises can supply repair services up to a value of Rs.12.5 Lakh [10% of Rs.125 lakh] in the current financial year.

(b) In the given case:-

- (i)** the turnover in the preceding year does not exceed the eligible turnover limit under composition scheme under section 10(1)/(2) for Delhi, i.e. Rs.1.5 crore.
- (ii)** the supplier is engaged in providing restaurant service which is an eligible supply under said composition scheme.
- (iii)** the supplier wants to engage in trading of goods which is also an eligible supply under said composition scheme.

Thus, M/s. Rajesh & Sons is eligible for composition scheme under section 10(1)/(2).

(c) The turnover limit for being eligible for composition scheme under section 10(1)/(2) for Sikkim is Rs.75 lakh in the preceding financial year. However, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for said composition scheme. Thus, Ghanshyam Associates cannot opt for composition scheme under section 10(1)/(2).

However, the benefit of composition scheme u/s 10(2A) is available in case of a registered person who is not eligible to pay tax under section 10(1)/(2) provided its aggregate turnover in the preceding financial year does not exceed 50 lakh.

Thus, in view of the above-mentioned provisions, Ghanshyam Associates cannot avail the benefit of composition scheme u/s 10(2A) also as its aggregate turnover in the preceding financial year is more than Rs.50 lakh.

(d) A service provider can opt for the composition scheme under section 10(1)/(2) only if he is engaged in supply of restaurant services. Said scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and! or restaurant service.

Since Kirti Services Ltd.is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme under section 10(1)/(2) even though its turnover in the preceding year is less than Rs.75lakh the eligible turnover limit for Uttarakhand.

However, since Kirti Services Ltd. is not eligible to opt for composition scheme under section 10(1)/(2) and its aggregate turnover in the preceding financial year does not exceed Rs.50 lakh, Kirti Services Ltd. is entitled to avail benefit of composition scheme under section 10(2A) in the current financial year.

Further, the answer will remain the same even if Kirti Services Ltd. also start supplying beauty products along with providing hair styling services in the current financial year since it fulfils the

conditions laid down for availing the benefit of composition scheme u/s 10(2A) of the CGST Act. It can avail the benefit of composition scheme u/s 10(2A) till the time its aggregate turnover in the current year doesn't exceed Rs.50 lakh.

Question 2. Determine whether the supplier in the following cases are eligible for composition levy under Section 10(1) provided their turnover in preceding year does not exceed Rs.1.5 crore

(a) Rajeev is engaged in providing Chartered Accountancy services in Rajasthan and is registered in the same State.

(b) Safal Manufacturers has registered offices in Rajasthan and supplies goods in neighbouring States,

Ans: Eligibility for composition levy of suppliers is as under —

(a) A supplier of services is not eligible for composition scheme under section 10(1) except:

(i) 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 (restaurant service supplier)

(ii) other suppliers i.e. manufacturers, traders and restaurant service suppliers may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II i.e. restaurant services), of value —

- not exceeding 10% of turnover in a State or Union territory in the preceding financial year; or
- Rs.5,00,000, whichever is higher.

Since Rajeev provides only Chartered Accountancy services, he is not eligible for composition scheme u/s 10(1). However, he can opt for the benefit of composition scheme for service suppliers as provided in Section 10(2A) of the CGST Act, 2017 provided his aggregate turnover in preceding financial year does not exceed 50 lakhs.

(b) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, therefore Safal Manufacturers is not eligible for composition levy.

Question 3. Sohan Enterprises has two registered business verticals in Rajasthan. Its aggregate turnover for the preceding year for both the business verticals was Rs.148 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 Sohan Enterprises whether he can do so? OR

MN Ltd. has two registered business verticals in the state of Haryana. Its aggregate turnover during the previous financial year for both the business verticals was Rs.142 lakhs. It wishes to opt for composition levy for one of the verticals in the current year and wants to continue with registration and pay taxes at the merit rate for the second vertical. Can MN Ltd. do so? Explain with reason.

(3 Marks, Nov. 2018-OS) (ICAI.P.Q.)

Ans: A registered person with an aggregate turnover in the preceding financial year up to Rs.1.5 crore is eligible for composition levy. Since the aggregate turnover of Sohan Enterprises/MN Ltd. does not exceed Rs.1.5 crore, it is eligible k composition levy in the current year.

However, it is applicable for all the transaction of a registered persons having the same Permanent Account Number'PAN . If such registered person opts for normal scheme for one of its vertical, other verticals become ineligible for composition scheme. Thus, Sohan Enterprises! MN Ltd. either have to opt for composition levy for both the verticals or under normal levy for both the verticals.

Question 4. Eligibility under composition scheme: A Ltd. is a manufacturing concern in Sikkim. In Financial Year 2020 -21 total value of supplies including inward supplies taxed under reverse charge basis are Rs.79,00,000. (exclusive of The break up of supplies are as follows

Particulars	Rs.
1. Intra State Supplies made under forward charge	30,00,000
2. Intra State Supplies made which are which are chargeable to GST at Nil rate	25,00,000
3. intra state Supplies which are wholly exempt under section 11 of CGST Act, 2017	
4. Value of exempt supply of services being interest earned on fixed deposits with bank	20,00,000
5. Value of inward supplies on which tax payable under RCM	1,00,000
	3,00,000

Briefly explain whether A Ltd. is eligible to opt for Composition scheme in Financial Year 2021-22.

Solution: A registered person, whose aggregate turnover in the preceding financial year did not exceed 75,00,000 (in state of sikkim), may opt for payment of tax under Composition scheme.

As per Section 2(6) of the CGST Act, 2017, “Aggregate turnover” means the aggregate value of all taxable supplies (Exclusively the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both, and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis, but excludes Central tax, State tax, Union territory tax, Integrated tax, and Cess.

According to Explanation 1, for the purposes of computing aggregate turnover of a person for determining his :c pay tax under section 10, the expression ‘aggregate turnover’ shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by interest or discount.

Thus, aggregate turnover shall be computed as under (amount in Rs.) —

Particulars	Rs.
1. Supplies made under forward charge	30,00,000
2. Supplies made which are which are chargeable to CST at Nil rate (covered under exempt supply)	25,00,000
3. Supplies which are wholly exempt under section 11 of CGST Act, 2017	20,00,000
4. Value of exempt supply of services being interest earned on fixed deposits with bank	Nil
5. Value of inward supplies on which tax payable under RCM (specifically excluded)	Nil
Total	75,00,000

Since, Aggregate turnover does not exceed 75,00,000 during the Financial Year 2020-21, So, A Ltd. is entitled for composition Scheme for Financial Year 2021-22.

Question 5. Computation of composition tax liability: XYZ Ltd. is a trader having one Unit A1 in Rajasthan and another Unit A2 in Madhya Pradesh. Total turnover of two units in financial year 2020-21 was Rs.75 lakh (Rs.40 lakh + Rs.35 lakh). Total turnover of two units in the first quarter

and second quarter of this financial year was Rs.25 lakh (Unit A1: Rs.10 lakh + Unit A2 : Rs.15 lakh) and Rs.30 lakhs (Unit A1 : Rs.17 lakh + Unit A2 Rs.13 lakh). You are required to determine composition tax liability.

Unit	Turnover in 1 st Quarter	Turnover in 2 nd Quarter	Rate of composite tax	Total Composite tax	
				Quarter 1 st	Quarter 2 nd
A1	10	17	1%	0.10	0.17
A2	15	13	1%	0.15	0.13
Total	25	30		0.25	0.30

Question 6. Computation of composition tax liability: A Ltd. a manufacturing concern in Rajasthan has opted for composition scheme furnishes you with the following information for Financial Year 2020-21. It requires you to determine its composition tax liability and total tax liability. The break up of supplies are as follows –

	Particulars	Rs.
(1)	Intra State Supplies of Goods X chargeable 5% GST	20,00,000
(2)	Intra State Supplies made which are which are chargeable to GST at Nil rate	15,00,000
(3)	Intra state supplies which are wholly exempt under section 11 of CGST Act, 2017	5,00,000
(4)	Value of inward supplies on which tax payable under RCM (GST Rate 12%)	8,00,000
(5)	Intra State Supplies of Goods Y chargeable @ 18% GST	15,00,000

Solution: The composite tax liability of A Ltd. shall be as under –

(1) Computation of Aggregate Turnover and composite tax (amount in :

(1) Supplies made under forward charge	20,00,000
(2) Supplies made which are which are chargeable to GST at Nil rate	15,00,000
(3) Supplies which are wholly exempt under section 11 of CGST Act, 2017	
(4) Value of inward supplies on which tax payable under RCM (GST Rate 12%) (not to be included)	5,00,000
(5) Intra State Supplies of Goods Y chargeable @ 18% GST	Nil
Aggregate turnover	<u>15,00,000</u>
Rate of composite tax	<u>55,00,000</u>
Total Composite tax [A]	<u>1%</u>
	<u>55,000</u>

(2) Tax payable under reverse charge basis (amount in :

Value of inward supplies on which tax payable under RCM	8,00,000
Rate of GST	12%
Tax payable under RCM [B]	96,000
Total Tax liability [A] ÷ [B]	1,51,000

Question 7. Computation of Composition tax liability: M/s. Heeralal and Sons registered in Karnataka has opted to avail the benefit of composition scheme. It has furnished the following details for the tax period ended on 30-06-2021.

Items	Items
(i) Taxable turnover of goods within the state	15,00,000
(ii) Exempted turnover of goods within the state	17,00,000
Total Turnover	32,00,000

Using the above information, calculate total GST (No need for bifurcation between CGST and SGST) to be paid by the firm for the tax period ended on 30-06-2021 in following independent situations:

(i) M/s. Heeralal and Sons is a Manufacturer.

(ii) M/s. Heeralal and Sons is a Trader.

(3 Marks, Nova 201&NS) (ICAI P.Q.)

Solution: In case of the manufacturer, composite tax will be leviable @ 1% of the turnover in the State. Thus exempted goods turnover will be included for determination of composition tax liability of the manufacturer.

In case of trader, composition tax shall be levied 1% of the turnover of taxable supplies of goods and services in the State. Thus, exempted goods turnover will not be included for determination of composition tax liability of the trader.

The composite tax liability shall be determined as under:

Computation of Turnover and composite tax (amount in :

Particulars	Manufacturer	Trader
(1) Taxable turnover of goods within the state	15,00,000	15,00,000
(2) Exempted turnover of goods within the state	17,00,000	-
Aggregate turnover	32,00,000	15,00,000
Rate of composite tax	1%	1%
Total Composite tax	32,000	15,000

Question 8. Eligibility for composition levy: Bansal and Chandiok is a partnership firm of Chartered Accountants in Jaipur (Rajasthan): The firm specialises in bank audits providing services to banks across India. It has an annual turnover of Rs.110 lakh in the preceding financial year. :

With reference to the provisions of the CGST Act, 2017, examine whether the firm can opt for the composition scheme. Will your answer change, if

(a) the turnover of the firm is 90 lakhs?

(b) Bansal and Chandiok is not a partnership firm of Chartered Accountants but a partnership firm providing support services to restaurants like booking tables, advertisement etc.?

(RTP May 2018)

Solution: As per Section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed Rs.1.5 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at composite rate as may be prescribed.

A supplier of services is not eligible for composition scheme under section 10(1) except:

(i) 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 (restaurant service supplier)

- (ii) other suppliers i.e. manufacturers, traders and restaurant service suppliers may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II i.e. restaurant services), of value —
- (a) not exceeding 10% of turnover in a State or Union territory in the preceding financial year; or
 - (b) Rs.5,00,000, whichever is higher.

On the basis of above provisions, a firm of Chartered Accountants, being a supplier of professional services having aggregate turnover of Rs.110 lakh (other than restaurant services) is not eligible to apply for composition scheme.

Therefore, it has to discharge its tax liability under regular provisions at the applicable rates.

- (a) The answer will not change even if the turnover of the firm had been Rs.90 Lakh since the ineligibility of the firm to opt for composition scheme is not linked with the turnover of the firm, but with the nature of the services supplied by the firm.

Therefore, since even with turnover of Rs.90 Lakh the ineligibility in respect of nature of services supplied by firm exists i.e., the firm provides professional services only; it will not be eligible for composition scheme u/s 10(1).

- (b) The answer will not change even if the firm is providing support services to restaurants as only the supplier providing restaurant services per se are eligible for composition scheme under section 10(1).

Question 9. Eligibility for Composition Levy: Mr. Rajbeer, a registered person at Delhi, is in the business of selling goods relating to interior decoration under the Firm name M/s. Rajbeer & Sons. He has opted for Composition scheme for the Financial Year 2020-21.

His turnover for Financial Year 2020-21 is 80 Lakh and is expected to achieve Rs.130 lakh in Financial Year 2021-22.

Discuss whether M/s Rajbeer & Sons can still enjoy the benefits of Composition Scheme in Financial Year 2021-22. His son Karan wants to start business of providing services relating to interior decoration¹ after completing post,, graduation course in interior decoration under same firm name M/s. Rajbeer & Sons with effect from 1-4-2021 and wants to enjoy the benefits of composition scheme under GST.

Advise Mr. Rajbeer and his sons Karan.

(5 Marks, Nov. 2019)

Solution: A registered person with an aggregate turnover in a preceding financial year up to Rs.1.5 crore is eligible for composition levy in Delhi. Since the aggregate turnover of Rajbeer does not exceed Rs.1.5 crore, he is eligible for composition levy in the current year. Composition scheme under Section 10(1) is not meant for supplier of services. However, A composition supplier may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II i.e. restaurant services), of value —

- a) not exceeding 10% of turnover in a State or Union territory in the preceding financial year; or
 - b) Rs.5,00,000
- whichever is higher.

If Karan wishes to start the business of providing services relating to interior decoration under the same firm name NI/s. Rajbeer & Sons, the sole proprietorship needs to be first converted into a partnership firm. Further, new GST registration under the new PAN is required to be obtained.

Thus if his son Karan wants to join the same firm, interior decorator services can be provided upto 10% of Rs.80 Lakhs or Rs.5 lakhs whichever is higher i.e. maximum Rs.8 lakhs in this case.

In order to provide benefit to exclusive service suppliers, a scheme to pay tax at the concessional rate has been formulated primarily for small service providers who are not otherwise eligible for composition scheme under section 10(1) and 10(2). This scheme is contained in Section 10(2A) of the CGST Act, 2017 read with Notification No. 2/2019-CT(R) dated 07-03-2019 which provides 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% [Effective rate 6% (CGST + SGST/ UTGST)] on first supplies of goods and/or services upto an aggregate turnover of Rs.50 lakh made on/after 1 April in any financial year, subject to specified conditions. Thus, it is advised to Mr. Karan to open his own firm for providing interior decorator service and avail the benefit of concessional rate of tax under Notification No.2/2019-CT (R) dated 07-03-2019.

Question 10. Eligibility for Composition Levy: Prem is running a consulting firm and also a fancy store, registered under the same PAN number. Turnover of the fancy store is Rs.65,00,000 and receipt of consultancy firm is Rs.10,00,000 in the preceding financial year.

You are required to provide answers with supporting explanatory note for each answer to the following questions:

- (i) Is Prem eligible for composition scheme under CGST Act?**
- (ii) Whether it is possible for Prem to opt for composition scheme only for fancy store?**
- (iii) If Prem is running a restaurant with turnover of Rs.95,00,000 instead of consultancy firm as well as a fancy store, would he be eligible for composition scheme? (3 Marks, May 2018-NS)**

Ans:

- (i)** Yes. A registered person can opt for composition scheme u/s 10(1) if, inter alia, he is engaged in the supply of services other than restaurant services if his turnover of services is upto 10% of aggregate turnover in preceding financial year or Rs.5,00,000 whichever is higher. Thus, in this case the value of consulting services in the current financial year must not exceed Rs.7,50,000 i.e. 10% of Rs.75,00,000.
- (ii)** No. All the registrations under the same PAN have to opt for composition scheme and if the supply of consultancy service is ineligible for composition scheme, supply of goods in fancy store too becomes ineligible for composition scheme.
- (iii)** No. Even though Prem provides restaurant service, which is an eligible service for composition levy, his aggregate turnover (Rs.65 lakh for fancy store + Rs.95 lakh for restaurant service) in the preceding financial year exceeds Rs.1.5 crore.

Question 11. Wrong availment of Composition levy: M/s. Ranveer Industries, registered in Himachal Pradesh, is engaged in making Interstate supplies of readymade garments. The aggregate turnover of M/s. Ranveer Industries in the financial year 2019-20 is Rs.70 lakhs. It opted for composition levy in the year 2020-21 and paid tax for the quarter ending September 2020 under composition levy.

The proper officer has levied penalty for wrongly availing the scheme on M/ s. Ranveer Industries in addition to the tax payable by it.

Examine the validity of the action taken by proper officer. (4 Marks, Nov. 2018-OS) (ICAI P.Q.)

Solution: The action taken by the proper officer is correct in law. According to Section 10(2) of the CGST Act, 2017, inter state suppliers of goods are not eligible to opt for composition scheme. In this case since Ranveer Industries is engaged in making interstate supplies of readymade garments, it is not eligible to opt for composition scheme.

According to Section 10(5) of the Act, If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.

Question 12. Eligibility under composition levy: Shubhlaxmi traders is engaged in trading of goods within the state of Maharashtra. In the preceding financial year, it has a turnover of 140 lakh from the trading of goods. Further, it has also earned a bank interest of 20 lakh from the fixed deposits. Shubhlaxmi traders wishes to opt for composition scheme in the current year. You are required to advise Shubhlaxmi traders on the same. Would your answer be different if Shubhlaxmi traders is also engaged in supply of farm labour and the turnover from the said activity is Rs.14lakh?

(ICAI P.Q)

Ans: The eligibility of Shubhlaxmi traders under composition scheme is discussed as under -

- **Eligibility under Composition scheme:** As per Section 10(1) of the CGST Act, 2017, a registered person, engaged in trading of goods and supplier of services whose aggregate turnover in the preceding financial year did not exceed Rs.1.5 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates.

According to Explanation 1, for the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression aggregate turnover shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

- **Shubhlaxmi traders is eligible for composition scheme :** In the given case, the services provided by Shubhlaxmi traders apart from trading of goods, viz, services by way of extending deposits where the consideration is represented by way of interest shall not be taken into account for computation of aggregate turnover for determination of eligibility of composition scheme. Since the aggregate turnover of Shubhlaxmi traders do not exceed 1.5 crores in preceding financial year, it shall be eligible to opt for composition scheme.
- **Shubhlaxmi traders is not eligible for composition scheme :** However, if Shubhlaxmi traders is also engaged in supply of farm labour, it will not be eligible for composition levy since as per Order No. 01/2019-CT only value of supply of exempt services by way of extending deposits, loans or

advances in so far as the consideration is presented by way of interest or discount, shall not be taken into account. Other exempt services shall be taken into account. Since its aggregate turnover is 1.54 crores in preceding financial year it will not be eligible to opt for composition scheme.

Question 13. Computation of tax liability under Presumptive levy: Mr. X started profession of Architect w.e.f.01-04-2021. His value of intra-state taxable supplies upto 30thSeptember 2021 was Rs.20 lakh. He applied for registration 1stOctober 2021 and opted for Composition scheme for service suppliers as per Section 10(2A) in registration application and was granted registration as per provisions of GST law. He made intra-state taxable supplies of Rs.35lakhs for the quarter ending 31-12-2021. You are required to determine his Composition tax liability under Section 10(2A) for the period 01-04-2021 to 31-12-2021. Normal GST rate on architect services is CGST 9% and SGST 9%. [Similar RTP Nov. 2020]

Solution: As per Section 10(2A) of the CGST Act, 2017 if registered person is eligible to take the benefit of composition scheme. he shall pay GST at the rate of 6% (3% CGST and 3% SGST/UTGST) on his aggregate turnover i.e. “First supplies of goods or services or both” upto Rs.50 lakhs.

“First supplies of goods or services or both” shall, for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

Thus, where supplier has taken the GST registration for the first time, the presumptive tax at the rate of 6% shall be payable on the supplies made by him only after the date of registration upto aggregate turnover of Rs.50 lakhs. Thus, the amount of composition tax liability under Section 10(2A) will be $\text{Rs.}30,00,000 \times 6\% = \text{Rs.}180,000$.

After reaching aggregate turnover of Rs.50 lakhs, his option to pay composition tax lapses and he has to pay tax at normal provisions of the Act. Thus, on Rs.5 lakhs [Rs.55 lakhs - Rs.50 lakhs], he has to pay tax amounting Rs.45,000 [CGST] and Rs.45,000 [SGST] respectively.

THE END

5.1. TIME OF SUPPLY

Introduction:

In relating to supply of goods or service different transactions may be involved like as date of completion, date of invoice, date of payment. All these transactions may be taken place on different days, in such a situation how a person can identify the day on which taxable person getting liability for payment of GST or GST charged on taxable supply.

By considering these type of ambiguous situations, time of supply provisions have been inserted in sec 12 and 13 of CGST Act, 2017.

1. Sec 12: Time of supply of goods

2. Sec 13: Time of Supply of service

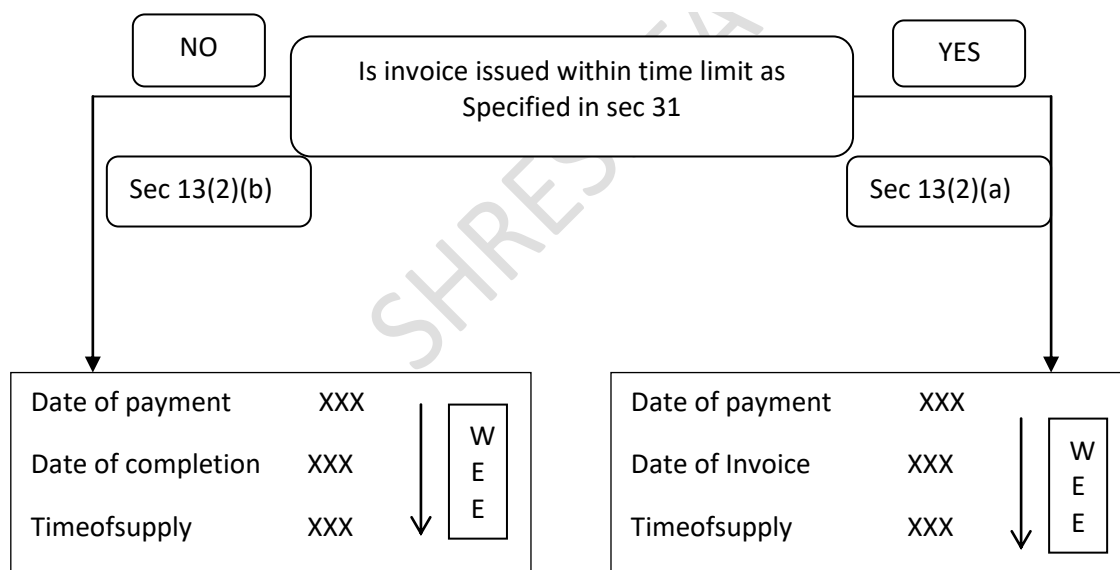
Time of supply of service (Sec 13)

Sec 13(1):

The liability to pay tax on services arise at the time of supply as per this section

Sec 13(2):

Determination of time of supply in general / normal situation



Note 1: DOP mean:

- a) The day on which payment is recorded in the books of accounts of the supplier XX-XX-XX
- b) The day on which payment is credited to his bank account XX-XX-XX

Note 2: if the time of supply is not determinable as per above provision then the time of supply is the day on which the recipient shows the receipt of service in his books of accounts. (Sec(2)(c))

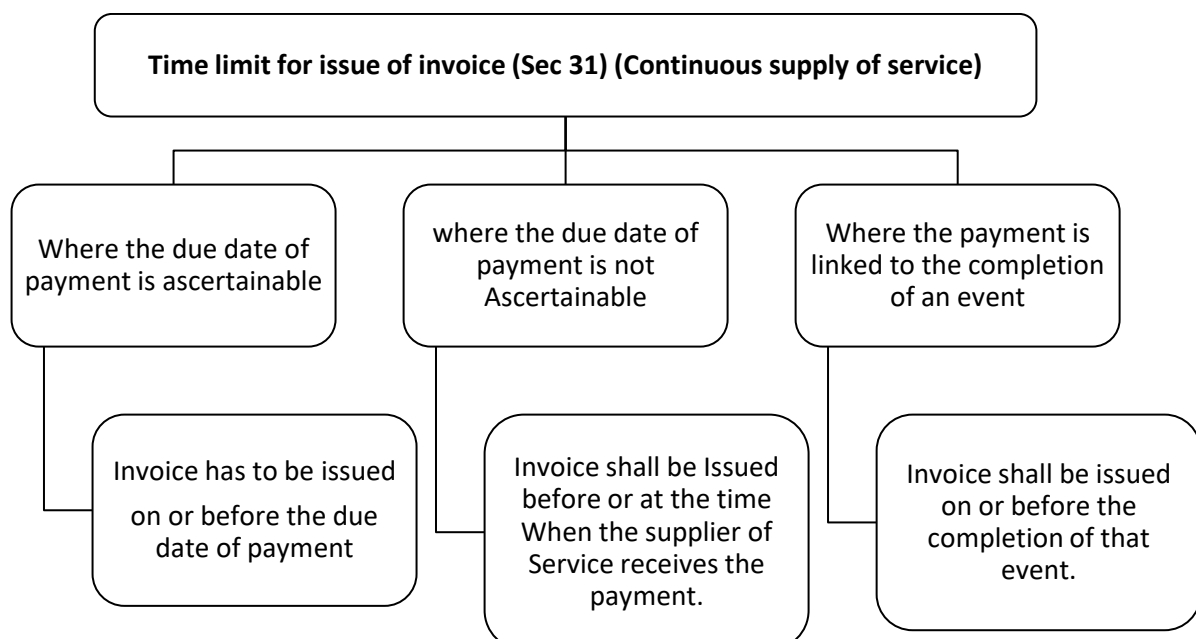
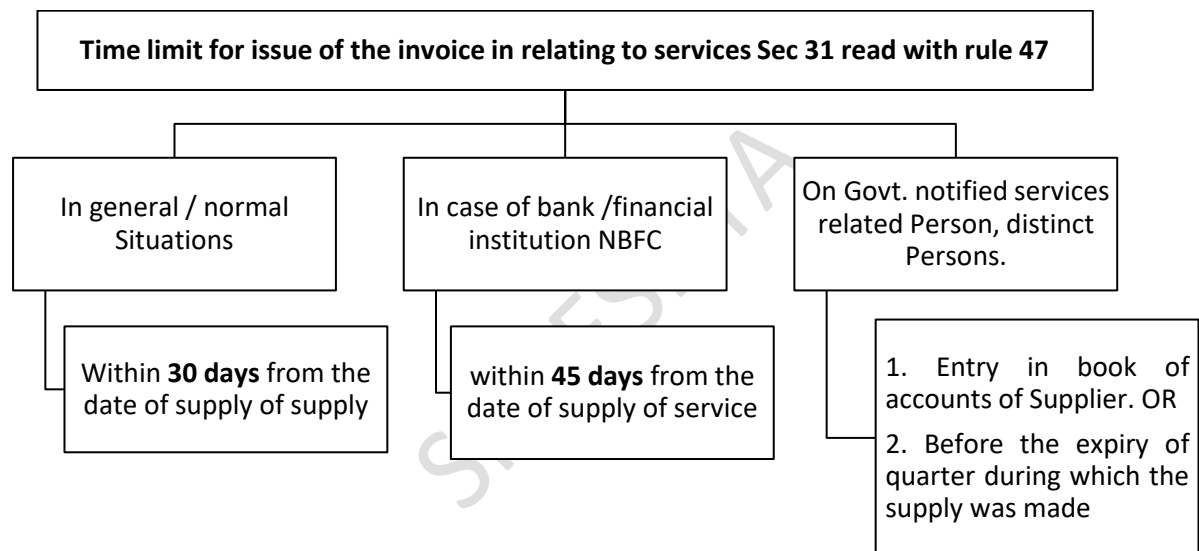
Example 1:

S. No	Particulars	DOC	DOI	DOP	TOS	Due date
1	Value of supply = Rs. 1L	01.04.21	10.04.21	25.04.21		
2	Value of supply = Rs. 1L	01.04.21	15.04.21	12.04.21		
3	Value of supply = Rs. 1L	01.04.21	10.05.21	12.04.21		

4	Value of supply = Rs. 1L					
	1 st installment = 60,000	01.04.21	25.04.21	20.03.21		
	2 nd installment = 40,000	01.04.21	25.04.21	19.04.21		
5	Value of supply = Rs. 1L	01.04.21	25.04.21	Book entry- 10.04.21 Bank entry – 15.04.21		

Example 2:

Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment&complex, Apartment Owners' Association showed a payment in cash ledger on 4th April against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account. What is time of supply?



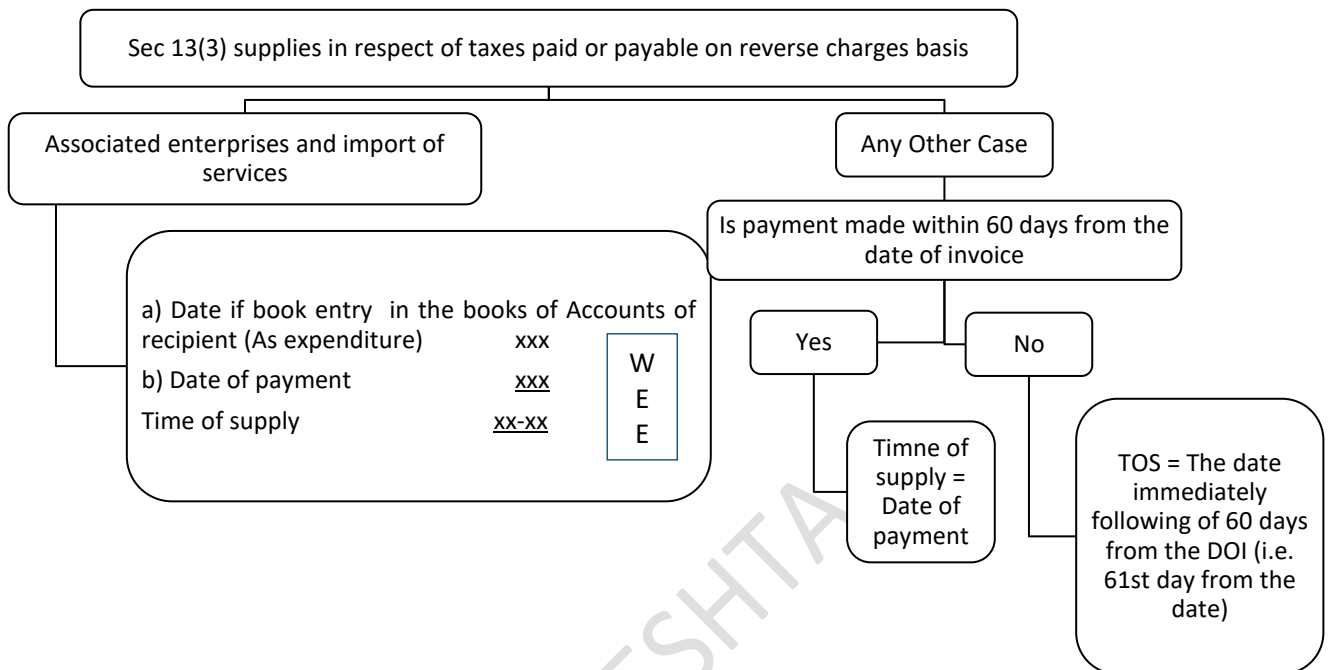
In case of cessation of service:

Where the supply of services ceases under a contract before to the completion of the supply.



Invoice shall be issued at the time when the supply ceased to the extent of the supply made before such cessation.

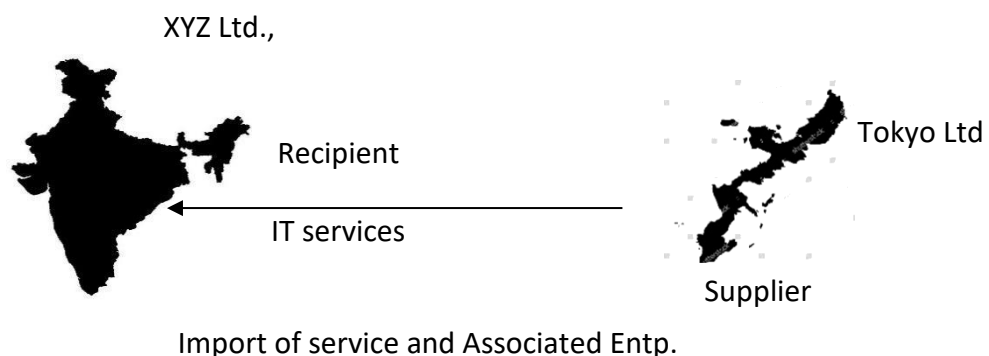
Sec 13:



DOP means:

- a) The date of payment as entered in the books of accounts of the recipient XXX
- b) The payment debited in his bank account XXX

Example 1:

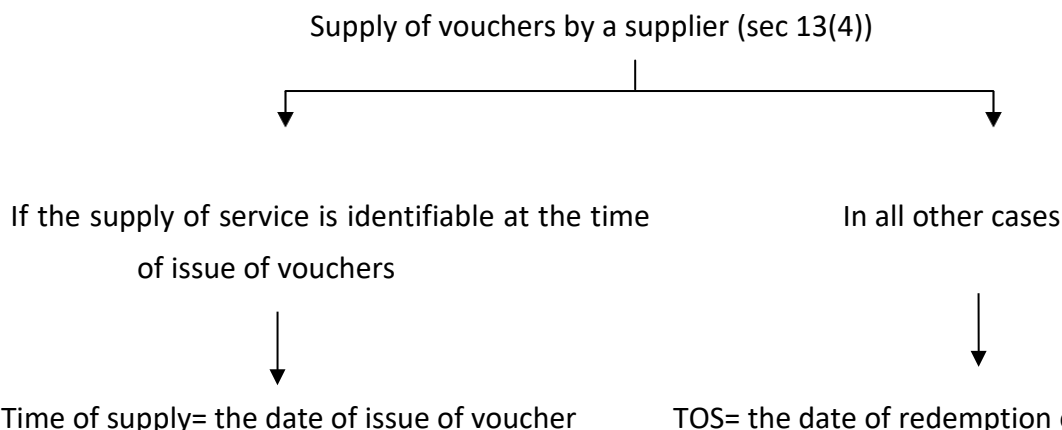


XYZ.Ltd located in India received a service from its associated company Tokyo. Ltd located in japan.

- a) Date of importation of service → 01/04/23
- b) Date of invoice → 28/04/23
- c) Book entry made in the books of recipient(XYZ Ltd) → 25/04/23
- d) Date of payment → 15/06/23

- a) Determine what is the TOS?
- b) If above parties not associated enterprises, how your answer will be differ?
- c) If payment is made on 10/8/23 how your answer would be differ in above two situations(a & b)

Solution:



Example: Ms. X received beauty parlour service or cosmetic surgery services from ANU's on 1/7/21 for the worth of 10,000 ,on receiving of 10,000 worth of service anus' Limited given Rs.500/- worth of voucher which can be readable for further services in ANU's

- a) Date of completion of service 10-07-2021
- b) Date of invoice 15-07-2021
- c) Date of payment 12-07-2021

Vouchers has been issued on the date of payment

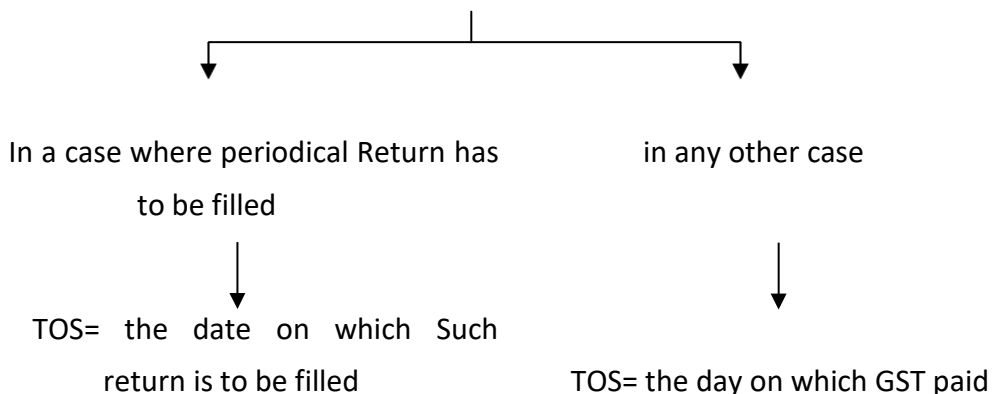
- 1) Determine the time of supply for original consideration and for value of voucher's
- 2) What would be the impact if vouchers can be redeemable for any other services like as transportation, food etc.,

Solution:

Sec 13(5):

Sec 13(5) if time of supply of service is not determinable in accordance with sec 13(2), (3),

(4) Then the TOS will be as per 13(5)



Example 1:

Surya Ltd engaged in works contract and rendered services to the heaven apartments for the worth of Rs. 5L, supplier is intended to conceal the income, hence not maintained information about invoice, payment and completion. Apart from that requested the recipient not to claim such amount as expenditure.

On investigation made by the GST Department managing director of Surya Ltd discloses information about above supply.

- a) What is the time of supply (surya ltd is liable for filing of return)
- b) What would be the TOS if surya Ltd is not liable for filling of the return and they paid GST voluntarily during investigation?

Sec 13(6)

Any addition in the value of supply by way of interest late fee or penalty for delay payment of any consideration



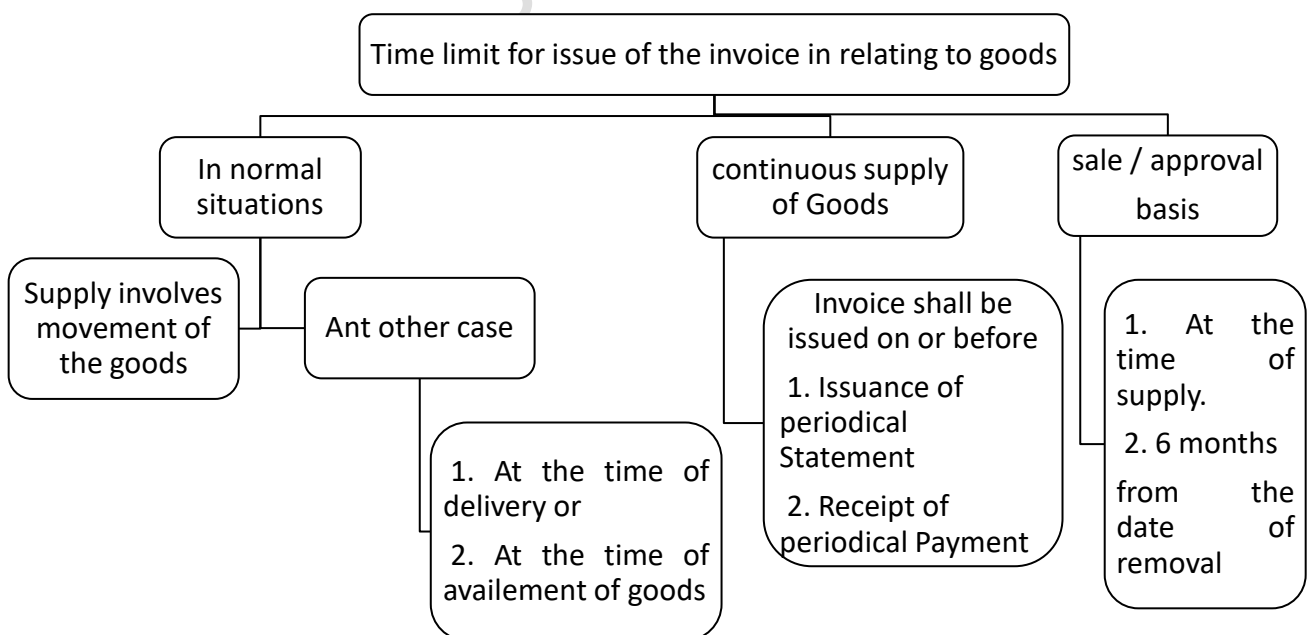
TOS= the day on which the supplier receives such addition in value

E.g: Infosys Ltd rendered it services to the SBI for the worth of 10L on 1-05-2021 and invoice has be issued 20-05-2021, the due date for payment is 15-06-2021 with a penalty clause of 50,000/-if there is any delay, actual payment made by SBI banker is on 28th Aug. 2021 along with penalty.

- 1) Determine the TOS for original consideration and penalty

Time of supply of Goods (sec 12):

Time limit for issue of the invoice in relating to goods



Sec12 (2): Time of supply of goods in general/ normal situations (Sec12 (2))

Particulars	Date	
The date of issue of invoice by the supplier	XX-XX-XXXX	W
The last date for issue of invoice.	XX-XX-XXXX	E
		E

Example:

Intex Company producing laptops and delivered to the Srinivas electrical and communications on 20-aug-2021 for the worth of 20L invoice issued on 25th Aug. 2021.

Date of payment received on 31-aug-21

- Determine time of supply
- How your answer would be differ if invoice issued on 13-Aug-2021
- How your answer would be differ if payment is given on 01- Aug -2021

Solution:

Particulars	Situation(a)	(b)	(c)
Date of issue of invoice	W		
Last date for issue of invoice	E		
Time of supply	E	_____	_____

Sec 12(3):

Time of supply of goods under reverse charge sec 12(3)

Particulars		Date
The Date of receipt of goods	W	XX-XX-XXXX
Date of payment made by recipient	E	XX-XX-XXXX
31 st day from the date of invoice	E	XX-XX-XXXX
TOS		XX-XX-XXXX

Date of payment means:

- The date of payment as entered in the books of accounts of the recipient = XX-XX-XXXX
 - The date of payment debited in his bank account = XX-XX-XXXX
- DOP = XX-XX-XXXX

Example:

Kalyan jewellers purchased stationary items from Raghunath stationary shop who is an unregistered for the worth of Rs.30,000/- on 01-09-21? (assume covered u/s 9(4))

Invoice issued by the supplier 10-09-21

Expenditure recorded in the books of 12-09-21

Amount debited in the bank account of kalyan jewellers 18-09-21

- Determine TOS?
- How your answer would be differ if payment given in cash 01-09-21

Solution:

Particulars	Situation (a)	(b)
The date of receipt of goods		
Date of payments		
31 st date from the date of invoice		

TOS

Sec 12(4):

Time of supply of vouchers by a supplier of goods sec 12(4)

If supply of goods is identifiable at the Time of issue of voucher ↓ TOS= the date of issue of voucher	In all other cases ↓ TOS= date of Redemptions of voucher
-----------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------

Example:

Bata Ltd issued vouchers to the Wipro Ltd for the worth of 5,00,000/- which can be used for purchasing of slippers and shoes which are covered under the 18% rate of GST.

- a) Determine TOS?
- b) How your answer would be different if the vouchers can be utilized for purchasing of slippers, readymade garments, gifts etc.

Solution:

Sec 12(5):

If the time of supply is not determinable in accordance with sec 12(2) (3) (4) in such a situation time of supply will be as per (sec 12(5))

In case a person is liable for filing of the return ↓ TOS= the day on which return is to be filled	In any other case ↓ TOS= the date on which the tax is paid
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Example: Tupperware Ltd supplied plastic items to the Surya Ltd. For the worth of 12,00,000/- and requested not to show as expenditure in his book of accounts, there up on supplier not paid GST to the govt.

- a) On investigation made by the GST department this transaction has encountered determine TOS?
- b) how your answer would be vary during investigation voluntarily such amount has been paid (in this situation supplier is not liable for filing of return)

Note: DOC, DOP, DOI details are not available with the supplier.

Solution:

Sec 12(6):

Any addition in the value of supply by way of interest, late fee and penalty for any delay in payment of consideration sec 12(6)



TOS= the day on which the supplier receives such addition in value. (Only to the extent of such additional amount)

Example:

Orbit tube light Ltd supplied LED tube lights to the Revathi decorators on 01-06-21 for the worth of 15,00,000/- invoice has been issued on 10-06-21 due date for payment is

25-06-21 with a penalty clause of 75,000/-if there is any delay.Finally,recipient given consideration on 10-08-21

a) Determine TOS for original consideration and addition received in the form of delay payment charges?

Solution:

Particulars	Original consideration	Additional consideration (delay charges)
Date of issue of invoice		---
Last date for issue of invoice		----
Date of payment made by recipient		

TOS

Time of supply in case of excess payment up to 1000/- was made

TOS: the suppliers can choose the date of invoice issued with respect to such excess amount as the time of supply of goods or services

Note: (for sec 12(2), 13(2))

This provision shall be applicable when suppliers received any excess consideration i.e., over and above original consideration which can be adjustable in subsequent considerations that too the value is $\leq 1,000/-$

Example:

Adyta Birla Ltd rendering telecommunication service to Mr. A, every month bill is Rs.450 and the company will issue invoice on 5th of the following month due date is 20th of the following month.

Mr. A is one of the customer paid December Month bill on 20th Jan 2022 an amount of 500/- due to non-available of change.

a) Determine TOS for original consideration, excess amount received?

b) How your answer would be differ if excess amount is more than 1,000/-

Solution:

a)

Particulars	DOC	DOI	DOP	TOS
Telecommunication service Dec month bill (450)	31/12/21 ↑ Within 30 days	05/1/22 ↑	WEE 20/01/22	05/1/22
Excess amount = 50 (500-450)	-	05/02/22	-	05/02/22
Excess amount more than Rs. 1000	-	-	20.01.22	20.01.22 (DOP)

500/-
such

advance amount received. Because it becomes as normal situation.

CHANGE IN RATE OF TAX IN RESPECT OF SUPPLY OF GOODS OR SERVICES

1. Determination of time of supply in case of change in rate of tax [Section 14]:

(i) Notwithstanding anything contained in Section 12 or 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely :—

(a) In case the goods or services or both have been supplied **BEFORE** the change in rate of tax,—

Condition	Time of Supply	Applicable Rate
(i) Where the invoice for the same has been issued and the payment is also received after the change in rate of tax.	Earlier of - → Date of receipt of payment, or → Date of issue of invoice.	New Rate
(ii) Where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax.	→ Date of issue of invoice.	Old Rate
(iii) Where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax.	→ Date of receipt of payment.	Old Rate

(b) In case the goods or services or both have been supplied **AFTER** the change in rate of tax,

Condition	Time of Supply	Applicable Rate
-----------	----------------	-----------------

(i) Where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax.	→ Date of receipt of payment	New Rate
(ii) Where the invoice has been issued and payment is received before the change in rate of tax.	Earlier of — → Date of receipt of payment, or → Date of issue of invoice	Old Rate
(iii) Where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax.	→ Date of issue of invoice	New Rate

(ii) “Date of receipt of payment” shall be—

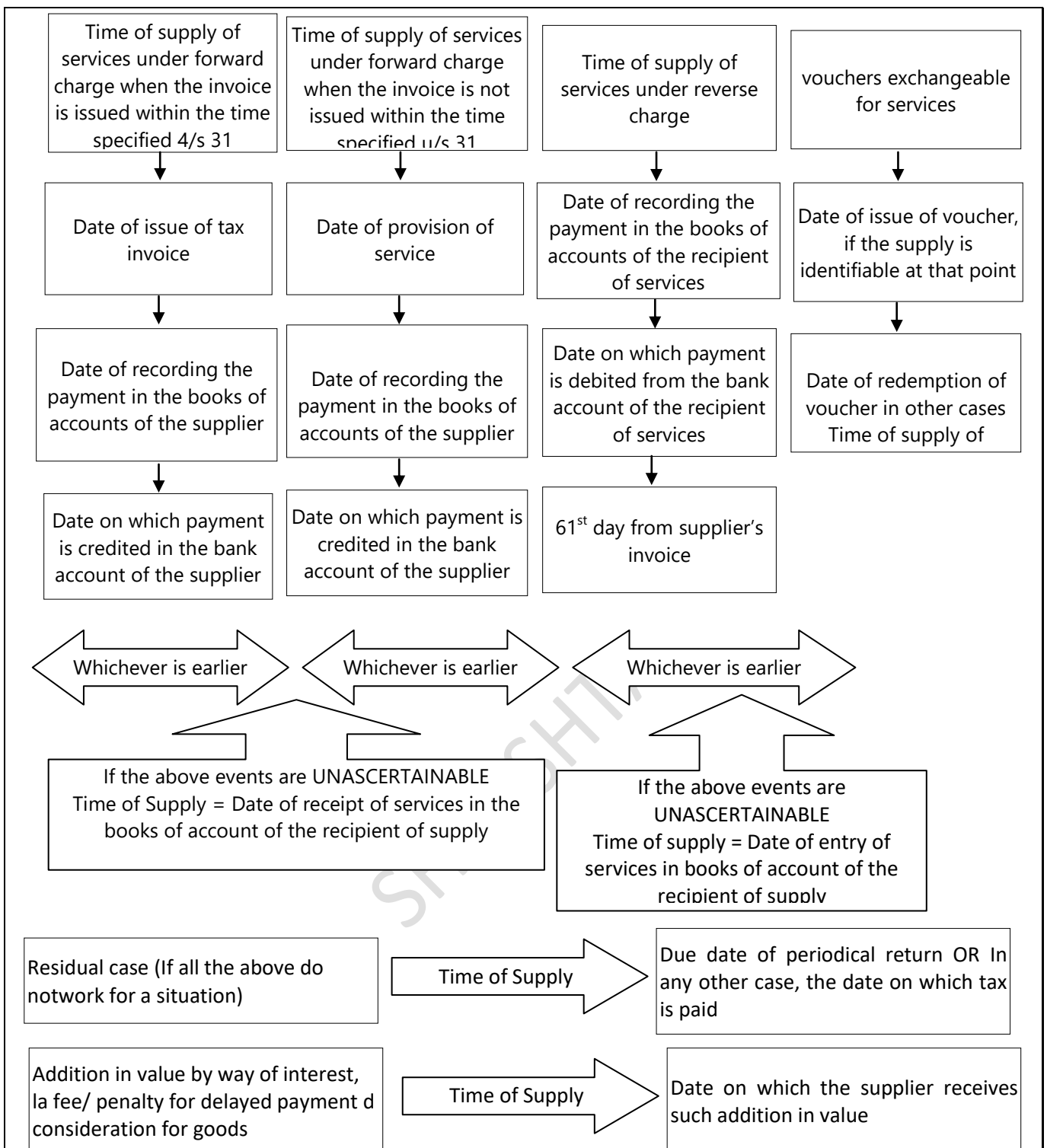
- (a)** the date on which the payment is entered in the books of account of the supplier; or
- (b)** the date on which the payment is credited to his bank account, whichever is earlier.

[Explanation]

However, the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.

For non-composition dealers, GST is to be paid on invoice basis even in case of change in rate of tax vide Notification No. 66/2017-CT dated 15-11-2017.

The Provisions relating to TOS of services as contained in Section 13 are summarised in the diagram given below:



ADDITIONAL PRACTICE QUESTIONS

Question 1. TOS of Goods - Supply involves movement of goods: Chiku Traders is a registered supplier of plastic goods, On 10th April, 20, Chiku Traders received an order from Neelu Traders for supply of a consignment of plastic goods. Chiku Traders gets the consignment ready by 15th April, 20. The invoice for the consignment was issued the next day, 15th April, 20. Neelu Traders collects the consignment from the godown of Chiku Traders on 25 April, 20 and hands over the cheque towards payment on the same date. The said payment is entered in the books of accounts of Chiku Traders on 26th April, 20 and amount is credited in their bank account on 27th April, 20.

Determine the time of supply of the plastic goods supplied by Chiku Traders to Neelu Traders as per the provisions of CGST Act, 2017. **(5 Marks, Nov. 2018-NS) (ICAI P. Q.)**

Solution: As per Section 12(2) of the CGST Act, 2017, the time of supply of goods shall be the earlier of the following dates, namely: —

(a) (i) the date of issue of invoice by the supplier; or

(ii) the last date on which he is required, u/s 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply (i.e. the date on which the payment is entered in his books of account; or the date on which the payment is credited to his bank account, whichever is earlier.)

As per Notification No. 66/2017-CT dated 15-11-2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31. Therefore, time of supply is the date of issue of invoice, which is 16th April 20.

Question 2. TOS of Goods - Supply involves movement of goods: From the following information determine the time of supply of goods where supply involves movement of goods:

S.No.	Invoice/document date	Removal of goods	Delivery of goods	Receipt of payment	Other information
1.	16.11.20	10.11.20	16.11.20	16.11.20	—
2.	01.11.20	10.11.20	16.11.20	—	Supply is on account of Inter-State stock transfer.
3.	20.11.20	01.12.20	04.12.20	20.11.20 10.12.20	Rs.5,00,000 is received as advance and invoice for the whole amount is issued on the same day. Balance payment Rs.6,20,000 is received on 10.12.20.

Solution: Time of supply of goods in each of the above cases has been given in following table —

S. No.	Invoice/ document date	Removal of goods	Delivery of goods	Receipt of payment	Time of supply	Reasons
1.	16.11.20	10.11.20	16.11.20	16.11.20 —	10.11.20	Since invoice is not issued on or before removal of goods and payment is received after the date of removal.
2.	01.11.20	10.11.20	-		01.11.20	Since invoice date is prior to the date of removal of goods.
3.	20.11.20	01.12.20	16.11.20 04.12.20	20.11.20 10.12.20	20.11.20	For advance payment to the extent of 5,00,000 the TOS will be date of invoice as per Notification No. 66/2017-CT dated 15-11-2017. For balance amount also, the time of supply shall be the date of Invoice.

Question 3. TOS of Goods — Supply does not involve movement of goods: Determine the Time of supply in each of following independent cases in accordance with provisions of Section 12 of the CGST Act, 2017 in case supply does not involve movement of goods.

Sl. No.	Date of invoice	Date when goods made available to recipient	Date of receipt of payment
1.	02.10.2021	03.10.2021	15.11.2021
2.	04.10.2021	01.10.2021	25.11.2021
3.	04.11.2021	06.11.2021	01.10.2021

Solution: Time of supply of goods in each of the above cases has been given in following table —

S. No.	Date of invoice	Date when goods made available to recipient	Date of receipt of payment	Time of supply	Reason
1.	02.10.2021	03.10.2021	15.11.2021	02.10.2021	TOS is date of issuance of invoice since invoice is issued prior to date when goods are made available to recipient.
2.	04.10.2021	01.10.2021	25.11.2021	01.10.2021	TOS is date when goods are made available to the recipient and date of issuance of invoice is after that date.
3.	04.11.2021	06.11.2021	01.10.2021	04.11.2021	TOS is date of invoice since advance

					received is not liable at the time of receipt vide Notification No. 66/2017 -CT dated 15-11-2017.
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Question 4. TOS — Goods: Mehra Sons, a registered supplier, is a wholesale supplier of ready-made garments located in Bandra, Mumbai. On 5th September, 2021, Subhadra, owner of Aura Boutique located in Dadar, Mumbai, approached Mehra Sons for supply of a consignment of customised dresses for ladies and kids.

Mehra Sons gets the consignment ready by 2 December, 2021 and informs Subhadra about the same. The invoice for the consignment was issued the next day, 3 December, 2021.

Due to some reasons, Subhadra could not collect the consignment immediately. So, she collects the consignment from the premises of Mehra Sons on 18th December, 2021 and hands over the cheque for payment on the same date. The said payment is entered in the accounts on 20th December, 2021 and amount is credited in the bank account on 21st December, 2021.

You are required to determine the time of supply of the readymade garments supplied by Mehra Sons to Subhadra elaborating the relevant provisions under the GST law. **(MTP, May 2018)**

Solution: Time of supply of goods is the earlier of the following two dates:

- Date of issue of invoice/last date on which the invoice is required to be issued
- Date of receipt of payment.

Further, date of receipt of payment is earlier of date of recording the payment in books of account and date of crediting payment in bank account [Section 12(2) of the CGST Act, 2017].

However, vide Notification No. 66/2017 dated 15-11-2017, exemption to all taxpayers from payment of tax on advances received in case of supply of goods. Tax on 'supply of goods' is to be paid on 'invoice basis' and receipt basis is not applicable.

Date of invoice: 3 December, 2021

Date of recording payment in books of account: 20th December, 2021

Date of crediting in the bank account: 21st December, 2021

Therefore, the date of receipt of payment will be 20th December, 2021 (earlier of two dates namely, date of recording the payment in books of account and date of crediting of payment in bank account). The time of supply shall be 3-12-2021 i.e. date of issuance of invoice irrespective of the date of receipt of payment.

Question 5. TOS - Goods Forward charge and reverse charge: Andes Pvt. Ltd., a registered supplier, manufactures product A and B. While A is taxable under forward charge, B is taxable under reverse charge. The following details are provided in relation to two individual supplies of products A and B made by the company:

	Date	Event
i)	10 th February	Payment of Rs.1,00,000 made by buyer for supply of 'A' to be delivered in the month of March
ii)	13 th February	Receipt of Rs.1,00,000 [as mentioned in point (i) above]

iii)	17 th February	Payment of Rs.2,00,000 made by buyer for supply of 'B' to be delivered in the month of March
iv)	20 th February	Receipt of Rs.2,00,000 [as mentioned in point (iii) above]
v)	5 th March	Product 'A' manufactured and removed
vi)	6 th March	Receipt of product 'A' [as mentioned in point (v) above] by the buyer
vii)	10 th March	Product 'B' manufactured and removed
viii)	23 rd March	Receipt of product 'B' [as mentioned in point (vii) above] by the buyer
ix)	4 th March	Invoice for 2,00,000 issued for supply of 'A'
x)	11 th March	Invoice for 4,00,000 issued for supply of 'B'
xi)	25 th March	Payment made by the buyer of 'A'
xii)	31 st March	Payment [as mentioned in point (xi) above] received
xiii)	1 st April	Payment made by the buyer of 'B'
xiv)	4 th April	Payment [as mentioned in point (xiii) above] received

Determine the time of supplies of goods for the purpose of payment of tax.

Solution: In terms of section 12(2), the time of supply of goods is the earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017-CT dated 15.11.2017 specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

Also, it is important to note that the relief of not paying GST at the time of receipt of advance is available only in case of supply of goods, the tax on which is payable under forward charge. In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment) [Section 12(3)1.

Therefore, time of supply of product 'A', which is taxable under forward charge, is 4th March being the date of issue of invoice.

Time of supply in case of supplies taxed under reverse charge mechanism: The time of supply shall be the earliest of the following dates, namely: —

- (a) the date of the receipt of goods; or
- (b) (i) the date of payment as entered in the books of account of the recipient; or
(ii) the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) 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.

In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment) [Section 12(3)].

However, time of supply of product 'B', which is taxable under reverse charge, is 17th February to the extent of Rs.2,00,000 paid as advance being the earliest of the three stipulated dates namely, date of receipt of goods (23th March), date of payment (17th February) and date immediately following 30 days of issuance of invoice (11th April). For balance Rs.2,00,000, the time of supply of product 'B' is

23rd March being the earliest of the three stipulated dates namely, date of receipt of goods (23rd March), date of payment (1st April) and date immediately following 30 days of issuance of invoice (11th April).

Question 6. Time of Supply of service: Determine the time of supply from the following particulars:

8 th September	Community hall booked for a marriage, Sum agreed Rs.1,20,000, Advance Rs.20,000 recorded in the books of account.
10 th September	Advance amount credited in bank account.
November	Marriage held in the Community hall.
18 th December	Invoice issued for Rs.1,20,000 indicating the balance of Rs.1,00,000 payable.
22 nd December	Balance Rs.1,00,000 recorded in the books of account.
24 th December	Payable Rs.1,00,000 credited to the bank account.

(4 Marks, May 2018) (ICAI P. Q.)

Solution: As per Section 31 read with Rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per Section 13(2)(b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier. Therefore, the time of supply of service to the extent of Rs.20,000 is 8th September as the date of payment of Rs.20,000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance Rs.1,00,000 is 2 November which is the date of provision of service.

Question 7. Time of Supply of service : Determine the time of supply in the following cases with reference to GST Act, 2017:-

- Montlanc Private Limited is engaged in supplying taxable services. It receives advances of Rs.1,00,000 from clients on 23rd August, 2020 for the service to be rendered in the month of December, 2020.
- Rohan & Co. supplied management consultancy services to M/s. Bhagat & Sons on 5th September, 2020 and billed it for Rs.1,20,000 on 10th October, 2020. It received the payment for the same on 14th October, 2020.

Solution: The time of supply will be –

- In this case advance received on 23 August, 2020 for services to be rendered in the month of December 2020. Since, advance is received prior to completion of services, the time of supply of service shall be the date of receipt of advance i.e. 23-08-2020.
- As per Section 13(2)(b) of CGST Act, 2017, if invoice is not issued within 30 days from date of supply of service, time of supply will be date of provision of service or date of receipt of payment, whichever is earlier. In this invoice is not issued within 30 days of completion of service and payment is received after that date, therefore time of supply in given case would be date of completion of service i.e. 5-09-2020.

Question 8. Time of Supply of service: Determine the time of supply in the following cases with reference to GST Act:

- (i) Raghu & Co. received advance of Rs.1,18,000 from a client on 30-07-2020, for supplying advertising services in month of August, 2020. However, due to some unavoidable reasons, said services could not be provided and the advance money (including GST) was returned to the client on 12-09-2020.
- (ii) Suraksha Security Services Ltd. supplied security services to M/s. RZ & Sons for the month of July, 2020 and billed it for Rs.1,50,000 on 10th August, 2020. It received the payment for the same on 4 August, 2020.

Solution: The time of supply will be -

As per Section 13(2) of CGST Act, 2017, advances received are taxable at the time of their receipt itself. Thus, the time of supply of the advance received by Raghu & Co. from the client is 30-07-2020. It is immaterial that services have not been provided subsequently and the money was returned on 12-09-2020.

Further, the amount of GST included in the amount refunded (Rs.18,000) in the next month i.e. September, 2020 would be adjusted against GST liability of subsequent periods.

's per Section 13(2)(a) of CGST Act, 2017, if invoice is issued within 30 days from date of supply of service, time of supply will be date of issue of invoice by the supplier or date of receipt of payment, whichever is earlier. In this case since invoice is issued within time limit and payment received prior to the date of invoice, therefore time of supply in given case would be date of receipt of payment i.e. 4-08-2020.

Question 9. Time of supply of service - Reverse charge basis: Mr. Foster who is the author and owner of the copyright of a book "Way to heaven" has entered into an agreement with "Sure Publishers" on 15-07-2020 for itsIn terms of the agreement the copyright is transferred to "Sure publishers" for a lump sum amount of Rs.5 lakh. An invoice was issued by Mr. Foster on 15-07-2020 and payment was received on 27-12-2020. Determine with reasons by way of a brief note on the time of supply for purpose of goods and service tax.

Ignore any exemptions available in respect of the service and assume that the transaction is liable to Goods and Service tax w 4er reverse charge basis. **(Modified 4 Marks, Nov. 2016)**

Solution: Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under Section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher is chargeable to tax on reverse charge basis and publisher is liable to pay GST.

Asper Section 13(3) of CGST Act, 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 earlier of the following dates, namely :

- a) (i) the date of payment as entered in the books of account of the recipient; or
(ii) the date on which the payment is debited in his bank account, whichever is earlier; or
- b) the 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.

Since in this case the payment is not made within 60 days from the date of invoice, the time of supply shall be 61st day from the date of invoice i.e. 14th September, 2020.

Question 10. Time of supply of service - Reverse charge basis: XYZ Industries Ltd engaged the services of a transporter for road transport of a consignment on 17.04.2020 and made advance payment for the transport on the same date, i.e., 17.09.2020. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20.09.2020. Invoice was received from the transporter on 22.09.2020. What is the time of supply of the transporter's service?

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

Solution: As per Section 13(3) (a) of CGST Act, 2017, Time of supply of service taxable under reverse charge is the earlier of the following two dates in terms of section 13(3):

- Date of payment
- 61 day from the date of issue of invoice

In this case, the date of payment precedes 61 day from the date of issue of invoice by the supplier of service. Hence, the date of payment, that is 17-09-2020, will be treated as the time of supply of service.

Question 11. Time of Supply of service: Sahu Ltd. provided taxable services to ABC Ltd. on 11-11-2020 and issued invoice for the same on 21-11-2020. ABC Ltd. made the payment for said services on 16-11-2020 by cheque which was entered in the books of accounts of Sahu Ltd. same day. However, the amount was credited in the bank account of Sahu Ltd. on 26-11-2020. You are required to determine the time of supply in the given case. **(Modified RTP Nov. 2015)**

Solution: In the given case, since the invoice is issued within the prescribed period of 30 days from the date of completion of service, the time of supply, as per Section 13(2) of CGST Act, 2017, shall be:

- (1) Date of issuance of invoice (i.e. 21-11-2020); or
- (2) Date of receipt of payment (i.e. 16-11-2020), whichever is earlier, i.e. 16-11-2020.

Note: As per Explanation of Section 13, date of payment is —

- (a) date on which the payment is entered in the books of account (i.e. 16-11-2020) or
- (b) date on which the payment is credited to the bank account of the person liable to pay tax (i.e. 26-11-2020) whichever is earlier, i.e. 16-11-2020.

Question 12. Time of Supply of service: Determine the time of supply in each of following independent cases in accordance with the GST Act, 2017:

S. No.	Date of completion of service	Date of invoice	Date of receipt of payment
(1)	16.07.2020	11.08.2020	26.08.2020
(2)	16.07.2020	11.08.2020	01.08.2020
(3)	16.07.2020	11.08.2020	Part payment on 01-08-2020. Remaining payment on 26-08-2020.
(4)	16.07.2020	11.08.2020	Part payment on 12-07-2020. Remaining payment on 15-07-2020.

Solution: The time of supply in each of the cases is as follows—

S.No.	Date of	Date	Date on which	Time of Supply
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	completion of service	of Invoice	payment is Received	
(1)	16.07.2020	11.08.2020	26.08.2020	11.08.2020, since invoice issued within 30 days of completion of service, time of supply will be date of invoice or payment, whichever is earlier.
(2)	16.07.2020	11.08.2020	01.08.2020	01.08.2020, since invoice issued within 30 days of completion of service, time of supply will be date of invoice or payment, whichever is earlier.
(3)	16.07.2020	11.08.2020	Part payment on 01.08.2020 Remaining payment on 26.08.2020.	01.08.2020 for the part payment and 11.08.2020 for the remaining payment.
(4)	16.07.2020	11.08.2020	Part payment on 12-07-2020. Remaining payment on 15-07-2020.	12.07.2020 for the part payment and 15.07.2020 for the remaining payment.

Question 13. Time of supply of service: On the basis of following information, determine the "Time of Supply" as per Section 13 of Goods and Services Tax, 2017:

(Modified 3 Marks, May 2014)

(1)	Commencement of supplying of service on	05-07-2020
(2)	Completion of service on	10-10-2020
(3)	Invoice issued on	20-10-2020
(4)	Payment received by cheque and entered in the books on	15-10-2020
(5)	Amount credited in Bank A/c on	25-10-2020
(6)	Service became taxable for the first time on	01-08-2020

Ans: As per Section 13(2) of CGST Act, 2017, time of supply of service shall be,

- (i) the date of issue of invoice by supplier, if such invoice is issued within 30 days of completion of service;
- (ii) the date of provision of service, if such invoice is not issued within 30 days as aforesaid;
- (iii) the date of payment, whichever is the earliest.

As per Explanation of Section 13, the date of payment shall be the earlier of the following dates,

- (i) Date on which the payment is entered in the books of accounts of the supplier (i.e. payment accounted for in books); or

(ii) Date on which the same is credited to his bank account (i.e. actually received in bank account of the person).

Hence, in this case the time of supply shall be the date of receipt of payment i.e. 1540-2020 since invoice is issued within time limit and payment is received prior to the date of invoice.

Question 14. TOS in case of continuous supply of service: Surbhi Limited entered into a contract with Meena Limited for construction of a new building to be used primarily for the purpose of commerce or industry for a total consideration of Rs.500 lakh on 1st October, 2020. The initial booking amount of Rs.100 lakh was billed and received on the date of contract itself. It was further agreed that Rs.170 lakh, Rs.140 lakh, Rs.90 lakh respectively would be received on completion of 50%, 75% and 100% of the construction work of the building. Determine the time of supply in respect of tin of following stages of completion with the help of relevant details furnished as under:

Stage	% of completion of the Building	Date of completion	Date of issuance of Invoice	Date of payment of stipulated amount
i	50%	November 20, 2020	November 30, 2020	January 25, 2021
ii	75%	December 30, 2020	February 25, 2021	January 30. 2021
iii	100%	February 25, 2021	March 03, 2021	February 24, 2021

A Certificate from Chartered Engineer registered with Institution of Engineers has been obtained for each stage of completion of the building. Give brief reasons for your answer.

(Modified 4 Marks, May 2015)

Solution: The above service falls within continuous supply of service as per Section 2(33) of CGST Act, 2017. In case of continuous supply of service, the date of issuance of invoice would be computed according to Section 31(5) of CGST Act, 2017. As per the provisions, where payment is linked to the completion of an event the invoice shall be issued on or before the date of completion of that event. The time of supply will be determined accordingly in terms of provisions of Section 13(2) of CGST Act, 2017.

Therefore, in the given case, the date of completion of various stages of construction which require payment to be made including initial booking) - will be considered as dates of completion of service and time of supply will be determined in accordance with Section 13(2) as under:

Stage of Completion	Deemed date of completion of provision of service	Time of Supply	Reason/Remarks
Initial booking	01.10.2020	01.10.2020	01-10-2020 as the date of completion of service, date of issuance of invoice and date of payment are the same.
50%	20.11.2020	20.11.2020	Since invoice has been not been issued on or before the date of completion of event and

			payment is also received after that date, TOS is date of completion of event.
75%	30.12.2020	30.12.2020	Since invoice has not been issued on or before the completion of event as per contract and payment is also received after that date, TOS is date of completion of event.
100%	25-02-2021	24-02-2021	Since payment has been received prior to completion of event.

Question 15. Time of Supply of service: Major Ltd. imports business support services from Wilfred Ltd. of USA on 18.08.2020. The relevant invoice for \$ 1,50,000 is raised by Wilfred Ltd., on 20-9-2020. Assuming that Major Ltd. makes the above mentioned payment on the dates as indicated in the following table, determine the time of supply under the Central Goods and Services Tax Act, 2017 in each case giving reasons for your answer:

CASE 1 10-11-2020

CASE 2 12-12-2020

(Modified 4 Marks, May 2012)

Solution: According to Section 13(3) of CGST Act, 2017, the time of supply in respect of persons who are required to tax as recipients of service under the Reverse Charge Mechanism shall be the date on which payment is made or date immediately following 60 days from the date of issue of invoice or any other document, by whatever named, in lieu thereof by the supplier.

CASE I: The time of supply is date of payment i.e. 10-11-2020, since payment is made within 60 days from the date of invoice.

CASE II: The time of supply is date immediately following 60 days from the date of issue of invoice i.e. 20-11-2020, since payment is not made within 60 days from the date of invoice.

Question 16. Illustration 16 — TOS in case of Associated Enterprises: Apte & Apte Ltd. is located in India and holding 51% of shares of Wilson Ltd., a USA based company. Wilson Ltd. provides Business Auxiliary Services to Apte & Apte Ltd. From the following details, determine the time of supply of Apte & Apte Ltd.: **(Modified 3 x 2 = 6 Marks, May 2013)**

Agreed consideration	US \$1,00,000
Date on which services are provided by Wilson Ltd.	16-09-2020
Date on which invoice is sent by Wilson Ltd.	19-09-2020
Date of debit in the books of account of Apte & Apte Ltd.	30-09-2020
Date on which payment is made by Apte & Apte Ltd.	23-12-2020

Solution: Apte & Apte Ltd. of India and Wilson Ltd. of US are “associated enterprises” as per Section 92A of Income-tax Act, 1961, since Indian Company holds 51% shareholding of US based company. As per Section 13(3) of CGST Act, 2017, in case of ‘Associated Enterprises’ where the person providing service is located outside India, time of supply shall be —

- (i) the date of entry in the books of account of the recipient of supply (i.e. 30-09-2020); or
- (ii) date of payment (i.e. 23-12-2020), whichever is earlier.

Therefore, the time of supply will be 30-09-2020.

Question 17. TOS in case of change in rate of tax: Determine the time of supply in the following cases. The rate of CGST has been increased to 12% w.e.f. 01-12-2020, before the said date, the rate of tax was 5%.

S. No.	Date of supply of Service	Date of Invoice	Date of Payment	Value of Service (₹)
1.	25-11-2020	05-12-2020	08-12-2020	12,50,000
2.	25-11-2020	25-11-2020	08-12-2020	18,80,000
3.	25-11-2020	08-12-2020	30-11-2020	17,60,000
4.	04-12-2020	28-11-2020	30-11-2020	19,50,000
5.	04-12-2020	04-12-2020	30-11-2020	14,50,000
6.	04-12-2020	30-11-2020	08-12-2020	10,00,000

Solution: The time of supply shall be determined as under —

S. No.	Value of Service (₹)	Reason/Remarks	Time of Supply	Rate of tax	GST(₹)
1.	12,50,000	<ul style="list-style-type: none"> ➤ Service is supplied before change in rate of tax, ➤ invoice issued after change in rate of tax, ➤ the payment has been received after change in rate of tax, <p>TOS shall be earlier of date of issue of invoice or date of receipt payment.</p>	05.12.2020	12%	1,50,000
2.	18,80,000	<ul style="list-style-type: none"> ➤ Service is supplied before change in rate of tax, ➤ invoice issued prior to such change in rate of tax, ➤ the payment is received after change in rate of tax, <p>TOS shall be date of issue of invoice.</p>	25.11.2020	5%	94,000
3.	17,60,000	<ul style="list-style-type: none"> ➤ Service is supplied before change in rate of tax, ➤ the payment is received before change in rate of tax, ➤ invoice issued after change in rate of tax, <p>TOS shall be date of receipt of payment.</p>	30.11.2020	5%	88,000
4.	19,50,000	<ul style="list-style-type: none"> ➤ Service is supplied after change in rate of tax, ➤ invoice is issued before change in rate of tax, ➤ the payment is also received before change in rate of tax, <p>TOS shall be earlier of date of issue of invoice or date of receipt of payment.</p>	28.11.2020	5%	97,500

5.	14,50,000	<ul style="list-style-type: none"> ➤ Service is supplied after change in rate of tax, ➤ invoice is issued after change in rate of tax, ➤ the payment is received before change in rate of tax, <p>TOS shall be the date of issue of invoice.</p>	04.12.2020	12%	1,74,000
6.	10,00,000	<ul style="list-style-type: none"> ➤ Service is supplied after change in rate of tax, ➤ the payment is received after change in rate of tax, ➤ invoice is issued before change in rate of tax, <p>TOS shall be date of receipt of payment.</p>	08.12.2020	12%	1,20,000
		Total CGST			7,23,500

Question 18. TOS in case of change in rate of tax: Mr. Mahendra Sharma, an interior decorator registered at Ahmedabad (Gujarat), provided service to one of his clients XYZ Company Ltd., registered at Pune (Maharashtra). The provision of service was completed on 10-08-2021 and payment received was entered in the books of Mr. Mahendra Sharma on 11-08-2021.

With effect from 16-08-2021, applicable GST rate was increased from 5% to 12%. However, payment for the service received was credited in his bank account on 17-08-2021 and invoice for the same was raised on 23-08-2021.

Mr. Mahendra Sharma claimed that he is liable to pay IGST @ 5%. But the department took the view that he is liable to pay IGST @ 12%. Examine the correctness of Mr. Mahendra Sharma's contention and determine the time of supply and applicable rate of tax as per the statutory provisions.

Would your answer undergo any change in the above case if the payment was credited to the bank account on 14-08-2021 instead of 17-08-2021?

Note: You may assume that all days are working days. **(5 Marks, Nov. 2018-NS) (ICAI P.Q.)**

Solution: In case of change in rate of tax, determination of rate of tax depends upon three events namely,

- Date of supply of services,
- Date of invoice; and
- Date of receipt of payment

If any two of the above events occur before the change of rate, the time of supply is before the change of rate. If any two of them occur after the change of rate, the time of supply is after the change of rate and the new rate becomes applicable to the supply.

Here, "date of receipt of payment" refers to the date on which the payment is entered in the books of accounts of the supplier, or the date on which the payment is credited in his bank account, whichever is earlier. However, where the payment is credited in the bank account after 4 working days from the date of change in the rate of tax, the date of receipt of payment will be the date of credit in the bank account.

In the instant case the date of payment will be 11-08-2021, since the payment is credited in bank account within 4 working days from the date of change in effective rate of tax. Thus, provision of

service has been completed on 10-08-2021 and payment has also been received on 11-08-2021 prior to change in effective rate of tax thus the time of supply shall be 11-08-2021. At that time rate of tax was 5%, the same shall be applicable. Thus, the contention of Mr. Mahendra Sharma is correct.

Even if the payment is credited in the bank account on 14-08-2021, the answer will remain same since the date of payment in this case also will be the date when such payment is entered in the books i.e. 11-08-2021. Time of supply will be 11-08-2021 and GST rate of 5% will be applicable.

Question 19. TOS in case of change in rate of tax: I buy a set of modular furniture from a retail store. Invoice is issued to me and I make the payment. The furniture is to be delivered to me later in the week when a technician is available to assemble and install it. The next day the rate of tax applicable to modular furniture is revised upward, and the store sends me a supplementary invoice with the delivery note accompanying the furniture to collect the differential amount of tax. Is this correct on store's part? Explain.

Solution: No, the store is not correct in issuing supplementary invoice with revised rate of tax. The revised rate of tax is not applicable to the transaction, as the issuance of invoice as well as receipt of payment occurred before the supply. Therefore, in terms of section 14(b)(ii), the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the old rate of tax remains applicable.

Question 20. TOS — Change in rate of tax: On the basis of the following information, determine the time of supply:

	Event	Date
1.	Commencement of provision of service	05 th June
2.	Completion of service	10 th October
3.	Invoice issued	20 th October
4.	Payment received by cheque and entered in the books Amount credited	15 th October
5.	in Bank account	18 th October
6.	Rate changed from 12% to 18%	16 th October

Note: Assume that all the days covered in the above case are working days.

Ans: As per section 14(a) (iii), in case of change in rate of tax, if the service is supplied before the change in rate of tax and the invoice is issued after the change in rate of tax but the payment is received before such change in rate of tax, the time of supply is the date of receipt of payment.

The explanation to section 14 lays down that the date of receipt of payment is the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier. However, the date of receipt of payment is the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.

In the given case, the payment has been credited in the bank account within 4 working days from the date of change in the rate of tax. Therefore, the date of receipt of payment is 15th October being the

date of entry in the books of account of the supplier which is earlier than the date of credit of the payment in the bank account (18th October).

Therefore, applying the provisions of section 14(a)(iii) to the given case, the time of supply is 15th October.

Question 21. TOS in respect of goods and services: M/s KLM Ltd., a publishing and printing house registered in Maharashtra, is engaged in supply of books, letter cards, envelopes, guides and reference materials. The following information is provided by the company:

Event	Printing of books	Printing of envelopes
Date of entering into printing contract	16 th March	20 th March
Date of receipt of advance	20 th March	25 th March
Date of completion of printing	10 th April	5 th April
Date of issue of invoice	15 th May	10 th April
Date of removal of books and letter heads to buyer	13 th May	7 th April
Date of receipt of balance payment	31 st May	30 th April

In respect of printing of books, content was supplied by the author. For printing of envelopes, the design and logo were supplied by the buyer. Determine the time of supplies for the purpose of payment of tax.

Solution: The time of supply is determined as under —

(1) Printing of books where content is supplied by author is supply of service: As per Circular No. 11/11/2017- GST dated 20-10-2017, in case of printing of books where only content is supplied by the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service.

(2) TOS — service : As per section 13, the time of supply of services is the earlier of the dates arrived at by methods (A) and (B), as follows:

- (A) Date of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services), whichever is earlier, if the invoice is issued within the time prescribed under section 31;
- (B) Date of provision of service or date of receipt of payment (to the extent the payment covers the supply of services), whichever is earlier, if the invoice is not issued within the time prescribed under section 31.

Since in the given case, invoice for the services is not issued within 30 days, the time of supply for the advance received is the date of receipt of payment, i.e. 20th March being earlier than the date of provision of service. However, the time of supply for the balance payment is the date of provision of service, i.e. 10th April being earlier than the date of receipt of balance payment.

(3) Printed envelopes where design and logo is supplied by buyer - supply of goods: In case of supply of printed envelopes by the printer using its physical inputs including paper to print the

design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore, such supplies would constitute supply of goods.

(4) TOS — Goods : In terms of section 12(2), the time of supply of goods is the earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017-CT dated 15-11-2017 specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

As per section 21 (1), invoice for supply of goods should be issued before or at the time of removal of goods for supply to the recipient, where supply involves movement of goods. Therefore, in the given case, the last date by which invoice ought to have been issued is 7th April. Thus, the time of supply of envelopes for the purpose of payment of tax is 7th April.

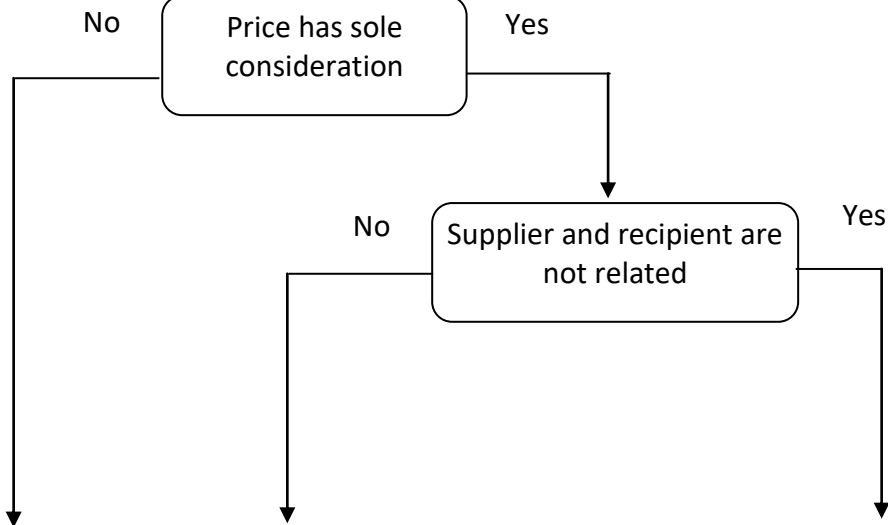
SHRESHTA

CHAPTER OVERVIEW:

1. Definitions
2. Value of supply (Sec 15)
3. Rule 27: Value of supply of goods or services where the consideration is not wholly in money
4. Rule 28: Value of supply of goods or services or both between distinct or related persons, other than through an agent
5. Rule 29: Value of supply of goods made or received through an agent
6. Rule 30: Value of supply of goods or services or both based on cost
7. Rule 31: Residual method for determination of value of supply of goods or services or both.
8. Rule 31A: Value of supply in case of lottery, betting, gambling and horse Racing
9. Rule 32: Determination of value in respect of certain supplies
10. Rule 33: Value of supply of services in case of pure agent.
11. Rule 34: Rate of exchange of currency, other than Indian rupees, for determination of value
12. Rule 35: Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

SHRESHTA

Value of taxable supply Sec. 15 of the CGST Act, 2017



Value of supply as per Sec. 15(4) read with CGST Rules, 2017 (i.e., Determination of Value of supply)	Value of Supply Sec. 15(1)	XXX
Rule 27: Value of supply of goods or services where the consideration is not wholly in money		Add: If not included in the above
(a) Open market value of such supply (b) Sum total of consideration equal to money, if such amount is known at the time of supply provided (a) not applicable. (c) The value of supply of like kind and quality if (a) and (b) not applicable. (d) Based on cost as per rule 30 or based on residual method as per rule 31 in that order, provided (a) to (c) not applicable.	Sec. 15(2)(a): • Any taxes (other than GST), • Duties, • Cesses, • Fees and charges	XX XX XX XX
	Sec. 15(2)(b): Supplies made by the recipient on behalf of supplier	XX
	Sec. 15(2)(c): Commission and packing or incidental expenses	XX
	Sec. 15(2)(d): Interest or late fee or penalty for delayed payment	XX
Rule 28: Value of supply of goods or services or both between distinct or related persons, other than through an agent		

Definitions:

- a) Consideration
- b) Family
- c) Goods
- d) Money
- e) Supplier
- f) Recipient
- g) Services

As we discussed in previous
chapter

Definitions

- ❖ Agent means a person, including a factor, broker, commission agent, arhatia, delcredere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].
- ❖ 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)].
- ❖ **Person includes-**
 - a) an individual;
 - b) a Hindu Undivided Family;
 - c) a company;
 - d) a firm;
 - e) a Limited Liability Partnership;
 - f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
 - g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013;
 - h) any body corporate incorporated by or under the laws of a country outside India;
 - i) a co-operative society registered under any law relating to co-operative societies;
 - j) a local authority;
 - k) Central Government or a State Government;
 - l) society as defined under the Societies Registration Act, 1860;
 - m) trust; and
 - n) every artificial juridical person, not falling within any of the above [Section 2(84)].

The CGST law has different provisions for determining the value of a supply of goods / services in the following situations:

- A.** Supplies made solely for a price in money (monetary consideration), to unrelated persons - Valuation governed by sub-section (1) of section 15;
- B.** Supplies made solely for non-monetary consideration, or for part monetary consideration and part non-monetary consideration, or involving additional consideration, or to related persons – Valuation governed by sub-section (4) of section 15 read with relevant rules

- C. Supplies of specified categories of goods or services – Valuation governed by sub-section (5) of section 15 read with relevant rules

VALUE OF TAXABLE SUPPLY

A. Supplies to unrelated persons where price is the sole consideration

1. Value of taxable supply [Section 15]:

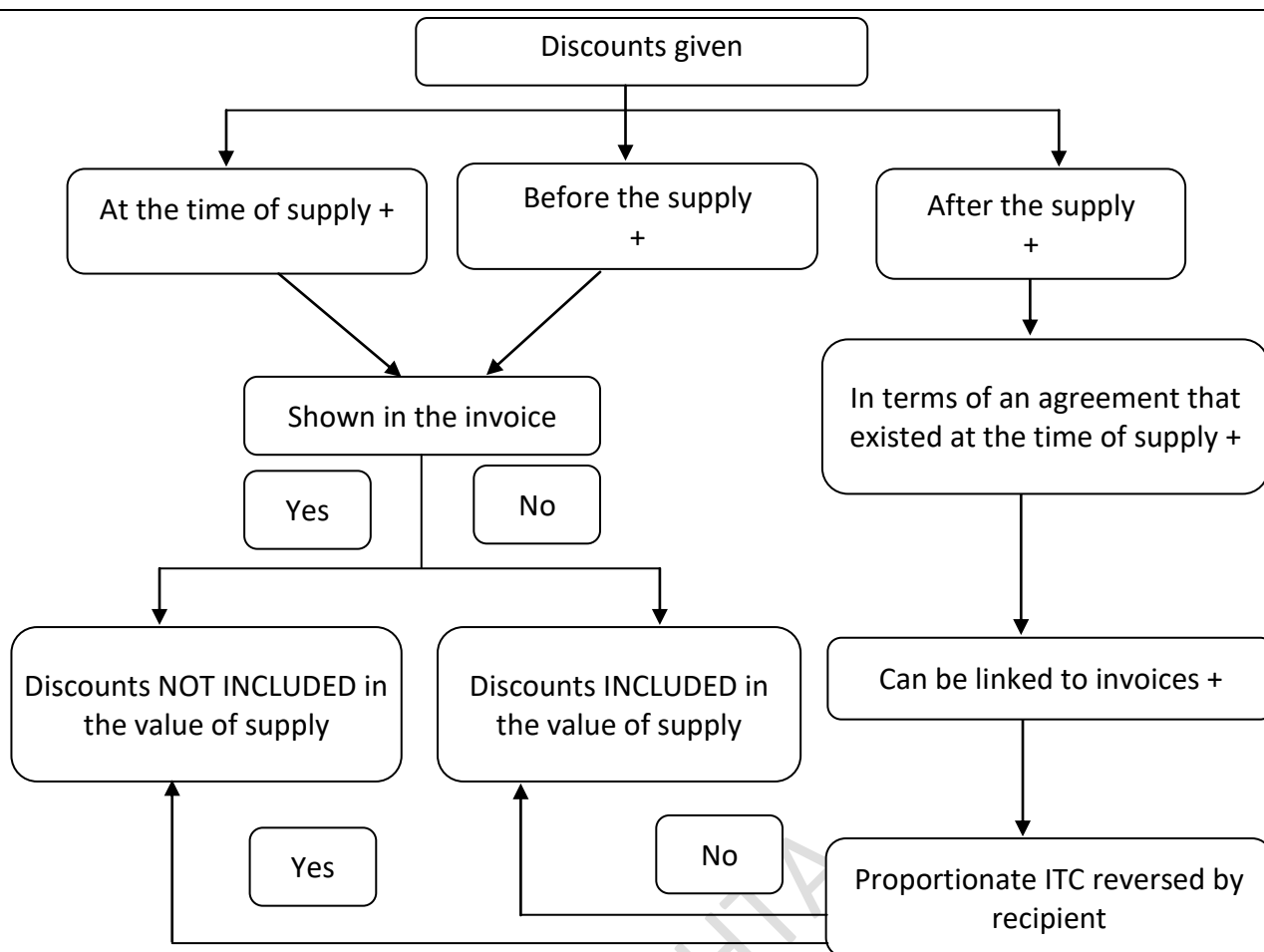
- i) **Value of taxable supply to be transaction value [Section 15(1)]:** The value of a supply of goods or services or both shall be the transaction value,
- which is the price actually paid or payable for the said supply of goods or services or both
 - where the supplier and the recipient of the supply are not related; and
 - the price is the sole consideration for the supply.
- ii) **Inclusions in value of supply [Section 15(2)]:** The value of supply shall include -

	Items	Includibility in transaction value or otherwise
(a)	Taxes, duties, cesses, fees and charges except CGST, SGST, UTGST & GST compensation cess	<p>Any-</p> <ul style="list-style-type: none"> ➤ taxes, ➤ duties, ➤ cesses, ➤ fees, and ➤ charges <p>levied under any law for the time being in force, other than -</p> <ul style="list-style-type: none"> ➤ this Act i.e. CGST Act, ➤ the State Goods and Services Tax Act, ➤ the Union Territory Goods and Services Tax Act, and ➤ the Goods and Services Tax (Compensation to States) Act, <p>if charged separately by the supplier.</p> <p>TCS under Income-tax Act, 1961 not includible in the taxable value for the purpose of GST: It has been clarified that for the purpose of determination of value of supply under GST, tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax. [Circular No. 76/50/2018-GST dated 31-12-2018 amended vide corrigendum dated 7-03-2019]</p> <p>Note: Transaction value under IGST will include taxes other than IGST and the compensation cess in terms of third proviso to Section 20 of IGST Act.</p>
(b)	Amount incurred by recipient on behalf of the supplier	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.

(c)	Incidental expenses and amount charged for activities done before delivery	<ul style="list-style-type: none"> ➤ Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply, and ➤ 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.
(d)	Charges for delayed payment of consideration	Interest or late fee or penalty for delayed payment of any consideration for any supply.
(e)	Subsidies	<p>Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.</p> <p>Explanation: The amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.</p>

iii) **Exclusion in value of supply [Section 15(3)]:**

Items	Excludability in transaction value
Discounts	<p>Discounts given on or before supply: Any discount which is -</p> <ul style="list-style-type: none"> ➤ 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;
Discounts	<p>Post supply discount Any discount which is given after the supply has been effected, if-</p> <ul style="list-style-type: none"> ➤ 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. ➤ Must be linked with invoice <p>Nondeductible discount: A company announces year end discounts after reviewing dealer performance during the year. The year-end discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from taxable value of those goods.</p>



- iv) Value cannot be determined as per above provisions - To be determined as per Rules [Section 15(4)]:** Where the value of the supply of goods or services or both cannot be determined under section 15(1), the same shall be determined in such manner as may be prescribed.

Chapter IV of CGST Rules, 2017 contains rules for determination of value of supply.

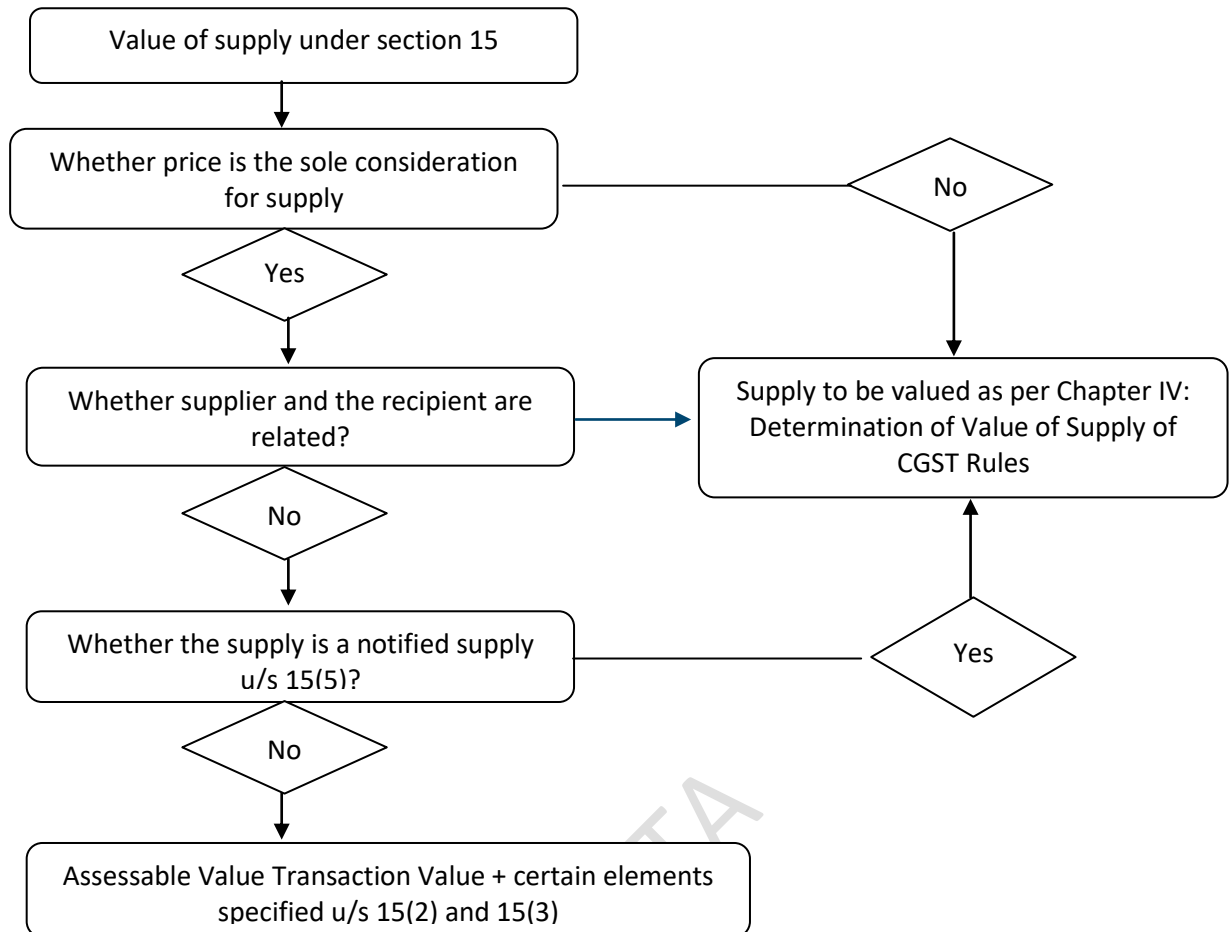
Note: Reference to Chapter IV of CGST Rules, 2017 is required only in case where value cannot be determined under Section 15(1) of the Act. -

- v) Value of notified supplies - To be determined in prescribed manner [Section 15(5)]:** Notwithstanding anything contained in Section 15(1)/ (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.

At present, the rules have prescribed a different valuation method for

- i) the service of purchase or sale of foreign currency including money changing,
- ii) the service of booking air tickets by an air travel agent,
- iii) life insurance service
- iv) buying and selling of second hand goods,
- v) vouchers, token, coupons or stamps (other than postage stamps) redeemable against goods or services;
- vi) services provided without consideration between distinct persons under GST law that are different units of the same legal entity.

vii) supply in case of lottery, betting, gambling and horse racing



2. Applicability of Valuation Rules: Valuation Rules are applicable when-

- (i) consideration either wholly or in part is not in money terms;
- (ii) parties are related or it involves supply by any specified category of supplier; and
- (iii) transaction value declared is not reliable.

Circular No. 102/21/2019- GST dated 28.06.2019	Clarification regarding applicability of GST on additional/penal interest
<p>1. EMI: An EMI is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest. In cases where the EMI is not paid at the scheduled time, there is a levy of additional/penal interest on account of delay in payment of EMI.</p> <p>2. Issue under Consideration: Whether GST on additional/penal interest on the overdue loan would be exempt from GST in terms of Sl. No. 27 of notification No. 12/2017-CT (Rate) dated 28-6-2017 or such penal interest would be treated as consideration for liquidated damages [amounting to a separate taxable supply of services under GST covered under entry 5(e) of Schedule II of the CGST Act) i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”].</p>	

3. Generally, following two transaction options involving EMI are prevalent in the trade:-

Case	Nature of Transaction	Nature of Transaction
1.	<p>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 x 4 = Rs.44,000). Further, 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.</p> <p>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 500 per month for each delay in payment.</p>	<p>As per the provisions of Section 15(2)(d) of the CGST Act, the amount of penal interest is to be included in the value of supply. The transaction between X and Y is for supply of taxable goods i.e. mobile phone.</p> <p>Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.</p>
2.	<p>Case 2: X sells a mobile phone to Y. The cost of mobile phone is 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.</p>	<p>The additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under Sl. No. 27 of Notification No. 12/2017-CT (Rate) dated 28-06-2017. Accordingly, 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 Notification No. 12/2017-CT (Rate) dated 28-06-2017. The value of supply of mobile by X to Y would be Rs.40,000 for the purpose of levy of GST.</p>

4. Additional/Penal Interest not a consideration for liquidated damages: It is further clarified that the transaction of levy of additional/penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”, as this levy of additional/penal interest satisfies the definition of “interest” as contained in notification No. 12/2017-CT (Rate) dated 28-06-2017.

Service charges - leviable to GST: It is further clarified that any service fee/charge or any other charges that 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 notification No. 12/2017-CT (Rate) dated 28-06-2017, and accordingly will not be exempt.

CGST RULES, 2017- CHAPTER IV - DETERMINATION OF VALUE OF SUPPLY

3. Value of supply of goods or services where the consideration is not wholly in money [Rule 27]:

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall be determined in the following order, -

Examples:

- Barter transaction
- Exchange transaction
- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets

(a) open market value of such supply;

(b) total of consideration in money + amount equal to the consideration not in money (If (a) not applicable).

(c) value of supplies of like kind and quality (if (a) and (b) not applicable)

(d) consideration in money + money value of consideration as per Rule 30 or 31 in that order i.e. the consideration in money plus the money equivalent of the non-money consideration, as worked out based on cost of the supply plus 10% mark-up [Rule 30 regarding cost-based valuation] or by other reasonable means [Best Judgment Method], in that sequence [Rule 31 regarding Residual Method].

a) "Open market value" of a supply of goods or services or both means -

- the full value in money to obtain such supply at the same time when the supply being valued is made.
- excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction,
- where the supplier and the recipient of the supply are not related; and
- price is the sole consideration.

Example 1: Dell Pvt. Ltd. offers a new laptop worth Rs.60,000/- to Y in exchange of old mobile laptop and cash payment of Rs.40,000. Exchange value of old laptop lowers the price of a new laptop. The known market value of the new laptop (without exchange of old laptop), i.e. the open market value is Rs.60,000, which is the taxable value in this case

Example 2: Dell Pvt. Ltd is manufactured Laptop and supplied for Rs.45,000 and Part value is received in barter in the form of a printer valued at Rs.9000. Market value of the laptop is not known. Its taxable value will be Rs.54,000.

b) "Supply of goods or services or both of like kind and quality" means

any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and

reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

4. Value of supply of goods or services or both between distinct or related persons, other than through an agent [Rule 28]:

Examples:

- a. Intra-State stock transfer of goods between different registrations of an entity under same PAN
- b. Inter-State stock transfer of goods between different registrations of an entity under same PAN
- c. Import of services by a company from a holding/ subsidiary company in course or furtherance of business

- i) General Provisions: The value of the supply of goods or services or both -
 - between distinct persons as specified in Section 25(4) and (5), or
 - where the supplier and recipient are related,other than where the supply is made through an agent, shall be determined in the following order -
 - (a) open market value
 - (b) value of supplies of like kind and quality
 - (c) value as per Rule 30 or 31 in that order i.e. it must be worked out based on the cost of the supply plus 10% mark-up [Rule 30] or by other reasonable means, in that sequence [Rule 31].
- ii) If goods are supplied as such by recipient, the supplier has an option to take 90% of price charged by recipient from his unrelated customer as value of goods.
- iii) If recipient is eligible for ITC, then Invoice value charged by supplier shall be acceptable.

Note:

- 1. **Applicability:** This rule does not provide the value of the supply made through an agent.
- 2. The provisions of Section 25(4) and Section 25(5) are as under-
 - (a) As per Section 25(4), person having more than one registration, each such registration to be treated as distinct persons for the purposes of this Act.
 - (b) As per Section 25(5), where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
- 3. Rule 28 provides the value of such kind of supplies when the same are made for a consideration as well as when the same are made without consideration.
- 4. It is important to note that as per valuation rule 32(7), the value of taxable services provided by notified class of service providers, without any consideration, between distinct persons is NIL, if ITC thereon is available.

5. Value of supply of goods made or received through an agent [Rule 29]:

- (i) General Provisions: The value of supply of goods between the principal and his agent shall -
 - (a) be the open market value of the goods being supplied, or
 - (b) at the option of the supplier, be 90% of the price charged for the supply of **goods** of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.
- (ii) If value cannot be determined as above - Value to be determined as per Rule 30/31: Where the value of a supply is not determinable as per the above provision, the same shall be determined by the application of Rule 30 or Rule 31 in that order.

Thus, the following values have to be considered sequentially to determine the taxable value:

- (a) Value of supply based on cost i.e. cost of supply plus 10% mark-up
- (b) Value of supply determined by using reasonable means consistent with principles & general provisions of GST law (Best Judgment Method).

6. Value of supply of goods or services or both based on cost [Rule 30]: Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be 110% of the -

- cost of production or manufacture; or
- cost of acquisition of such goods; or
- cost of provision of such services.

Note: Service providers have the option to directly move to rule 31 bypassing rule 30.

7. Residual method for determination of value of supply of goods or services or both [Rule 31]:

- (a) Residual method: Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter.
- (b) Service supplier can opt for Rule 31 disregarding Rule 30: In the case of supply of services, the supplier may opt for this Rule, ignoring Rule 30.

8. Value of supply in case of lottery, betting, gambling and horse racing [Rule 31A]:

- (a) **Value of supply of lottery:** The value of supply of lottery shall be deemed to be 100/128 -

- (i) of the face value of ticket; or
- (ii) of the price as notified in the Official Gazette by the Organising State, whichever is higher.

“Organising State” has the same meaning as assigned to it in Rule 2(1)(f) of the Lotteries (Regulation) Rules, 2010. [Explanation]

- (b) Betting, Gambling or Horse Racing: The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

9. Determination of value in respect of certain supplies [Rule 32]:

- This rule provides the valuation methods for five specific supplies which are as under
 - (a) Purchase or sale of foreign currency including money changing.
 - (b) Booking of tickets for air travel by an air travel agent.
 - (c) Life insurance business.
 - (d) Supply of second hand goods.
 - (e) Redeemable Vouchers/ Stamps /Coupons / Tokens.
 - This rule overrides other rules of valuation. Thus, the supplies prescribed in this rule need not be valued by sequentially following Rules 27 to 31.
 - The valuation methods prescribed under this rule are optional; the supplier can use them if he so desires. He can also opt to value his supplies in accordance with other valuation rules.
- i) **Value of supply of services in relation to purchase or sale of foreign currency, including money changing [Rule 32(2)(a)]:** The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:

- (i) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the,-

Case	Value of supply
Purchase of foreign currency by service supplier	(RBI reference rate at that time - Buying rate) x Total units of currency.
Sale of foreign currency by service supplier	(Selling rate - RBI reference rate at that time) x Total units of currency.

- (ii) **If RBI reference rate is not available:** In case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money.
- (iii) **In case where neither of the currencies exchanged is Indian Rupee:** In case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 10% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

i.e.

Amount 1 = Foreign Currency sold x RBI Reference Rate of that currency to Indian rupees	x xx
Amount 2 Foreign Currency Bought x RBI Reference Rate of that currency to Indian rupees	x xx
Gross Indian Rupees = Amount 1 or Amount 2, whichever is less	xxx
Value 10% of the Gross Indian Rupees	xxx

- ii) **Option to determine value in relation to supply of foreign currency, including money changing [Rule 32(2) (b)]:** At the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be -

	For an amount -	Value of supply shall be calculated at the rate of
1.	Upto 1,00,000	➤ 1% of the gross amount of currency exchanged; or ➤ Rs.250, whichever is higher.
2.	Exceeding 1,00,000 and upto 10,00,000	Rs.1,000 + 0.5 % of the gross amount of currency exchanged.
3.	Exceeding 10,00,000	➤ Rs.5,500 + 0.1% of the gross amount of currency exchanged; or ➤ Rs.60,000, Whichever is lower.

Such option shall not be withdrawn during the remaining part of that financial year.

- iii) **Value of supply of services in relation to booking of tickets for travel by air provided by an air travel agent [Rule 32(3)]:** The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated-

- (i) @ 5% of the basic fare in the case of domestic bookings, and
(ii) @ 10% of the basic fare in the case of international bookings of passage for travel by air.
“Basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline. [Explanation]

- iv) **Value of supply of services in relation to life insurance business [Rule 32(4)]:**

Case	Taxable Value
Policy with dual benefits of risk coverage and investment: If the amount allocated for investment/savings is intimated to the policy holder	Gross premium less amount allocated for Investment
Single premium annuity policies where amount allocated for investment is not intimated	10% of single premium
Other cases	➤ 25% of premium in 1st year; and ➤ 12.5% of premium in subsequent years
Policy only towards risk cover	Entire premium
Non applicability in case of Risk Premium only: Nothing contained above shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.	

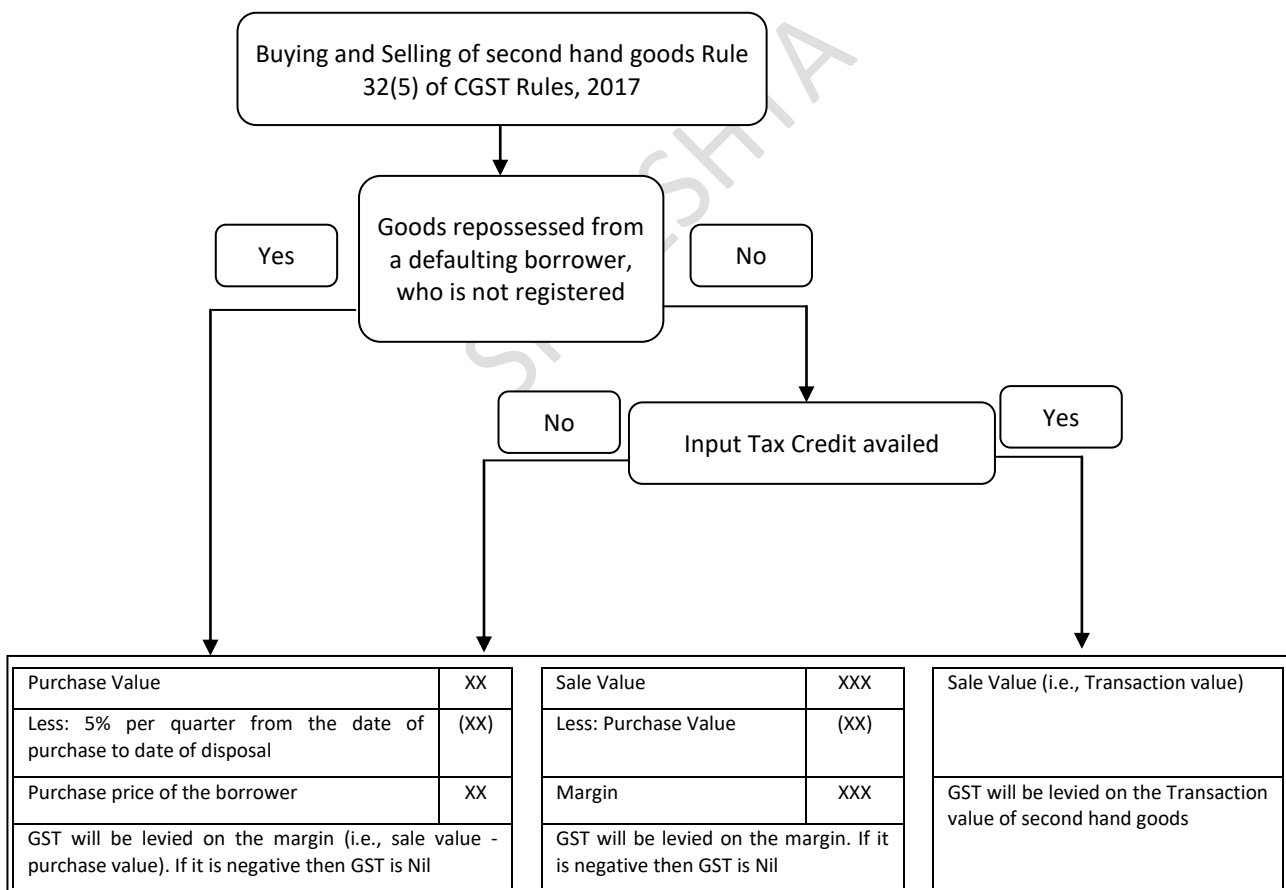
v) Special provision relating to determination of value of second hand goods - Margin Scheme

[Rule 32(5)]:

When ITC is not availed [Margin Scheme]	When ITC is availed
<ul style="list-style-type: none"> ➤ Value = Selling price - Purchase price Where Selling price is less than Purchase price then Ignore negative value ➤ CGST on second hand goods received from unregistered supplier is exempt 	<ul style="list-style-type: none"> ➤ Normal valuation as per other applicable provisions

Purchase value of goods repossessed from defaulting borrower:

If the defaulting borrower is un-registered	If the defaulting borrower is registered
Purchase value = Purchase price in the hands of such borrower reduced by 5% for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession	The repossessing lender agency will discharge GST at the supply value without any reduction from actual notional purchase value



vi) Value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) [Rule

32(6)]: The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

vii) Value of supply of notified services between distinct persons [Rule 32(7)]: The value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in Paragraph 2 of Schedule I of the said Act between distinct persons as referred to in Section 25, where input tax credit is available, shall be deemed to be NIL.

10. Value of supply of services in case of pure agent [Rule 33]:

(a) “Pure agent” means a person who -

- (i)** enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (ii)** neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (iii)** does not use for his own interest such goods or services so procured; and
- (iv)** receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

(b) Expenditure or costs incurred by supplier as ‘pure agent’ of recipient of supply to be excluded: The expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely, -

- (i)** the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (ii)** the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii)** the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

11. Rate of exchange of currency, other than Indian rupees, for determination of value [Rule 34]:

- (a)** Exchange rate notified by CBIC applicable in case of goods: The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of Section 12 of the Act.
- (b)** Exchange rate determined as per GAAP applicable in case of services: The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of Section 13 of the Act.

12. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax [Rule 35]:

Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely, -

Tax amount =

Value inclusive of taxes x tax rate in % of IGST or as the case may be CGST, SGST or UIGST
(100 + sum of tax rates, as applicable, in %)

PRACTICAL PROBLEMS

Question 1. Income tax collected at source should be added in value of the supply in terms of section 15(2)(a). Examine the correctness of the statement.

Answer:

The statement is not correct. CBIC vide Circular No. 76/50/2018 GST dated 31.12.2018 (amended vide corrigendum dated 7.03.2019) has clarified that for the purpose of determination of value of supply under GST, tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

Question 2. Examine whether the following discounts ought to be excluded to determine the value of supply:

- i) Company offering 20% discount for purchases above Rs.10,000
- ii) Company offering additional discount of 1% on purchase of 10,000 pieces in a year
- iii) After selling a product, the company re-values the product at a lower value and issues credit note to the buyer for the differential amount.

Answer:

- i) The given case is a case of staggered discounts where rate of discount increases with increase in purchase volume. Such discounts are shown on the invoice itself. Therefore, the same are excluded to determine the value of supply.
- ii) The given case is a case of volume discount which are offered by the suppliers to their stockists, etc. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. Such type of volume discounts are excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3) including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- iii) This is a case of secondary discounts. These are the discounts which are not known at the time of supply or are offered after the supply is already over. Therefore, such discounts shall not be excluded while determining the value of supply.

Question 3. Rajesh & Co., a partnership firm, provides financial and management consultancy to a group of companies for an annual retainership fee of Rs.15 lakh. Further, the firm is provided with a car (along with a driver) for its exclusive use throughout the year. The fuel cost is also borne by the Group. Rajesh & Co. pays GST on the amount of Rs.15 lakh. Is the value for the service provided by Rajesh & Co. correct under GST law? If not, please elaborate.

Answer:

Rajesh & Co. gets a car along with driver (including the fuel) for the whole year, which is an additional non-monetary consideration for its services. The monetary value of such additional

consideration must be added to the retainer fee (Rs.15 lakh) in order to arrive at the value of the taxable service provided by Rajesh & Co, as per rule 27 relating to valuation.

Question 4. Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon is sold for value of Rs.900 but is redeemable for supplies worth Rs.1000.

What is the value of supply of such coupon under GST law?

Answer:

In terms of rule 32(6) relating to valuation, the value of a coupon is the money value of the goods redeemable against it. Therefore, though the coupon is sold for Rs.900, its value is Rs.1000

Question 5. Dushyant rents out a commercial building owned by him to Bharat for the month of December, for which he charges a rent of Rs.19,50,000. Dushyant pays the maintenance charges of Rs.1,00,000 (for the December month) as charged by the local society. These charges have been reimbursed to him by Bharat.

Also, Dushyant has paid municipal tax of Rs.2,85,000 which he has not charged from Bharat.

You are required to determine the value of supply and the GST liability of Dushyant for the month of December assuming CGST and SGST rates to be 9% each.

Note: All the amounts given above are exclusive of GST.

Answer:

Computation of the value of supply and the GST liability of Dushyant for the month of December

Particulars	Amount (Rs.)
Rent of the commercial building	19,50,000
Maintenance charges paid to the local society, reimbursed by Bharat [Note 1]	1,00,000
Municipal tax paid by Dushyant [Note 2]	Nil
Value of supply	20,50,000
CGST @ 9%	1,84,500
SGST @ 9%	1,84,500

Notes:

1. Since such charges are reimbursed by the tenant (Bharat), such charges ultimately form part of the rent paid by Bharat to Dushyant and thus, form part of the value.
2. Since municipal tax is paid by the supplier (Dushyant) and not charged to the recipient, the same is not includible in the value.

Question 6. Vayu Ltd. provides you the following particulars relating to goods supplied by it to Agni Ltd.:

Particulars	Amount (Rs.)
List price of the goods (exclusive of taxes/duties and discounts)	76,000
Special packing at the request of customer to be charged to the customer	5,000

Duty levied by local authority on the sale of such goods	4,000
CGST and SGST charged in invoice	14,400
Subsidy received from an NGO in relation to the goods sold (The price of Rs.76,000 given above is after considering the subsidy)	5,000

Vayu Ltd. offers 3% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supplies made by Vayu Ltd.

Answer:

Computation of value of taxable supplies by Vayu Ltd.

Particulars	Rs.
List price of the goods	76,000
Add: Special packing [Note 1]	5,000
Duty levied by local authority on sale of goods [Note 2]	4,000
CGST and SGST charged [Note 2]	-
Subsidy received from an NGO [Note 3]	5,000
Less: Discount offered	
= 3% of List price = Rs.76,000 × 3% [Note-4]	(2,280)
Value of taxable supplies	87,720

Notes:

1. Being incidental expenses charged by the supplier to the recipient of supply, packing charges are includible in the value as per section 15(2)(c).
2. Taxes, duties, etc. levied under any law for the time being in force other than CGST, SGST/UTGST, IGST are includible in the value as per section 15(2)(a).
3. Subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15(2)(e).
4. Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a).

Question 7. Prada Forex Private Limited, registered in Delhi, is a money changer. It has undertaken the following purchase and sale of foreign currency:

- i) 1,000 US \$ are purchased from Nandi Enterprises at the rate of Rs.74 per US \$. RBI reference rate for US \$ on that day is Rs.74.60.
- ii) 2,000 US \$ are sold to Menavati at the rate of Rs.74.50 per US\$. RBI reference rate for US \$ for that day is not available.

Determine the value of supply in each of the above cases in terms of rule 32(2)(a) and rule 32(2)(b).

Answer:

Rule 32(2) prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

Determination of value under rule 32(2)(a)

- i) Value of supply of services for a currency, when exchanged from, or to, Indian Rupees, shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency. Thus, value of supply is:

$$= (\text{RBI reference for US \$} - \text{Buying rate of US \$}) \times \text{Total number of units of US \$ bought}$$

$$= (74.6 - 74) \times 1,000$$

$$= \text{Rs.600/-}$$

- ii) When the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money. Thus, value of supply is:

$$= 1\% \text{ of the gross amount of Indian Rupees received}$$

$$= 1\% \text{ of } (74.50 \times 2,000)$$

$$= \text{Rs.1,490/-}$$

Determination of value under rule 32(2)(b)

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

S. No.	Currency exchanged	Value of supply
1.	Upto Rs.1,00,000	1% of the gross amount of currency exchanged
		OR
		Rs.250 whichever is higher
2.	Exceeding Rs.1,00,000 and upto Rs.10,00,000	Rs.1,000 + 0.50% of the (gross amount of currency exchanged - 1,00,000)
3.	Exceeding Rs.10,00,000	Rs.5,500 + 0.1% of the (gross amount of currency exchanged - 10,00,000) OR Rs.60,000 whichever is lower

Thus, the value of supply in the given cases would be computed as under:

- (i) Gross amount of currency exchanged = Rs.74 × 1,000 = Rs.74,000. Since the gross amount of currency exchanged is less than Rs.1,00,000, value of supply is 1% of the gross amount of currency exchanged i.e. 1% of Rs.74,000 or Rs.250, whichever is higher, i.e. = Rs.740/-
- (ii) Gross amount of currency exchanged = Rs.74.50 × 2,000 = Rs.1,49,000. Since the gross amount of currency exchanged exceeds Rs.1,00,000 but is less than Rs.10,00,000, value of supply is Rs.1,000 + 0.50% of (Rs.1,49,000 - Rs.1,00,000), i.e. = Rs.1,245/-

Question 8. Rajesh **Manufacturers** Ltd., registered in Chennai (Tamil Nadu), is a manufacturer of footwear. It imports a footwear making machine from USA.

Rajesh Manufacturers Ltd. enters into a contract with Rudra Logistics, a licensed customs broker with its office at Ahmedabad (Gujarat), to meet all the legal formalities in getting the said machine cleared from the customs station.

Apart from this, Rajesh Manufacturers Ltd. authorizes Rudra Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of Rajesh Manufacturers Ltd. which shall be reimbursed by Rolly Polly Manufacturers Ltd. to Rudra Logistics on the actual basis in addition to agency charges.

Rudra Logistics provided following details:

S. No.	Particulars	Amount (Rs.)
(i)	Agency charges	5,00,000
(ii)	Unloading of machine at Kandla port, Gujarat	50,000
(iii)	Charges for transport of machine from Kandla port, Gujarat to its Rudra Logistics' godown in Ahmedabad, Gujarat	25,000
(iv)	Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	28,000
(v)	Prepared and submitted of Bill of Entry and paid customs duty	5,00,000
(vi)	Dock dues paid	50,000
(vii)	Port charges paid	50,000
(viii)	Hotel expenses	45,000
(ix)	Travelling expenses	50,000
(x)	Telephone expenses	2,000

Compute the value of supply made by Rudra Logistics with the help of given information.

Would your answer be different if Rudra Logistics has charged Rs.13,00,000 as a lump sum consideration for getting the imported machine cleared from the customs station and bringing the same to the warehouse of Rajesh Manufacturers Ltd.?

Answer:

As per explanation to rule 33, a “pure agent” means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfill **all** the above conditions in order to qualify as a pure agent.

In the given case, Rudra Logistics has entered into a contractual agreement with recipient of supply, Rolly Polly Manufacturers Ltd., to incur, on behalf of such recipient, the **expenses mentioned in S. No. (ii) to (vii)** incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient. Further, Rudra Logistics does not hold any title to said services and does not them use for his own interest.

Lastly, Rudra Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, Rudra Logistics qualifies as a pure agent.

Further, rule 33 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

- i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and (III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.
- iii) Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Rudra Logistics as a pure agent of Rolly Polly Manufacturers Ltd. shall be excluded from the value of supply.

Accordingly, value of supply made by Rudra Logistics is as follows:

Particulars	Amount (Rs.)
Agency charges	5,00,000
Add: Unloading of machine at Kandla port, Gujarat	Nil
Charges for transport of machine from Kandla port, Gujarat to its godown in Ahmedabad, Gujarat	Nil
Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rajesh Export Import House in Chennai	Nil
Customs duty	Nil
Dock charges	Nil
Port charges	Nil
Hotel expenses	45,000
Travelling expenses	50,000
Telephone expenses	2,000
Value of supply	5,97,000

Yes, the answer would be different. If lump sum amount of Rs.13,00,000 is paid then the value of supply shall be Rs.13,00,000 and tax shall be charged on value of supply since individual cost are not given.

Question 9. Rustagi & Co. manufactures customized products at its unit situated in Madhya Pradesh. Cost of production for Rustagi & Co. for 1000 products is Rs.20,00,000. These products require further processing before sale, and for this purpose products are transferred from its Madhya Pradesh unit to its another unit in Himanchal Pradesh. The value declared on the invoice for such transfer is the cost of production of such products.

The Himanchal Pradesh unit, apart from processing its own products, engages in processing of similar products of other persons who supply the products of the same kind and quality. Thereafter, the Himanchal Pradesh unit sells these processed products to wholesalers. There are no other factories in the neighbouring area which are engaged in the same business as that of Himanchal Pradesh unit. 1,000 units of the products of same kind and quality are supplied to Himanchal Pradesh unit, at the time when goods are sent by Madhya Pradesh unit, by another manufacturer located in Himanchal Pradesh. The ex-factory price of such goods is Rs.19,00,000. The Himanchal Pradesh unit of Rustagi & Co. is eligible for full ITC.

Determine the value of 1000 products supplied by Rustagi & Co. to its Himanchal Pradesh unit.

Answer:

As per section 25(4), a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act. Therefore, units of Rustagi & Co. in Madhya Pradesh and Himanchal Pradesh are distinct persons under GST.

As per rule 28, the value of the supply of goods between distinct persons, other than where the supply is made through an agent, shall –

- a) be the open market value of such supply;
- b) if open market value is not available, be the value of supply of goods of like kind and quality;
- c) if value cannot be determined under the above methods, be cost of the supply plus 10% mark-up or be determined by other reasonable means, in that sequence.

Rule 28 also provides that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

Further, rule 28 provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

In the given case, the option of valuing the goods @ 90% of the price charged by the recipient to his unrelated customer is not available as the goods are not further supplied 'as such' but only after processing at Himachal Pradesh unit. However, since the Himanchal Pradesh unit is eligible for full ITC, the value declared by the Madhya Pradesh unit in the invoice for transfer of such products, i.e. Rs.20,00,000 shall be deemed to be the open market value of the products.

Thus, the value of 1000 products supplied by Rustagi & Co. to its Himanchal Pradesh unit in terms of rule 28 is the open market value of such products which is Rs.20,00,000.

Question 10. Dev Enterprises is the supplier of water coolers. Dev Enterprises supplied water coolers to an unrelated party, Vimal Traders for consideration of Rs.2,95,000 (inclusive of GST @ 18%). Vimal Traders also gave some materials to Dev Enterprises [valuing Rs.10,000 (exclusive of GST)] as consideration for such supply.

At the same time, Dev Enterprises has supplied the same goods to another unrelated person at price of Rs.2,97,360 (inclusive of GST@18%).

You are required to:

1. Determine the value of goods supplied by Dev Enterprises to Vimal Traders.
2. What would your answer be if price of Rs.2,97,360 is not available at the time of supply of goods to Vimal Traders? Explain briefly.

Answer:

1. In the given case, price is not the sole consideration for the supply. Apart from monetary consideration, the buyer has given some material to the supplier as consideration for such supply. Hence, the value of the supply cannot be determined on the basis of the transaction value in terms of section 15(1).

Here, the value will be determined with the help of rule 27 which specifies that where the consideration for a supply is not wholly in money, the value will be the open market value. Open market value of a supply means the full value in money, excluding the applicable GST, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

Therefore, in the given case, the open market value of the goods supplied is Rs.2,52,000 ($\text{Rs.2,97,360} \times 100/118$) and is therefore, the value of such goods.

2. Rule 27 further provides that if open market value of the supply is not known, the value of the supply will be the consideration in money plus the money equivalent to the non-monetary consideration, if such amount is known at the time of supply.

Therefore, the value in the given case will be ($\text{Rs.2,95,000} \times 100/118$) + Rs.10,000, which is Rs.2,60,000.

Question 11. Chirayu Life Insurance Company Limited (CLICL) has collected premium from policy subscribers. It does not intimate the amount allocated for investment to subscribers of the policy at the time of collection of premium. The company has provided the following details in relation to its receipts:

Sl. No.	Particulars	Amount
1.	Premium for only risk cover	25,00,000
2.	Premium from new policy subscribers	40,00,000
3.	Renewal premium	80,00,000
4.	Single premium on annuity policy	1,00,00,000

All amounts are exclusive of tax. You are required to compute the value of supply by CLICL in terms of rule 32(4).

Answer:

As per rule 32(4), the value of supply of services in relation to life insurance business, when the amount allocated for investment/ savings on behalf of the policy holder is not intimated to the policy holder at the time of supply of service, is-

- (i) in case of single premium annuity policies, 10% of single premium charged from the policy holder;
- (ii) in all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from the policy holder in subsequent years;
- (iii) in case the entire premium paid by the policy holder is only towards the risk cover in life insurance, the premium so paid.

Therefore, in the given case, the value of the services provided by CLICL will be computed as under:

Computation of value of supply for CLICL

Particulars	Amount (Rs.)
Premium for only risk cover	25,00,000
Premium from new policy subscribers 25% of Rs.40,00,000	10,00,000
Renewal premium 12.5% of Rs.80,00,000	10,00,000
Single premium on annuity policy 10% of Rs.1,00,00,000	10,00,000
Total value of supply	55,00,000

ADDITIONAL PRACTICE QUESTIONS

Question 12. Computation of GST liability: Determine GST liability (rate of GST is 18% in all cases) if the services have been supplied in the month of July 2020:

- (a) Mr. X provides taxable services to Mr. Y valuing Rs.20,00,000.
- (b) Mr. A provides taxable services to Mr. B for which he charges Rs.11,80,000 (inclusive of GST).
- (c) Mr. A provides taxable services to Mr. B valuing Rs.15,00,000. He has also incurred travelling expenses of Rs.1,00,000 for supply of service and the same are also reimbursed by Mr. B (amount exclusive GST).

Solution: GST liability in the following cases will be -

- (a) GST payable = Rs.20,00,000 x 18% = Rs.360000.
- (b) GST payable = Rs.11,80,000 x 18 ÷ 118 = Rs.180,000
- (c) The total value of taxable supply would include expenditure incurred on travelling since reimbursable expenditure shall also form the part of consideration. Hence, GST payable = Rs.16,00,000 x 18% = Rs.288000.

Question 13. Value of taxable supply - Pure agent: Answer the following -

- a) X contracts with Y, a real estate agent to sell his house. Thereupon, Y gives an advertisement in television which costed him Rs.1 lakh. Y billed X for Rs.5 lakhs. The invoice showed Rs.4 lakhs as consideration for his services and Rs.1 lakh for the television advertisement. Y paid GST only on 4 lakhs, claiming that Rs.1 lakh was paid as a 'pure agent'. Decide.

Ans: Here, Y does not act as 'pure agent' while giving the television advertisement, though it is separately shown in the invoice. Advertising services is an input service for the estate agent in order to enable or facilitate him to perform his services as an estate agent. Therefore, GST is payable on Rs.5 lakhs.

b) In the course of providing a taxable service, X, a service provider incurs costs such as travelling expenses, postage, telephone, etc. totalling to Rs.50,000. Showing this separately in the bill, he claimed an exclusion of same from the value of the taxable service under the pretext that he was acting as a 'pure agent' of the service recipient. Decide.

Ans: Here the expenditure incurred by X in course of providing taxable service is input/input service procured by X on his own account for providing the taxable service. Hence, by merely indicating such expenditure separately in the bill, the same cannot be excluded from the value of service.

c) A contracts with B, an architect for building a house, the consideration for his service being fixed at Rs.5,00,000. In course of providing service, B incurred expenses such as telephone charges, air travel tickets, accommodation etc. totalling to Rs.1,00,000. B recovered the same from A. He paid GST only on Rs.5,00,000, claiming Rs.1,00,000 as reimbursable expenditure incurred as 'pure agent' of A. Decide.

Ans: B is liable to GST on the entire Rs.6,00,000, the expenditure incurred by him during the course of business was to enable him to effectively perform his services and not as a 'pure agent'. These are input! input services for B.

d) A Customs House Agent paid custom duty of Rs.3,00,000 on behalf of his client and the same was included in his fees Rs.10,00,000. What is the taxable value of his service?

Ans: The value of taxable service is Rs.7,00,000 as he acts as a pure agent with respect to custom duty.

Question 14. Value of supply - Agent: The supplies of commodity 'Y' to the market are channelled through a State marketing Corporation which conducts an auction each day to arrive at the price. Gupta and Co. supplies commodity Y through the State Marketing Corporation. How will the supply of 'Y' made by Gupta and Co. to State Marketing Corporation be valued for paying tax?

Ans: The State Marketing Corporation is an 'agent' in the meaning of the expression as defined in section 2(5), which includes an auctioneer. Therefore, the value of supply of 'Y' will be determined in terms of rule 29 relating to valuation. There is no open market for the first supply of commodity 'Y', as it is compulsorily supplied to the State Marketing Corporation. However, Gupta & Co. has the option of valuing the supply of 'Y' at 90% of price of goods of like kind and quality sold by the State Marketing Corporation to its unrelated customers.

If the value cannot be determined by this method, it needs to be determined on the basis of the cost plus 10% mark up as per rule 30 or on the basis of Best Judgement Method as per rule 31, in that order.

Question 15. Invoice Value - Ex factory / FOR basis: Surya Agencies has agreed to supply goods to customers premises. Goods valued Rs.80,000 are taxable at 5% IGST as it is an Inter-State supply. It also pays freight and transit insurance of Rs.12,000. GTA is a registered entity and has charged GST (6% CGST and 6% SGST) under forward charge.

(i) Compute the Invoice value of supply including IGST.

(ii) What will be the Invoice value of supply including IGST, if the supply was under ex-factory basis instead of door- delivery basis? (4 Marks, Nov. 2019)

Solution: Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance the contract of supply becomes a composite supply, the principal supply being the supply of goods. Therefore, outward freight and transit insurance become part of the value of the composite supply and GST is payable thereon at the same rate as applicable for the relevant goods. However, if the contract for supply is on ex-factory basis where buyer pays the outward freight and insurance, the same will not be included in the value of supply of goods.

(i) The invoice value shall be computed as under (amount in:

Sale Price of goods	80,000
Transportation cost	12,000
Taxable value of supply	92,000
IGST leviable @ 5%	4,600
Total Invoice value	96,600

(ii) In case the supply is on ex-factory basis, the invoice value shall be (amount in Rs.)

Sale Price of goods	80,000
Transportation cost	Nil
Taxable value of supply	80,000
IGST leviable @ 5%	4,000
Total Invoice value	84,000

Question 16. Post supply discounts: Binaca Electronics Ltd. (hereinafter referred to as BEL) is engaged in manufacturing televisions. It is registered in the State of Haryana. It has appointed distributors across the country who sell the televisions manufactured by it. The maximum retail price (MRP) printed on the package of a television is Rs.12,000. The applicable rate of GST on televisions is 18%. BEL dispatches the stock of televisions to its distributors ordered by them on a quarterly basis.

In order to promote its sales, the Sales Head of BEL has formulated a sales promotion scheme. Under this scheme, BEL offers a discount of 10% (per television) on televisions supplied to the distributors, if the distributors sell 500 televisions in a quarter. The discount is offered on the price at which the televisions are sold to the distributors (excluding all charges and taxes).

It appoints Shah Electronics (an unrelated party as per GST Law) as its distributor in Haryana on 15th April and dispatches 750 televisions on 8th April as stock for the quarter April-June. BEL has sold the televisions to distributor - Shah Electronics at Rs.8,400 per television (exclusive of applicable taxes) Shah Electronics has requested BEL for a special packing of the televisions delivered to it for which BEL has charged Rs.1,200 per television.

Shah Electronics places a purchase order of 1,000 televisions with DEL for the quarter July-September. The distributor reports sales of 700 televisions for the quarter April-June and 850 televisions for the quarter July-September. The discount policy offered by BEL as explained above is also available to Shah Electronics as per the distributorship agreement.

While Shah Electronics reverses the input tax credit availed for the quarter July-September, it has failed to reverse the input tax credit availed for the quarter April-June.

Examine the scenario with reference to section 15 of the CGST Act, 2017 and compute the taxable value of televisions supplied by BEL to Shah Electronics during the quarters April-June and July-September assuming the rate of tax applicable on the televisions as 18%. (RIP Nov. 2020)

Solution: Section 15(3)(a) of the CGST Act, 2017 allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of the supply and if such discount has been duly recorded in the invoice issued in respect of such supply. In other words, pre-supply discounts recorded in invoices are allowed as deduction.

Further, post supply discounts are also allowed as deduction from the value of supply u/s 15(3)(b) of the CGST Act if

- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Nature of discount - Post Supply Discount: In the given case, Shah Electronics is entitled for 10% discount on televisions supplied by BEL for the quarters April-June as well as July-September as it has sold more than 500 televisions in each of these quarters. However, since the sales targets are achieved after the entire stock for the respective quarters of April-June and July-September has been dispatched, the discounts on the televisions supplied to Shah Electronics for the quarters of April-June and July-September is a post-supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to televisions supplied to Shah Electronics for the quarters of April-June and July-September) provided Shah Electronics reverses the input tax credit attributable to the discount on the basis of document issued by BEL.

The value of supply for the quarters of April-June and July-September will thus, be computed as under:

Computation of value of supply for the quarter - April-June (amount in Rs.)

Price at which the televisions are supplied to Shah Electronics (The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act, 2017 presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply as the supplier and recipient are not related parties.)	8,400
Add: Packing expenses (The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c) of the CGST Act.)	1,200
Less: Discount [WN]	Nil
Value of taxable supply of one unit of television	9,600
Value of taxable supply of televisions for the quarter April-June { 9,600 x 7501	72,00,000

Working Note:

Discount not allowable as ITC Not reversed by recipient: Since Shah Electronics has not reversed the input tax credit attributable to such discount on the basis of document issued by BEL, the conditions specified in section 15(3)(b) of the CGST Act have not been fulfilled. Thus, the post-supply discount will not be allowed as deduction from the value of supply.

Computation of value of supply for quarter - July-September (amount in Rs.)

Price at which the televisions are supplied to Shah Electronics [The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply as the supplier and recipient are not related parties.]	8,400
Add: Packing expenses [The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c) of the CGST Act.]	1,200
Less: Discount [Since all the conditions specified in section 15(3) (b) of the CGST Act have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply. The input tax credit to be reversed will workout to be Rs.1,51,200 [1,000 x (8,400 x 10%) x 18%]	-840
Value of taxable supply of one unit of television	8,760
Value of taxable supply of televisions for the quarter July-September [Rs.8,760 x 1,000]	87,60,000

Question 17. Computation of Value of taxable supply and GST liability: Quantum Plast Private Limited, Delhi supplies plastic granulation machine to Capscom Ltd., Delhi. It furnishes the following details in respect of such supply:

Particulars	Rs.
List price of the machine (exclusive of taxes and discounts)	1,00,000
Corrugated Boxes used for packing the machine (not included in price above)	1,000
Subsidy received from Delhi Government on sale of such machine (considered in price above)	5,000
Discount @ 2% is offered on list price of the machine (recorded in the invoice for the machine)	

Determine the value of taxable supply made by Quantum Plast Private Limited. (MTP, May 2018)

Solution: Computation of value of taxable supply (amount in Rs.)

List price of the goods (exclusive of taxes and discounts)	1,00,000
Add: Corrugated Boxes used for packing the machine [Includible in the value as per Section 15(2)(c)]	1,000
Add: Subsidy received from Delhi Government on sale of such machine [Subsidy received from State Government is not included the value in terms of Section 15(2)(e)]	-
Total	1,01,000
Less: Discount @ 2% on 1,00,000 [Since discount is known at the time of supply, it is	

deductible from the value in terms of Section 15(3)(a)]	2,000
Value of taxable supply	99,000

Question 18. Value of taxable supply and GST liability: Rosserie Private Limited, a registered supplier, is engaged in supplying the taxable service leviable to GST @ 18%. Compute the value of taxable supply and the GST payable by it in the month of July, 2020 from the information furnished below:

Receipts	Rs.
Advances received from clients for which no service has been rendered so far	8,00,000
Demurrage charges recovered for use of the services beyond the agreed period	89,000
Security deposits forfeited for damages done by service receiver owing to his negligence in the course of receiving a service. (Not due to unforeseen actions)	5,00,000

Besides, the above receipts, one of the clients - SBS Ltd. made a payment of Rs.1,45,000 (out of which 25,000 were paid extra by mistake). However, Rosserie Private Limited refused to return the excess payment received.

Solution: Computation of Value of taxable supply and the GST payable (amount in -

Advances received from clients for which no service has been rendered so far	[WN-1]	8,00,000
Demurrage charges recovered for use of the services beyond the agreed period	[WN-2]	89,000
Security deposits forfeited for damages done by service receiver owing to his negligence in the course of receiving a service.	[WN-2]	5,00,000
Payment received from SBS Ltd.	[WN-3]	1,45,000
Total		15,34,000
Value of taxable supply (15,34,000 x 100/118)		13,00,000
Total GST payable		2,34,000

Working Notes:

- (1) Advances received in July, 2020 shall be taxable in the month of receipt of advance only.
- (2) As per provisions of Section 15 read with Valuation Rules, 2017, following charges are includible in the value of taxable supply:
 - (a) Demurrage charges recovered for use of the services beyond the period agreed upon. It is a service of tolerating an Act.
 - (b) Security deposits forfeited for damages done by service receiver since it is in the nature of extra consideration.
- (3) Excess payment made as a result of a mistake, if not returned and retained by the service provider, becomes a part of the taxable value. Hence, entire Rs.1,45,000 would form part of taxable value.

Question 19. Computation of GST payable: Q Ltd., a registered supplier, is engaged in supplying the taxable services leviable to GST @ 18%. Ascertain the amount of GST payable by it in the month of December, 2020 from the information given below:

Particulars	Rs.
Supply of farm labour for agriculture purpose.	1,00,000
Service to people free of cost.	60,000
Advance received in December, 2020 from clients for which no service has been rendered till date.	85,000
Amount received for the services rendered in July, 2020 (bills for the same were issued on 25-7-2020)	90,000
Bill raised for the services rendered in the month of December, 2020 against which no amount is received so far,	75,000

The above amounts are exclusive of GST.

Solution: Computation of GST liability of Q Ltd. for the month of December, 2020

(amount in Rs.)

Supply of farm labour for agriculture purpose.	[WN-1]	-
Service to people free of cost.	[WN-2]	-
Advance received in December, 2020 from clients for which no service has been rendered till date.	[WN-3]	85,000
Amount received for the services rendered in July, 2020, bills for the same were issued on 25-7-2020	[WN-4]	-
Bill raised for the services rendered in the month of December, 2020 against which no amount is received so far.	[WN-5]	75,000
Value of taxable supply		1,60,000
Total GST payable @ 18%		28,800

Working Notes:

1. The same will not be liable to GST as it is Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-CT (R).
2. Service rendered free of cost will not be taxable as no consideration is received for supplying such service.
3. As per Section 13 of CGST Act, 2017, time of supply shall be "date of receipt or date of invoice, whichever is earlier". Hence, Advance received for services to be provided in future the same shall be liable to GST in the month of December, 2020.
4. As per Section 13 of CGST Act, 2017, time of supply shall be "date of receipt or date of invoice, whichever is earlier". The same is taxable in month of July, 2020, hence, no tax liability shall arise in month of December, 2020.
5. As per Section 13 of CGST Act, 2017, time of supply shall be "date of receipt or date of invoice, whichever is earlier". Hence, GST liability shall arise in month of December, 2020.

Question 20. Scope of taxable value of supply: Hotel Marudhar Palace charges 10% of the bill amount as service charges and Department has asked them to pay GST on it. The assessee has submitted that the amount @ 10% collected from customers is subsequently disbursed among the staff, therefore it is not part of their income and cannot be included in the gross amount charged by them. Examine the case and advise suitably: **(Modified 3 marks, Nov. 2005)**

Ans: According to Section 15, the value of taxable supply of services is the transaction value, which is the price actually paid or payable for the said supply of services, where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Here, the assessee has charged 10% of the bill amount as service charges from its customers, therefore it will form part of the value of taxable supply. Thus, such service charges will be included in value of taxable supply and will be liable to GST @ 18%.

Question 21. GST not charged in the bill: Mr. X, a service supplier who pays GST regularly, was of the opinion that a particular service rendered by him was not liable to GST. He, therefore, did not charge GST in his bill. He received the payment for the bill amount without GST. However, it was later confirmed that GST is payable @ 18% on said service. How will GST liability of Mr. X be determined in such a case?

Ans: Section 9 of the CGST Act, 2017 casts the liability to pay GST upon the service supplier. This liability is not contingent upon the service supplier realizing or charging GST at the prevailing rate. Statutory liability does not get extinguished if service supplier fails to realize or charge GST from service recipient.

Thus, in this case, the amount received from the service recipient will be taken to be inclusive of GST. Accordingly, GST payable by the service supplier shall be ascertained by making back calculations in the following manner:

$$\text{GST payable} = \frac{\text{Amount received} \times \text{GST rate}}{[100 + \text{GST rate}]}$$

Question 22. Computation of GST liability: Sincere Coaching Classes Ltd. a coaching centre is registered under GST. The details pertaining to the month of July, 2020 are as under:

Particulars	Rs.
Free coaching rendered to a batch of 100 students (Value of similar services is Rs.20,000)	
Coaching fees collected from students for the classes to be held in July, 2020	17,70,000
Advance received from a college for teaching their students, on 30-07-2020. However, due to some unavoidable reasons, no coaching was conducted and the advance money (including GST) was returned on 18-10-2020	3,54,000

Determine the GST liability for the month of July, 2020 and indicate the date by which GST has to be deposited by the assessee.

Solution: Computation of GST liability of Sincere Coaching Classes Ltd. (amount in:

Free coaching rendered [WN-1]	Nil
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Coaching fees collected from students [17,70,000 x 18/118] [WN-21 [A]	2,70,000
Advance received from a college [3,54,000 x 18/1181 [WN-2 & 3] [B]	54,000
Total GST liability (A + B)	3,24,000

Working Notes:

1. As per Section 7(1)(a), Supply should be made for a consideration. Therefore, since no consideration is involved in case of free services, GST is not payable thereon.
2. Since, services agreed to be provided are also chargeable to GST, advance received will also be liable to GST. Advance received is taxable at the time when such advance is received [Section 13 of CGST Act, 2017].
3. Advance received from a college for teaching their students will also be chargeable to GST. It is immaterial that no coaching was conducted and the money was returned on 18-10-2020. The amount of GST included in the amount refunded (54,000) in the month of i.e. October, 2020 would be adjusted against GST liability of subsequent periods.

The last date for making the payment of GST by Sincere Coaching Classes Ltd. for the month of July, 2020 is 20th August, 2020.

Question 23. Reimbursable expenditure - shall form part of value of taxable services: Whether expenditure like travel, hotel stay, transportation and the like incurred by the service supplier in the course of supplying taxable supply of service may be treated as consideration for taxable supply of service and included in value for charging GST? Explain briefly with reference to decided case law.

(Modified 4 Marks, May 2015)

Ans: As per Rule 33 of CGST Rules, 2017, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply subject to fulfillment of specified conditions otherwise expenditure incurred will form value of taxable supply. Thus, expenditure like travel, hotel stay, transportation and the like incurred by the service supplier in the course of supplying taxable supply of service will be treated as consideration for taxable supply and included in value for charging GST,

Question 24. Computation of Value of supply: XYZ sells its products through unrelated wholesale dealers. The wholesale price is Rs.1,00,000 (inclusive of GST). Cash discount of Rs.3,000 is allowed if the payment is made within 7 days. Charges for normal packing Rs.1,000 which is included in the price. The supplier has paid turnover tax 1,000 and but the same is not recoverable from the recipient. What is the value of supply and what is the GST payable, if the product is liable for GST @ 18% and recipient has made payment within 7 days of such supply?

Solution: Computation of value of taxable supply and GST payable (amount in ?)-

Cum-tax price		1,00,000
Add: Inclusions		
Normal packing	[WN-1]	-
Turnover tax	[WN-2]	-
Less: Exclusions		

Cash discount	[WN-3]	3,000	3,000
Cum tax value			97,000
Less: GST 18% i.e. $97,000 \times 18 \div 118$			14,797
Value of taxable supply			82,203

Working Notes:

1. As per Section 15(2)(c) of CGST Act, 2017, if packing charges charged by supplier to the recipient would be included for computation of value of taxable supply. As already included in price so no adjustment is required.
2. As per Section 15(2)(a) of CGST Act, 2017, any taxes, duties, cesses, fees, and charges levied under any law for the time being in force, if charged separately by the supplier will form part of taxable supply. In given case as turnover tax is not charged from recipient so it would not form part of value of taxable supply.
3. As per Section 15(3) of CGST Act, 2017, if any discount which is given after the supply has been effected and is established in terms of an agreement then it is excluded in computing the value of taxable supply.

Question 25. Computation of value of supply: Compute value of supply of goods supplied by Bharat Enterprises, u/s 15 of the CGST Act, 2017, with the help of the following particulars

Particulars	Amount in (Rs.)
Sale price for delivery at buyers premises	2,42,000
Contracted sale price includes the following elements of cost -	
(i) Cost of containers supplied by the buyer	15,200
(ii) Design and engineering charges	22,400
(iii) Loading and handling charges incurred after removal from the factory	6,000
(iv) Cost of after sale service	10,000
(v) Dharmada charges	2,100

Cash discount @ 2% on Sale Price is allowed as per terms of contract because buyer made full payment in advance. Give reasons with suitable assumptions wherever necessary.

Solution: Computation of Value of taxable supply (amount in –

Sale price for delivery at buyers premises		2,42,000
Less: The following -		
(i) Cost of containers supplied by the buyer	[WN-1]	-15,200
(ii) Design and engineering charges	[WN-2]	Includible
(iii) Loading and handling charges incurred after removal from the factory	[WN-3]	Includible
(iv) Cost of after sale service	[WN-4]	Includible
(v) Dharmada charges	[WN-5]	<u>Includible</u>
Total		2,26,800

Less: Cash discount 2% of Sale Price = 2% x 2,42,000	<u>4,840</u>
Total Value of taxable supply	2,21,960

Working Notes: While computing the assessable value,-

- (1) Cost of containers supplied by the buyer is not includible. As per Section 15(1) of CGST Act, 2017, value of supply of goods shall be inclusive of goods which are supplied by supplier to recipient, in given case containers are supplied by recipient so value of container would not be included.
- (2) As per Section 15(2)(c) of CGST Act, 2017, any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence, design and engineering charges shall also be included in the value of taxable supply. As already included no adjustment required.
- (3) Loading and handling charges incurred after removal from the factory are includible according to Section 15(2)(a).
- (4) Cost of after sale service is includible according to Section 15(2)(c).
- (5) Dharmada charges charged from recipient would form part of value of taxable supply.

Question 26. Computation of value from cum-tax price - Rule 35: Determine the value of supply for purpose of GST under the CGST Act, 2017 in the following cases:

- i) A supplier supplied his goods for Rs.118 per piece and does not charge any GST in his invoice. Subsequently it was found that the goods were not exempted from but were liable at 18% advalorem.
- ii) Certain goods were supplied for Rs.118 per piece and 18% advalorem is the rate of GST. Subsequently it was found that the price cum tax was in fact 138 per piece as the supplier had collected 20 per piece separately.
- iii) The cum tax price per piece was Rs.118 and the supplier had paid tax at 18% advalorem. Subsequently it was found that the rate of tax was 28% advalorem and the supplier had not collected anything over and above Rs.118 per piece. (Modified 6 Marks, Nov. 2010-NS)

Solution: The Value of taxable supply shall be calculated as under –

Tax amount =

$$\frac{\text{Value inclusive of taxes} \times \text{tax rate in \% of IGST or as the case may be CGST, SGST or UTGST}}{(100 + \text{sum of tax rates, as applicable, in \%})}$$

It is assumed that all the prices given in question excludes permissible exclusions i.e. discounts.

$$(i) \text{ Value of supply} = \frac{\text{Price cum tax} - \text{Permissible exclusions}}{100 + \text{Rate of GST}} \times 100 \text{ i.e. } \frac{118}{100 + 18} \times 100 = \text{Rs. } 100$$

Price cum tax + Inclusions - Permissible exclusions 118+20

(ii) Value of supply =

$$\frac{\text{Price cum tax} + \text{Inclusions} - \text{Permissible exclusions}}{100 + \text{Rate of GST}} \times 100 \text{ i.e. } \frac{118 + 20}{100 + 18} \times 100 = \text{Rs. } 116.95$$

$$(iii) \text{ Value of supply} = \frac{\text{Price cum tax} - \text{Permissible exclusions}}{100 + \text{Rate of GST}} \times 100 \text{ i.e. } \frac{118}{100 + 28} \times 100 = \text{Rs. } 92.19$$

Question 27. Computation of Value of taxable supply and GST liability: Dushyant rents out a commercial building owned by him to Bharat for the month of December, for which he charges a rent of Rs.19,50,000. Dushyant pays the maintenance charges of Rs.1,00,000 (for the December month) as charged by the local society. These charges have been reimbursed to him by Bharat. Further, Bharat had given Rs.2,50,000 to Dushyant as interest free refundable security deposit. Further, Dushyant has paid the municipal taxes of Rs.2,85,000 which he has not charged from Bharat. You are required to determine the value of supply and the GST liability of Dushyant for the month of December assuming CGST and SGST rates to be 9% each.

Note: All the amounts given above are exclusive of GST.

(RTP May 2020)

Solution: Computation of the value of supply and the GST liability of Dushyant for the month of December:

Particulars	Amount (₹)
Rent of the commercial building	19,50,000
Maintenance charges [Being reimbursed by the tenant - Bharat, such charges ultimately form part of the rent paid by Bharat to Dushyant and thus, will form part of the value]	1,00,000
Interest free refundable security deposit [Refundable security deposit does not constitute consideration in terms of section 2(31) of the CGST Act, 2017 and thus, is not includible in the value]	Nil
Municipal taxes [Since the same is not charged from the recipient, same is not includible in the value]	Nil
Value of supply	20,50,000
CGST @ 9%	1,84,500
SGST @ 9%	1,84,500

Question 28. Computation of Value of taxable supply - Rule 27: Dev Enterprises is the supplier of water coolers.

Dev Enterprises supplied water coolers to Vimal Traders for consideration of Rs.2,95,000 (inclusive of GST @ 18%) Vimal Traders also gave some materials to Dev Enterprises as consideration for such supply whose value was Rs.10,000 (exclusive of GST)

Dev Enterprises has supplied the same goods to another person at price of Rs.2,97,360 (inclusive of GST @ 1%)

You are required to

1. Determine the value of goods supplied by Dev Enterprises to Vimal Traders as per the provisions of the CGST Act 2017
2. What would your answer be if price of 2,97,360 is not available at the time of supply of goods of Vimal Traders Explain briefly

(Marks May 2019) (ICAI PQ)

Solution: As per Rule 27 of CGST Rules, 2017, where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall, -

- (a) be the open market value of such supply;
- (b) if open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;

“Open market value” of a supply of goods or services or both means -

- the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction,
- where the supplier and the recipient of the supply are not related and
- price is the sole consideration
- to obtain such supply at the same time when the supply being valued is made.

Determination of value of taxable supply in different situations: (amount in

- (1) The value of taxable supply shall be the open market value. The open market value shall be determined as under:

Price charged from independent recipient	2,97,360
Less: GST included in the above price [Rs.2,97,360 x 18 ÷ 118]	45,360
Open market value of supply of goods under consideration	2,52,000

Thus, the value of taxable supply shall be 2,52,000.

- (2) If open market value is not available, the value of taxable supply shall be determined as under:

Consideration in Money [Rs.2,95,000 x 18 ÷ 118]	2,50,000
Value of Non monetary Consideration - Value of Goods known at time of supply	10,000
Value of taxable supply	2,60,000

Question 29. Value in case of supply to related person - Rule 28: Supplier sold certain goods to AB Ltd. for Rs.50,000 (excluding taxes) on 02-10-2020. AB Ltd. is a related person as defined under, Explanation to Section 15. It did not sell the goods but used for consumption in manufacture of other articles. The cost of goods was 60,000. Determine the value of supply in the given case. What will be the value of supply if in the aforesaid case AB Ltd. is not related to the supplier?

(Modified 2 Marks, May 2016)

Solution: As per Rule 28 of CGST Rules, 2017, the value of the supply of goods or services or both-

- i) between distinct persons as specified in Section 25(4) and (5), or
 - ii) where the supplier and recipient are related,
- other than where the supply is made through an agent, shall –
- a. be the open market value of such supply;
 - b. if the open market value is not available, be the value of supply of goods or services of like kind and quality;

- c. if the value is not determinable under clause (a) or (b), be the value as determined by the application of Rule 30 or Rule 31, in that order i.e. it must be worked out based on the cost of the supply plus 10% mark-up (Rule 30) or by other reasonable means, in that sequence (Rule 31).

In given case as supplier and recipient are related so value of supply should be computed as cost of supply plus 10% mark up i.e. $\text{Rs.}60,000 \times 110\% = \text{Rs.}66,000$.

If AB Ltd. is not related to the supplier then value of supply would be transaction value i.e. Rs.50,000 according to Section 15 of CGST Act, 2017.

Question 30. Value in case of supply to related person - Rule 28 read with Rule 30: From the following particulars, compute the value of supply for GST purposes. Out of 1,000 units manufactured, 800 units have been cleared to a sister unit for further production of goods on assessee's behalf, the balance 200 units are lying in the stock:

Particulars	Rs.
Direct material consumed (inclusive of GST @18%)	2,36,000
Direct labour and direct expenses	1,60,000
Works overheads	40,000
Research and development costs	25,000
Administration overheads (75% related to production)	80,000
Inputs received free of cost from sister units (to be used only in goods manufactured for sister units)	35,000
Abnormal losses (not included above)	24,000
Advertisement and selling costs	36,000
VRS compensation to employees (not included above)	1,20,000
Realisable value of scrap/wastage	20,000

(Modified RTP Nov. 2014) (5 Marks, CS Final Dec. 2012)

Solution: Calculation of cost of production (amount in -

Direct material consumed (exclusive of GST) [$2,36,000 \times 100 \div 1181$] [WN-1]	2,00,000
Direct labour & expenses	1,60,000
Works Overheads	40,000
Research and development costs - Includible	25,000
Administrative Overheads ($80,000 \times 75\%$) [WN-2]	60,000
Abnormal losses - Not includible [WN-4]	Nil
Advertisement and selling costs [WN-5]	Nil
VRS compensation to labour/employees [WN-4]	Nil
Realisable value of Scrap/Wastage - Deductible from cost	-20,000
Cost of production of 1,000 units	4,65,000
Cost per unit	465
Cost of production of 800 units transferred to sister units [800×465]	3,72,000
Inputs received free of cost from sister unit [WN-3]	35,000
Total Cost of production of 800 units transferred to sister unit	4,07,000
Add: 10% mark up as per Rule 28	40,700

Working Notes:

1. Direct material cost shall be taken as net of GST since input tax credit availed cannot form part of cost of production.
2. Administrative overheads relatable to production only shall form part of cost of production.
3. Inputs received free of cost from sister unit form part of cost of production as per CAS-4 issued by ICMA.
4. Abnormal losses and VRS compensation shall also not form part of 'cost' as it is non-recurring cost arising due to unusual or unexpected occurrence of events.
5. Advertisement and selling costs shall not form part of cost of production.
6. As per Rule 28 of CGST Rules, 2017, the value of the supply of goods or services or both where the supplier and recipient are related shall -
 - (a) be the open market value of such supply;
 - (b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;
 - (c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of Rule 30 or Rule 31, in that order i.e. it must be worked out based on the cost of the supply plus 10% mark-up (Rule 30) or by other reasonable means, in that sequence (Rule 31).

Question 31. Value of taxable supply - Foreign exchange broking: Prada Forex Private Limited, registered in Delhi, is a money changer. It has undertaken the following purchase and sale of foreign currency:

- i) 1,000 US \$ are purchased from Nandi Enterprises at the rate of Rs.68 per US \$. RBI reference rate for US \$ on that day is Rs.68.60.
- ii) 2,000 US \$ are sold to Menavati at the rate of Rs.67.50 per US\$. RBI reference rate for US \$ for that day is not available.

Determine the value of supply in each of the above cases in terms of: (A) rule 32(2)(a) of the CGST Rules, 2017 (B) rule 32(2)(b) of the CGST Rules, 2017. **(RTP Nov., 2019) (ICAI P.Q.)**

Solution: Rule 32(2) of the CGST Rules, 2017 prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

(A) Determination of value under rule 32(2)(a) of the CGST Rules, 2017

- (a) Rule 32(2)(a) of the CGST Rules, 2017 provides that the value of supply of services for a currency, when exchanged from, or to, Indian Rupees, shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency. Thus, value of supply is:

$$= (\text{RBI reference for US \$} - \text{Buying rate of US \$}) \times \text{Total number of units of US \$ bought}$$

$$= (68.60 - 68) \times 1,000 = 600$$

(b) First proviso to rule 32(2)(a) of the CGST Act, 2017 lays down that when the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money. Thus, value of supply is:

= 1% of the gross amount of Indian Rupees received

= 1% of (67.50 x 2,000)

= 1,350

(B) Determination of value under rule 32(2)(b) of the CGST Rules, 2017

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

S.No.	Currency exchanged	Value of supply
1	Upto 1,00,000	1% of the gross amount of currency exchanged OR Rs.250 whichever is higher
2	Exceeding ' 1,00,000 and upto 10,00,000	Rs.1,000 + 0.50% of the (gross amount of currency exchanged -Rs.1,00,000)
3	Exceeding 10,00,000	Rs.5,500 + 0.1% of the (gross amount of currency exchanged -Rs.10,00,000) OR 60,000 whichever is lower

Thus, the value of supply in the given cases would be computed as under:

(a) Gross amount of currency exchanged = 68 x 1,000 = 68,000. Since the gross amount of currency exchanged is less than 1,00,000, value of supply is 1% of the gross amount of currency exchanged [1% of 68,000] or 250, whichever is higher.

= 680

(b) Gross amount of currency exchanged = 67.50 x 2,000 = 1,35,000. Since the gross amount of currency exchanged exceeds 1,00,000 but is less than 10,00,000, value of supply is 1,000 + 0.50% of (1,35,000 - 1,00,000).

=1,175

Question 32. Value of supply and GST: Arvin Ltd., sold a machine to Isha Ltd., for 4,00,000 (excluding taxes). A cash discount of 3% was allowed since Isha Ltd., had made full payment in advance. The following additional details are given below:

Sr. No.	Particulars	Amount (Rs.)
(1)	Expenses pertaining to installation and erection of the machine at Isha Ltd.'s premises (machine was permanently fixed to earth)	20,000
(2)	Cost of durable and returnable packing (such cost has been amortised and included in the cost of the machine)	5,000

(3)	Actual freight and insurance from factory to buyers premises	25,000
(4)	Subsidies (not received from Central Government)	15,000
(5)	Transportation cost paid by recipient on behalf of supplier	10,000

Determine the total amount of GST payable on the machine: Assume transaction is on principal to principal basis. Assume GST at 18% and show working notes. (Modified 5 Marks, May 2015)

Solution: Computation of Value of taxable supply of GST payable by Arvin Ltd. (amount in -

Price of machine excluding taxes Add: Inclusions		4,00,000
• Installation and erection of machine	[WN-1]	20,000
• Durable and returnable packing	[WN-2]	-
• Freight and Insurance	[WN-1]	25,000
• Subsidies received from persons other than Central government	[WN-3]	15,000
• Transportation cost	[WN-4]	10,000
Total		4,70,000
Less: 3% cash discount of price of machinery = 4,00,000 x 3%	[WN-5]	12,000
Value of taxable supply		4,58,000
GST payable @ 18%		82,440

Working Notes: While computing assessable value -

- (1) As per Section 15(2)(c) of CGST Act, 2017, if installation and erection charges and freight and insurance are charged by supplier to the recipient, then it would be included for computation of value of supply.
- (2) Cost of durable and returnable packing shall not be included in taxable value of supply since the same is amortised and not separately charged from the recipient.
- (3) As per Section 15(2)(e) of CGST Act, 2017, if Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments would be included in computation in value of supply.
- (4) As per Section 15(2)(b) of CGST Act, 2017, any amount that the supplier is liable to pay in relation to such supply but amount incurred by recipient on behalf of the supplier, that amount would be included in value of supply.
- (5) As per Section 15(3) of CGST Act 2017, if any discount which is given before or after the supply has been effected and is established in terms of an agreement or contract then it is excluded from the calculation of value of supply. made. The supplier may issue a debit note for such interest and cash discount recovered.

Question 33. Valuation of taxable supply and GST liability: Laxmi Ltd. of Bhopal (Madhya Pradesh) is a supplier of machinery. Laxmi Ltd. has supplied machinery to PQR Enterprises in Indore (Madhya Pradesh) on 15th October, 2020.

The invoice for supply has been issued on 1st October, 2020. Thus, the time of supply of machinery is 1st October, 2020.

Laxmi Ltd. and PQR Enterprises are not related. Following information is provided.

Basic price of machinery excluding all taxes but including design and engineering charges of 10,000 and loading charges of Rs.20,000 -Rs.20,00,000.

Laxmi Ltd. provides 2 years free warranty for the machinery. Laxmi Ltd. also provides an extended one year warranty on payment of additional charges of Rs.1,00,000. PQR Enterprises opted for one year warranty.

Laxmi Ltd. has collected consultancy charges in relation to pre-installation planning of Rs.10,000 and freight and insurance charges from place of removal to buyer's premises of Rs.20,000.

Laxmi Ltd. received subsidy of 50,000 from Central Government for supplying the machinery to backward region since receiver was located in a backward region. Laxmi Ltd. also received Rs.50,000 from the joint venture partner of PQR Enterprises for making timely supply of machinery to the recipient.

A cash discount of 1% on the basic price of the machinery is offered at the time of supply, if PQR Enterprises agrees to make the payment within 30 days of the receipt of the machinery at his premises. Discount @ 1% was given to PQR Enterprises as it agreed to make the payment within 30 days.

The machinery attracts CGST and SGST @18% (9% + 9%) and IGST @48%.

Compute the CGST and SGST or IGST payable, as the case may be on the machinery.

(10 Marks, May2018) ICAI P. Q.)

Solution: Computation of GST payable (amount in:

Price of the machinery	[WN 1]	20,00,000
Add: Extended warranty cost	[WN-2]	1,00,000
Consultancy charges in relation to pre-installation planning	[WN-3]	10,000
Freight and insurance charges	[WN-4]	20,000
Subsidy received from Central Government	[WN-5]	Nil
Receipts from Joint Venture of PQR Enterprises	[WN-5]	<u>50,000</u>
		21,80,000
Less: 1% discount on basic price = 20,00,000 x 1%	[WN-6]	<u>20,000</u>
Value of supply		<u>21,60,000</u>
CGST @ 9%	[WN-7]	1,94,400
SGST @ 9%	[WN-7]	1,94,400

Working Notes:

1. The value of a supply is the transaction value i.e., the price actually paid or payable assuming Laxmi Ltd. and PQR Enterprises Ltd. are not related and the price is the sole consideration for the supply.

Design and engineering charges are includible in the value of supply as any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is so includible in terms of Section 15 of CGST Act, 2017.

Further, loading charges being incidental expenses charged by the supplier to the recipient of supply, are includible in the value as per Section 15 of the CGST Act, 2017.

2. Warranty cost is includible in the value of the supply since transaction value includes all elements of the price excluding those that can be specifically excluded as per Section 15 of the CGST Act.
3. As per Section 15(2)(c), Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply.
4. Supply of machinery (goods) with supply of ancillary services like freight and insurance is a composite supply, the principle supply of which is the supply of machinery. Thus, value of such ancillary supply is includible in the value of composite supply.
5. Subsidies provided by the Central Government and State Governments are not includible in the value of supply in terms of Section 15 of the CGST Act, 2017. However, subsidy directly linked to the price received from a non- Government body is includible in the value in terms of Section 15.
6. Cash discount has been given to PQR Enterprises upfront at the time of supply and thus would have been recorded in the invoice and hence, the same is excluded from the value of supply in terms of Section 15 of the CGST Act, 2017.
7. In the given case -
 - (a) the location of the supplier is in Bhopal (Madhya Pradesh); and
 - (b) the place of supply of machinery is the location of the machinery at the time at which the movement of the same terminates for delivery to the recipient i.e., Indore (Madhya Pradesh).

Therefore, the given supply is an intra-State supply as the location of the supplier and the place of supply are in the same State. Thus, the supply will be leviable to CGST and SGST.

Question 34. Computation of Value of supply - Insurance Service: Zindagi Life Insurance Company Limited (ZUCL) has collected premium from subscribers and it intimates the amount allocated for investment to subscribers at the time of collection of premium. During the month of September 2020, it has collected the following receipts. All amounts are exclusive of tax. You are required to compute the value of supply by MIs. Zindagi in accordance with GST laws. **(4 Marks, May 2019-NS)**

S.No	Particulars	Amount (Rs.)
1.	Premium for only risk cover	25,00,000
2.	Premium from new subscribers	40,00,000
3.	Renewal Premium	80,00,000
4.	Single premium on annuity policy	1,00,00,000

Solution: Computation of Value of Taxable Supply of services (amount in:

Particulars	Amount	Rate	Taxable Value
General policies:			
Premium for only risk cover	25,00,000	-	25,00,000
Premium from new subscribers	40,00,000	25%	10,00,000
Renewal Premium	80,00,000	12.5%	10,00,000
Single premium annuity policy	1,00,00,000	10%	10,00,000
Value of supply			55,00,000

THE END

6. INPUT TAX CREDIT UNDER GST

Chapter overview:

- 1) Introduction
- 2) Relevant definitions
- 3) Eligibility & conditions for availing ITC- Sec 16
- 4) Apportionment of credit & blocked credit- Sec 17
- 5) Availability of credit in special circumstances- Sec 18

1. INTRODUCTION

- ♣ A person who is a registered person supplies goods or services or both liable for payment of the GST being it is his outward supply.
- ♣ while payment of GST on outward supply, whatever the taxes paid under the GST Act on inward supply can be avail as credit
- ♣ Even after availment of the credit if there is any excess balance of credit it has to be carry forward to the subsequent periods.
- ♣ After availment of the credit, if there is any net GST payable it has to be paid through electronic cash ledger.



2. RELEVANT DEFINITIONS:

Inward supply[Sec.2(67)]:

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




Capital goods [Sec 2 (19)]:

Capital good means

-  The value of which is capitalized in the books of accounts of the person claiming the ITC '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.

Input tax [sec 2 (62)]: In relation to a registered person means

Input tax in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes —

- a) the integrated goods and services tax charged on import of goods;
- b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
- d) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or

- e) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,
but does not include the tax paid under the composition levy [Section 2(62)].

Input tax credit [sec 2(63)]:

Input tax credit means the credit of input tax.

Output tax [sec 2(82)]:

Output tax in related to 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 exclude tax payable by him on reverse charge basis.

Taxable supply,

Exempt supply,

Non-taxable supply,

Aggregate turnover,

Taxable person.

Definitions are as discussed in the previous chapters

3. ELIGIBILITY & CONDITIONS FOR AVAILING INPUT TAX CREDIT [SEC-16]

Sec 16 (1): only registered person eligible to take ITC

- ✎ Every registered person shall be entitled to ITC of GST charged on inward supply of goods and / or services.
- ✎ this is subject to the provisions relating to use of ITC under section 49 and the conditions and restrictions in the rules.
- ✎ ITC of GST will be available on goods and/or services which are used or intended to use in the course or furtherance of the business.
- ✎ GST paid on inward supply will be credited to electronic credit ledger.

Sec 16(2): conditions to be satisfied for taking ITC:

1. Any of the following document shall be in the possession of registered person for claiming ITC

Sec 16(2)(a)

- i) invoice issued by the supplier of good & or services
- ii) Invoice issued by the recipient receiving goods and/or services from unregistered supplier along with proof of payment of tax, in case of reverse charge
- iii) A debit note issued by supplier
- iv) Bill of entry or any similar document prescribed under Custom act, 1962
- v) Revised tax invoice (no concept in GST but expect for 1 situation)
- vi) Document issued by input service distributor.

The documents basis which ITC is being taken should contain at least the following details:

- ✎ Amount of tax charged
- ✎ Description of goods or services



- ✎ Total value of supply of goods and/or services
- ✎ GSTIN of the supplier and recipient
- ✎ Place of supply in case of inter-State supply

Note: No ITC of tax paid towards demands involving fraud: Tax paid in pursuance of any order where any demand has been confirmed on account of any fraud, wilful misstatement or suppression of facts cannot be availed as ITC.

vii) Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s or IFF [New sub-rule (4) inserted in rule 36 of the CGST Rules]:

It is observed that some taxpayers take inflated or bogus ITC, even if proper tax invoices or debit notes in respect of inputs or input services are not available.

To exercise control over the malpractice of availing bogus ITC by the taxpayers, certain restrictions have been placed on availment of ITC.

ITC on all invoices/debit notes which are furnished by the suppliers in their GSTR-1s or using the invoice furnishing facility (IFF) can be availed in full.

The recipient gets details of tax invoices and debit notes furnished by the suppliers in their GSTR-1s or using the IFF, in his (recipient's) GSTR-2A and GSTR-2B. 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 GSTR-1 or using the invoice furnishing facility(IFF)	Full ITC , if all other conditions of availing ITC are fulfilled
OMITTED: Where invoice/debit note has not been uploaded by supplier in his GSTR-1 or using the invoice furnishing facility(IFF)	5% 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.

2. The person taking the ITC must have received the good & or services

Explanation: For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, **services**–

- i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
- ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.



Example: A is a trader who places an order on B for a consignment of wood. A receives a buying order from C for the same quantity of wood. A instructs B to deliver the goods to C, and in turn he raises an invoice on C. Though the goods are not physically received at the premises of A, section 16(2)(b) allows ITC of such goods to A.

Example: The registered head office (New Delhi) of ABC Pvt. Ltd. enters into a contract with DEF Pvt. Ltd. of New Delhi for repair and maintenance of computers systems installed at its registered branch office in Bengaluru, Karnataka. DEF Pvt. Ltd. issues an invoice on ABC Pvt. Ltd., New Delhi for the services provided by it. Though the actual services are received by the branch office and not by the head office, section 16(2)(b) allows ITC of such repair and maintenance services to head office.

3. Tax leviable on supply actually paid to govt (Sec 16(2)(c)):

- ✎ Tax should actually paid in cash or through utilization of ITC, on the goods or service for which ITC is being taken.
- ✎ However, section 41 allows the taxpayer (recipient) to take ITC provisionally on self-assessment basis



4. Filing of return [Sec 16(2)(d)]

The registered person taking the ITC must have filed his return under section 39. Presently, a summary return in form GSTR-3B is being filed on monthly basis. Thus, a taxpayer should file GSTR-3B to avail ITC on eligible inward supplies.



5. Goods received in lots /instalments (Proviso to Sec 16(2))

In case the goods covered under an invoice or not received in single consignment, but received in lots or instalments the ITC can be taken only upon the receipt of last lot or instalments.

6. Payment for the invoice to be made within 180 days [Second proviso to section 16(2) read with rule 37 of CGST Rules]:

The registered person must pay the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice.

In the event of failure to do so, the corresponding credits availed by the registered person would be added to his output tax liability, with interest. Interest will be paid

@18% from the date of availing credit till the date when the amount added to the output tax liability is paid.

However, once the recipient makes the payment of value of goods and/or services along with tax, he will be entitled to avail the credit again without any time limit, in case part-payment has been made, proportionate credit would be allowed.

Exceptions: (For point no: 6)

This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

- ✎ supplies on which tax is payable under reverse charge
- ✎ Deemed supplies without consideration.
- ✎ Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply.

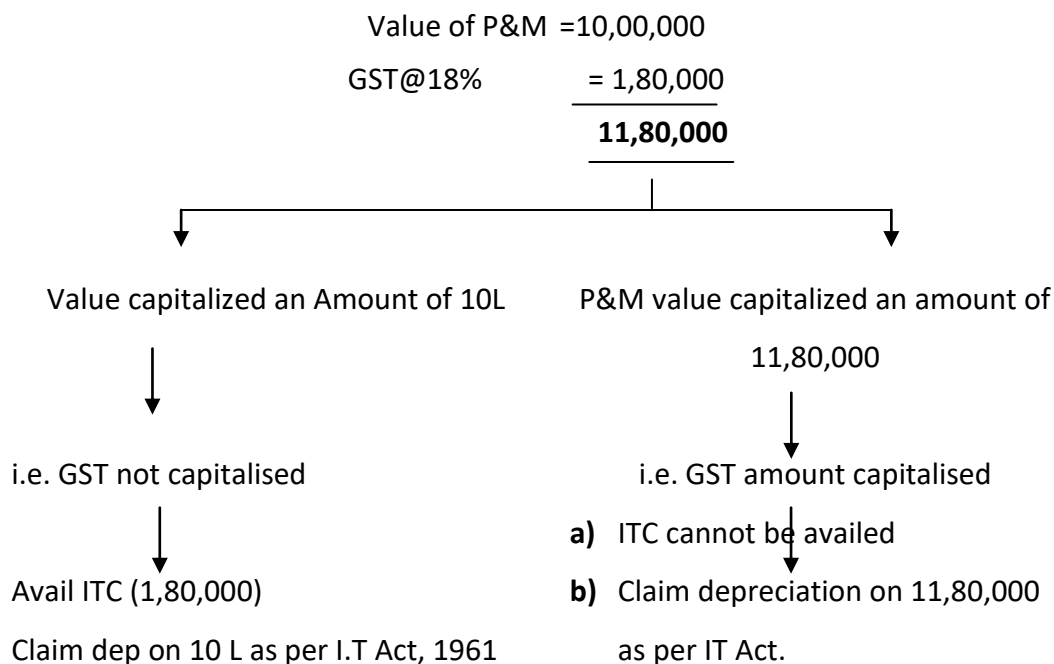
Sec 16(3): if depreciation claimed on tax component ITC not allowed

- ♠ 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.



- ♠ i.e. either depreciation on tax component or ITC any one of the option has to adopt. .

Solution:



Sec 16 (4): Time limit for availing of ITC

A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the to which such invoice or debit note pertains or, whichever is earlier.

a) **30th** day of November following the end of financial year (xx – xx – xxxx)

b) furnishing of the relevant annual return (xx – xx – xxxx)

Last date **for availing of ITC** xx – xx – xxxx

Exception: (to sec 16 (4))

This time limit is not applicable for availing of credit that had been reversed earlier

Example:

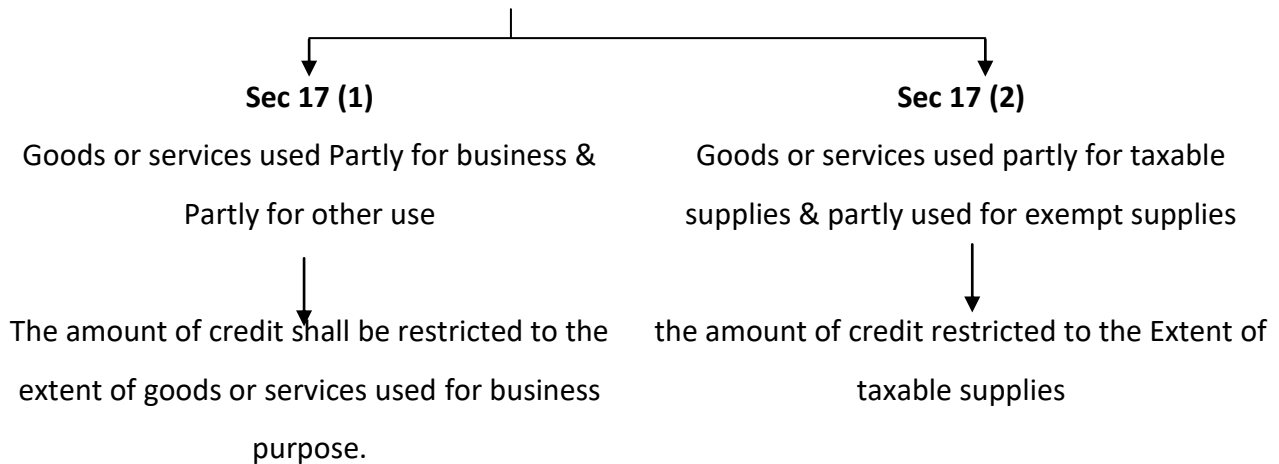
Triple platinum ltd purchased a generator on 15-09-2022 for the worth of 6L plus 18% GST, due to negligence of the accountant credit not availed in the subsequent period. While cleaning the accounting department premises above, invoice has been find on 15th July 2023. here give your suggestion can the company avail ITC under following situation.

- a) annual return has been filed on 15-05-2023
- b) annual return has been filed on 15-11-2023

Particulars	Situation -1	Situation -2
a. 30 th day of November following the end of financial year		
b. furnishing of the relevant annual return		
Time limit for availing of ITC		

4. Apportionment of credit & blocked credit [SEC 17]

Sec 17 (1), (2): Apportionment of ITC



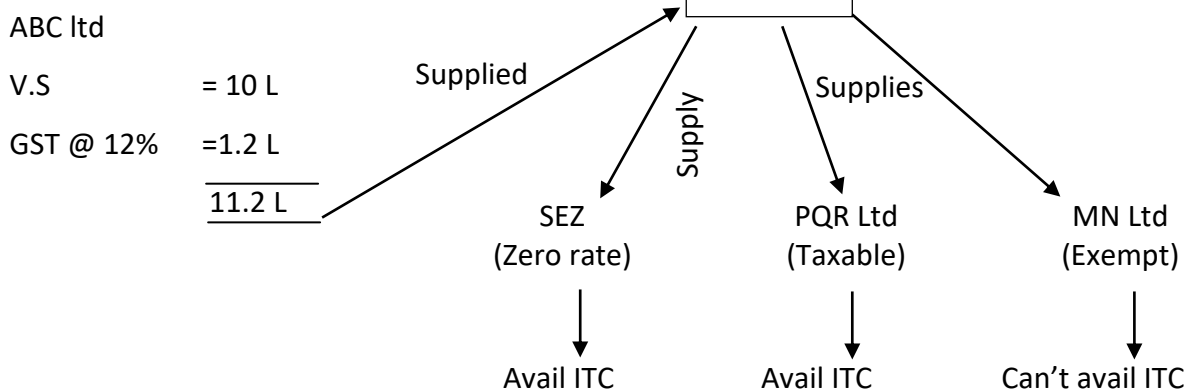
Taxable supply includes

- a) zero rated supply
- b) Zero rated supply means:
 - Export of goods or services
 - Supply made to special economic zone / sez. developers.



Example: A registered person (partnership firm) purchases 5 laptops but one of the laptop is being used by the son of one of the partners of the firm. ITC will not be available on such laptop as it is used for personal purposes.

Example:



Sec 17(3):

Inclusions in exempt supplies & valuation for the purpose of sec 17

Exempt supply includes:

- Supply on which the recipient is liable to pay tax on reverse charge basis
- Transaction securities e.g.: stock exchange (Bombay stock exchange, national stock exchange)

✎ Sale of land and subject to Paragraph 5(b) of schedule II, sale of building i.e. sale of land and sale of building when entire consideration is received after completion certificate issued by the competent authority.

Explanation: Value of exempt supply not to included Schedule III activities **except** sale of land/ building for the purpose of Section 17(3.)

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.

Note: The value of exempt supply in respect of land and building is the value adopted for paying stamp duty **and** for security is 1% of the sale value of such security.

Example:

Mr Akhil registered person provides the following information for the month of March 2022:

Particulars	Amount
Input tax credit in respect of inward supply	Rs.2,00,000
Taxable supply (Excluding zero rated supply)	Rs.10,00,000
Export i.e., zero-rated supply	Rs. 5,00,000
Exempt supplies	Rs. 3,00,000
Inward supplies on which he is liable to pay tax on reverse charge basis	Rs. 2,00,000

In this case computation of ITC available to Mr. Akhil are as under:

Particulars		Amount
Taxable supply (Excluding zero rated supply)		Rs.10,00,000
Export i.e., zero-rated supply		Rs. 5,00,000
Exempt supplies		Rs. 3,00,000
Inward supplies on which he is liable to pay tax on reverse charge basis		Rs. 2,00,000
Total Supply	A	Rs. 20,00,000
Total Supply Out of this taxable supply including zero rated supplies	B	Rs. 15,00,000
[Rs. 10,00,000 + Rs. 5,00,000]		
Input tax credit in respect of inward supply	C	Rs.2,00,000
ITC available [C x B/A] for the month of March 2022		Rs. 1,50,000

Manner of determination of input tax credit in respect of inputs or input services and reversal thereof [Rule 42]

The input tax credit in respect of inputs or input services, 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:

- The total input tax involved on inputs and input services in a tax period, be denoted as “T”;
- The amount of input tax, out of “T”, attributable to inputs and input services intended to be used exclusively for the 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 and input services on which credit is not available u/s 17(5), 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 intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T4'

Taxpoint:

In case of supply of services covered by clause (b) of paragraph 5 of Schedule II, value of T4 shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.

- g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in Form GSTR-2 and at summary level in Form GSTR-3B
- h) Input tax credit left after attribution of input tax credit under clause (f) shall be called common credit, be denoted as 'C2' and calculated as:

$$C2 = C1 - T4$$

- i) The amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as $D1 = (E / F) \times C2$

where,

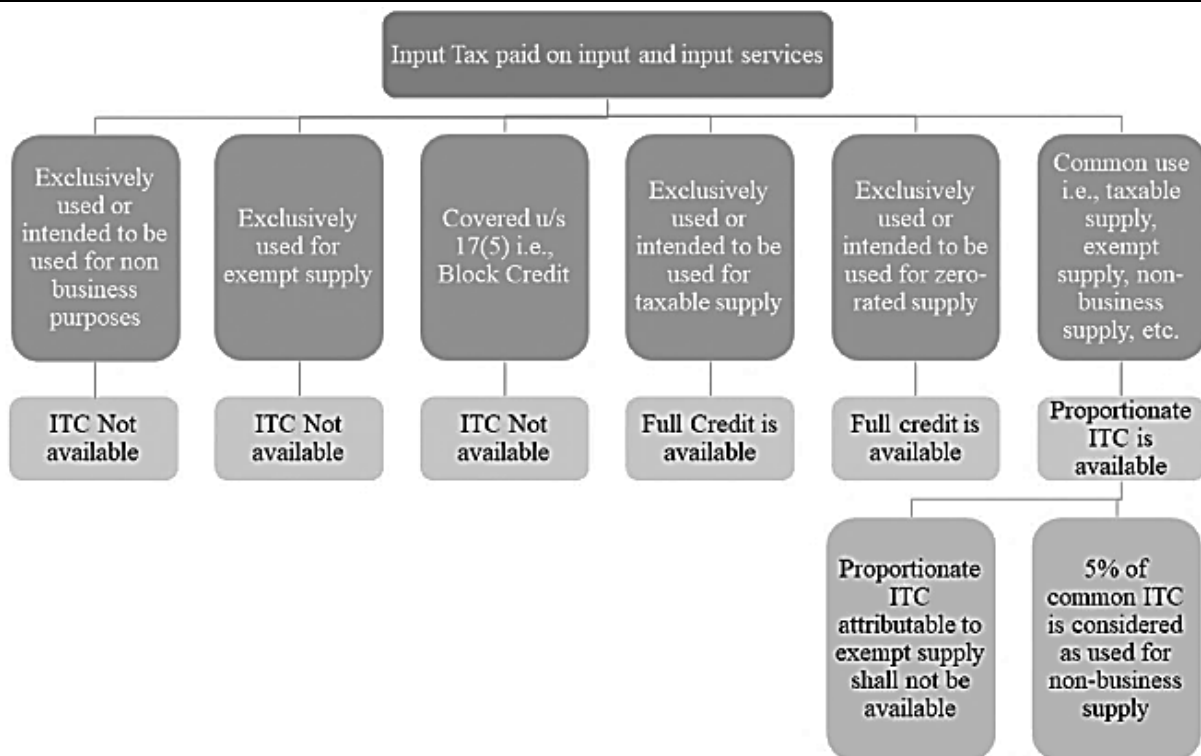
'E' is the aggregate value of exempt supplies during the tax period; and

'F' is the total turnover in the State of the registered person during the tax period:

- 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 5% of C2
- k) The remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C3', where,-

$$C3 = C2 - (D1 + D2)$$

- l) The amount 'C3', 'D1' and 'D2' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax
- m) The amount equal to aggregate of 'D1' and 'D2' shall be reversed by the registered person in Form GSTR- 3B or through Form GST DRC-03.



Example:

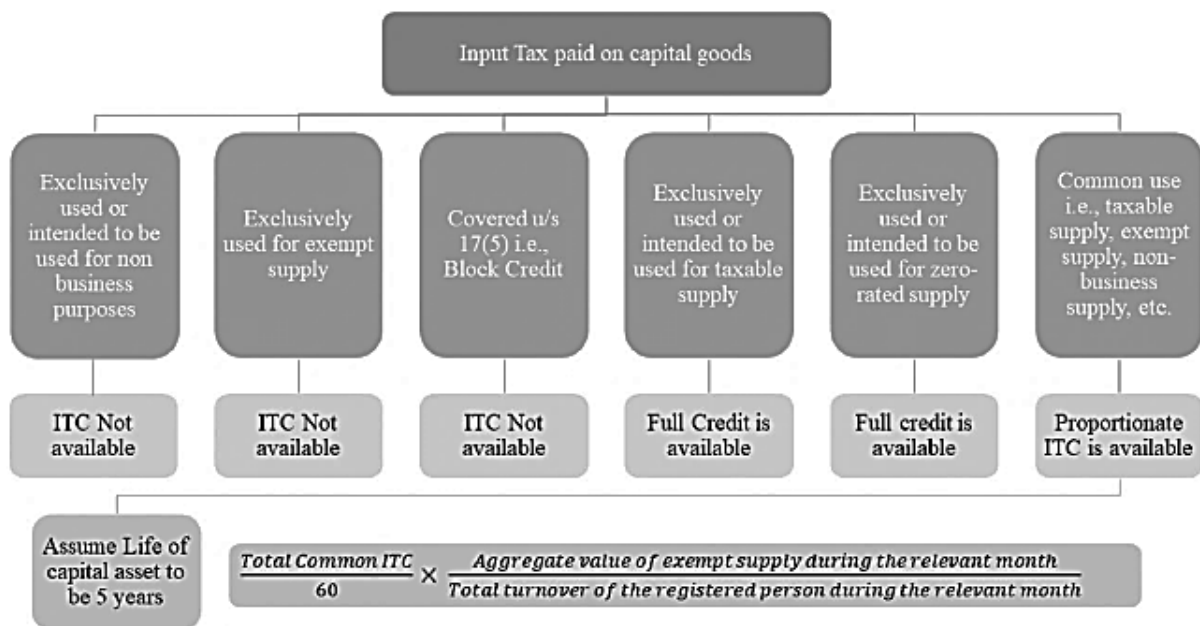
Particulars	Reference	Amount
Total input tax on inputs & input services for the tax period May 2022	T	2,00,000
Out of the total input tax (T):		
Input tax used exclusively for non-business purposes	T1	20,000
Input tax used exclusively for effecting exempt supplies	T2	20,000

Particulars	Reference	Amount
Input tax ineligible u/s 17(5)	T3	10,000
Total		50,000
ITC credited to Electronic Credit Ledger	$C1 = T - (T1 + T2 + T3)$	1,50,000
Input tax credit used exclusively for taxable supplies (including zero rated supplies)	T4	1,00,000
Common Credit	$C2 = C1 - T4$	50,000
Aggregate Value of exempt supplies for the tax period May 2022 (Note 1 & 2)	E	10,00,000
Total Turnover of the registered person for the tax period May 2022 (Note 1)	F	40,00,000
Proportionate of Common credit not allowed	$D1 = C2 \times E/F$	12,500
5% of Common credit not allowed	$D2 = C2 \times 5\%$	2,500
ITC to be reversed out of common credit	$D1 + D2$	15,000
Net ITC Available after reversal	$T4 + C2 - D1 - D2$	1,35,000

Note 1: If the registered person does not have any turnover for May 2022, then the value of E and F shall be considered for the last tax period for which such details are available

Note 2: Aggregate value excludes taxes

Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases [Rule 43]






Particulars	Reference	Amount
Total input tax on capital goods for the tax period May 2022 [Such capital goods shall be used in effecting taxable and exempt supply]		6,00,000
Common Credit	C	6,00,000
Aggregate Value of exempt supplies for the tax period May 2022	E	10,00,000
Total Turnover of the registered person for the tax period May 2022	F	40,00,000
ITC to be reversed for the tax period May 2022	$\frac{C}{60} \times \frac{E}{F}$	2,500











Sec 17(4):

Optional method for banks etc.

- ✍ As an alternative to the above method, a banking company or a financial institution including a NBFC, which accepts deposits, or extends loans or advances, has the option to limit its availment of ITC to **50%** of the eligible ITC on inputs, capital goods and input services each month and the remaining ITC shall lapse.
- ✍ Credit of tax paid on inputs and input services that are used for non-business purposes and items mentioned u/s section 17(5) [blocked credits] **cannot be availed**.
- ✍ The restriction of availing **50%** ITC shall not apply to the tax paid on supplies procured from another registration within the same entity i.e., **100% credit of such tax** can be availed.
- ✍ The option once exercised cannot be changed during the remaining part of the financial year

Sec 17(5): Blocked credit**Ineligible inputs / capital goods / input services****ITC shall not be available in respect of the following:****Sec 17(5):**

a)	Motor vehicles for transportation of persons 	Motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), However, credit will be available when they are used for making the following taxable supplies, namely: - (a) Further supply of such motor vehicles; or (b) Transportation of passengers; or (c) Imparting training on driving such motor vehicles.
	Examples: <ol style="list-style-type: none"> 1. ITC on cars purchased by a manufacturing company for official use of its employees is blocked. 2. ITC on cars purchased by a car dealer for sale to customers is allowed. 3. ITC on cars purchased by a company engaged in renting out cars for transportation of passengers, is allowed. 4. ITC on cars purchased by a car driving school is allowed. 5. ITC on buses purchased by company for transportation of its employees from their residence to office and back, is allowed. 6. ITC on trucks purchased by a company for transportation of its finished goods is allowed. 	
(aa)	Vessels and Aircraft  	Vessels and aircraft However, credit will be available when they are used – i) For making the following taxable supplies, namely: - (a) Further supply of such vessels or aircraft; or (b) Transportation of passengers; or (c) Imparting training on navigating such vessels, or (d) Imparting training on flying such aircraft; ii) For transportation of goods.
	Examples: <ol style="list-style-type: none"> 1. ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked. 2. ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed. 	
(ab)	Insurance, Repairs and Maintenance of Motor Vehicles, vessels and aircraft	Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa). However, the input tax credit in respect of such services shall be

		<p>available-</p> <ul style="list-style-type: none"> i) Where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein; ii) Where received by a taxable person engaged- <ul style="list-style-type: none"> i) In the manufacture of such motor vehicles, vessels or aircraft; of ii) In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him.
	<p>Examples:</p> <ol style="list-style-type: none"> 1. ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, is blocked. 2. ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed. 	
(b)	<p>Food and beverages, Outdoor Catering, Beauty Treatment Etc.</p> 	<ul style="list-style-type: none"> i) The following supply of goods or services or both- <ul style="list-style-type: none">  Food and beverages,  Outdoor catering,  Beauty treatment,  Health services,  Cosmetic and plastic surgery,  Leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) above except when used for the purposes specified therein,  Life insurance, and  Health insurance; <p>However, the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or service or both or as an element of a taxable composite or mixed supply'</p> ii) Membership of a club, health and fitness centre; and iii) Travel benefits extended to employees on vacation such as leave or home travel concession. <p>However, the input tax credit in respect of such goods or service or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.</p>

Examples:

1. 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. ITC on such outdoor catering services availed by AB & Co., is allowed.
2. ITC on outdoor catering services availed by a company, for a team development event organised for its employees, is blocked.
3. ITC on 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. ITC on such outdoor catering is allowed.
4. ITC on outdoor catering services received by a Mobile phones exporter for a marketing event organised for its prospective customers, is blocked.
5. Outdoor catering service is availed by a company to run a free canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.
6. The Managing Director of a company has taken membership of a club, the fees for which is paid by the company. ITC on such service is blocked.
7. A company avails services of a travel agency for organizing a free vacation for its top performing employees. ITC on such services is blocked.

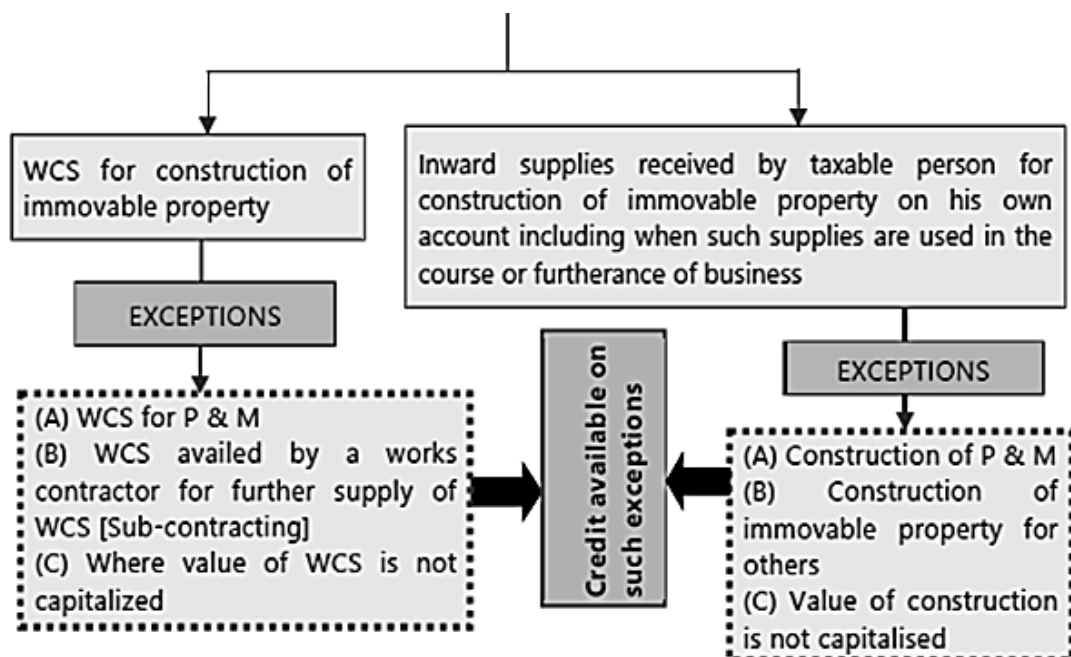
Sec 17(5)(c): Works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

Sec 17(5)(d):

Goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation: For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.

BLOCKED CREDITS



(A) Construction includes re-construction/ renovation/ addition/ alterations/ repairs to the extent of capitalisation to said immovable property.

(B) P & M means apparatus, equipment, & machinery fixed to earth by foundation or structural supports but excludes land, building/ other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

Sec 17(5)(e):

- A supplier registered under composition scheme cannot collect tax from its customers.
- Thus, such supplier issues bill of supply and not a tax invoice.
- A composition supplier pays a lumpsum tax at a specified rate on its quarterly turnover.
- Tax paid on goods and/or services under composition scheme is not available as ITC.

Sec 17(5)(f):

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)].

Tax paid on goods and/or services received by such non-resident taxable person, is not available as ITC. However, tax paid by him on imported goods is allowed as ITC.

Example:

Mr. Chamanlal imported diamonds value of 100L and he paid IGST of 3% at the time of import, for selling of diamonds in India following inwards supply has been received.

Particulars	Amount	GST
1. Hotel accommodation	5,00,000	60,000
2. Advertisement	1,00,000	18,000
3. Security services	2,00,000	10,000

Entire diamonds has been sold for the worth of 140L + 3% GST

Compute GST payable?

Note: Mr. Chamanlal is non-resident taxable person.

Solution:

Sec 17(5)(g): Goods and / or services used for personal consumption ITC blocked.

Sec 17(5)(h): Goods that are lost, stolen, destroyed, written off or disposed of by way of gift or free samples ITC blocked.

Example:

XYZ Ltd purchased 100 panels for manufacture of TV'S. While producing TV'S 25 panels are destroyed in fire accident, determine the implication on ITC?

The goods which are destroyed in fire accident not eligible for ITC. Hence XYZ Ltd can avail ITC only in relating to 75 panels

Note: However, if company availed ITC on 100 panels, when fire accident taken place on the day credit has to be reversed to the extent of 25 panels.

Sec 17(5)(i): Tax paid under sections 74, 129 and 130. (These sections prescribe the provisions relating to tax paid as a result of evasion of taxes, or upon detention of goods or conveyances in transit, or towards redemption of confiscated goods/conveyances.)

5. Availability of credit in special circumstances [Sec 18]

Sec 18(1): Availability of ITC in special circumstances

Sec 18(2): Time limit to take ITC

Sec 18 (3): Transfer of ITC an account of change in constitution.

Sec 18 (4): ITC reversal on switching over to composition scheme or taxable supply become exempt supply

Sec 18(5): Amount to be calculated in prescribed manner for 18(1) and (4)

Sec 18(6): Supply of plant and machinery after use tax implication.

Sec 18(1): Availability of ITC in special circumstances

Sec no	Special circumstances	ITC on I.G and C.G	ITC on the day of	Condition
18 (1)(a)	Person who has applied for registration within 30 days from the date on which he becomes liable to get registration and has been obtained such registration	Input held: 1) In stock 2) In semi-finished 3) Finished goods (+) Not ITC on capital goods	The day immediately preceding the date from which he becomes liable to pay tax.	ITC to be availed within 1 year from the date of the tax invoice given by the supplier
18 (1)(b)	Person who is not required to register but obtain voluntary registration	Input held: 1) In stock 2) In semi-finished 3) Finished goods (+) Not ITC on capital goods	The day immediately preceding the date of registration	ITC can be availed within 1 year from the date of the tax invoice given by the supplier.
18 (1)(c)	Registered person who ceases to pay composition tax, hence switches to regular scheme Example: 1) a person whose turnover crosses 100L 2) Voluntarily composite dealer adopt regular scheme in next financial year.	Input held: 1) In stock 2) In semi-finished 3) Finished goods (+) ITC on capital good allowed after reducing 5% per quarter from DOI	The day immediately preceding the date from which he becomes liable to pay tax under regular scheme	ITC can be availed within 1 year from the date of the tax invoice given by the supplier. (+) 1year invoice concept not applicable to the capital goods
18 (1)(d)	Registered persons who exempt supplies become taxable supplies	Input held: 1) In stock 2) In semi-finished 3) Finished goods	The day immediately preceding the date from which such supply becomes taxable	ITC can be availed within 1 year from the date of the tax invoice given by the supplier.

		(+) ITC on capital good allowed after reducing 5% per quarter from DOI		
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- 1) In all the above cases, the registered person has to make an electronic declaration in the prescribed form on the common portal, clearly specifying the details relating to the inputs held in stock, inputs contained in semi- finished or finished goods held in stock and capital goods on the days mentioned in column (4) of table above.
- 2) The declaration is to be filed within 30 days (**extendable by Commissioner / Commissioner of State GST /Commissioner of UTGST**) from the date when the registered person becomes eligible to avail ITC.
- 3) If the claim of ITC pertaining to CGST, SGST / UTGST, IGST put together exceeds Rs.2,00,000, the declaration needs to be certified by a practicing Chartered Accountant / Cost Accountant.

Example: Sec 18(1)(a)

Mr. Naresh carrying the business with taxable supply of goods in Amaravati. Being his turnover reached to 20L on 01.08.2023. He made an application for registration and obtained on 20-08-23. Remaining details as follows.

Particulars	On 31/7/23 day before to liable for payment of GST	On 19/8/23 day before to obtaining registration
♣ Inputs goods held as stock	5,00,000	4,50,000
♣ Value of semi-finished goods (SFG consists 30% of raw material)	8,00,000	9,00,000
♣ Value of finished goods (FG consists 70% of raw material)	12,00,000	10,00,000

- ♣ Capital goods purchased on 1-10-21 for the worth of 20L + 18% GST

Note: Rate of GST on inward supply is 12%

Determine the amount of ITC that can be availed by Mr. Naresh?

Solution:

Statement showing ITC that can be availed by Mr. Naresh

Particulars	Amount (ITC)
1) Input good	
2) Value of semi-finished goods	
3) Value of finished goods	
4) Capital good purchase on 01.10.21 for the worth of Rs. 20L + 18% GST	

Note:

- 1) As the absence of the information about the date of invoice I am presuming that all the invoices are related to input goods within 1 year from the date of issue of invoice to the date of liable for payment of GST
- 2) Capital goods purchase in exemption period, hence not eligible for ITC.

Example 2: Sec 18(1)(b)

Mr. Naresh carrying the business with taxable supply of goods in Amaravathi. Even though his turnover does not exceed 20,00,000, voluntarily he made an application for registration on 1-8-23, finally department given registration on 20-8-23 remaining details as follows.

Particulars	On 31/7/23 Day before to making an application	On 19-8-23 Day before to obtaining registration
a) Inputs goods held as stock	5,00,000	4,50,000
b) Value of semi-finished goods (SFG consists 30% of raw material)	8,00,000	9,00,000
c) Value of finished goods (FG consists 70% of raw material)	12,00,000	10,00,000
d) Capital goods purchase on 1-10-21 for the worth of 20L + 18% GST		

Note: rate of GST on inward supply 12% determine the amount of ITC that can be availed by

Solution:

Statement showing ITC that can be availed by Mr. Naresh

Particulars	Amount
1) Input goods	
2) Value of semi-finished goods	
3) Value of finished goods	
4) Capital goods (purchase under exemption period / before voluntary registration)	
ITC can be availed	

Example 3: Sec 18(1)(c)

Mr. Naresh carrying the business with taxable supply of goods under composition scheme at Amaravathi, being his turnover near to 150L he has to convert into the regular scheme, hence he made an application to the department on 1-8-23 apart from that he liable for payment of GST at regular rates on the date onwards. Department given conformation about conversion on 20th Aug. 2023

Remaining details as follows:

Particulars	On 31-7-23	On 19-3-23
	Day before to liable for payment of GST	Day before the obtaining registration
a) Input goods held as stock	5,00,000	4,50,000
b) SFG consist of 30% of raw material	8,00,000	9,00,000
c) Value of finished goods (FG consists 70% of RM)	12,00,000	10,00,000
d) Capital goods purchased on 01.10.2021 for the worth of 20L + 18% GST.		

Note: rate of GST on inward supply 12%

Determine the amount ITC that can be availed by Mr. Naresh?

Solution:

Statement showing ITC that can be availed by Mr. Naresh:

Particulars	Amount
Input goods	
Value of semi-finished goods	
Value of finished goods	
Capital good (working note)	

Example 4:

Mr. Naresh carrying the business with exempt supply of the goods in Amaravathi even though his turnover is more than 20L he didn't obtain registration due to exclusive dealing with exempt supply.

Government given a notification on 01-07-23, his supply will be taxable with effective from 20-08-23 remaining the details as follows:

Particulars	On 31/7/23	On 19/8/23
	Day on which notification of GST given	Day on which the supply will be taxable
♣ Input goods held as stock	5,00,000	4,50,000
♣ Value of SFG (semi-finished goods consists of 30% of RM)	8,00,000	9,00,000
♣ VALUE of finished goods (consists of 70% of RM)	12,00,000	10,00,000
♣ Capital goods purchased on 1-10-21 for the worth of 20L + 18% GST		

Note: Rate of GST on inward supply is 12% determine the amount of ITC that can be availed by Mr. Naresh.

Solution:

Statement showing ITC that can be availed by Mr. Naresh:

Particulars	Amount
Input goods	
Value of SFG	
Value of FG	
♠ Capital goods (working note)	

Sec 18(2)**Time limit to avail ITC- 1year from the date of invoice**

A registered person shall not be eligible to take credit u/s 18(1) in respect of any supply of goods or services or both to him after the expiry of 1year from the date of issue of invoice relating to such supply





Example: XYZ Ltd dealing with exempt supply of the goods, government notified this good as taxable supply with effective from 25th Jan 2022 on the day following invoice are available, can XYZ Ltd avail ITC with respect to all the invoices.


Invoice dated 15-07-21	GST amount = 25,000
Invoice dated 02-jan-21	30,000
Invoice dated 13.-sep-21	35,000


Solution:**Sec 18(3)****Transfer of ITC an account of change in constitution****Transfer of ITC on account of change in constitution of registered person:**

In case of change in constitution of a registered person like sale, demerger, transfer of business, amalgamation, merger etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution.

The provisions have been explained with the help of the following table

1) Change in constitution of registered person  Sale  Merger  Demerger  Amalgamation	2) Provision for transfer of liabilities <div style="text-align: center;">↓</div>	3) ITC remaining unutilised in the electronic credit ledger will be transferred to the newly constituted entity.
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 Lease

 Transfer of business

In the case of demerger, ITC will be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

The registered person will have to furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account / Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities.

Upon acceptance of such details by the transferee on the common portal, the unutilized ITC will be credited to his electronic credit ledger. The transferee will record the inputs and capital goods so transferred in his books of account.


Transfer of ITC on obtaining separate registrations for multiple places of business within a State/ Union Territory:


- Y The registered person (transferor), having separate registrations for multiple places of business within a State/Union Territory,
- Y can transfer the unutilised ITC (wholly or partly) lying in his electronic credit ledger to any or all of the newly registered place(s) of business
- Y in the ratio of the value of assets held by them at the time of registration.
 - a) Here, the 'value of assets' means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.
 - b) The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations.
 - c) Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC gets credited to his electronic credit ledger.

Sec 18(4)

ITC reversal on switching over to composition scheme.

Where any registered person who has availed of ITC

 Opts to pay tax v/s 10 (i.e., composition scheme)

 Where the goods or 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

- a) Inputs held in stock
- b) Inputs contained in semi-finished goods held in stock
- c) Inputs contained in finished goods held in stock
- d) Capital goods reduced by such percentage of points as may be prescribed (by taking useful life of capital goods as 5 years i.e., 60 months)

**Balance credit shall lapse:**

After payment of such amount the balance of ITC laying in his electronic credit ledger shall lapse.

Example:

Mr. Naresh carrying the business with taxable supply of goods in Amaravathi under regular scheme for the financial year of 22-23. In next financial year 23-24 he is intended to adopt composition scheme & made an application to the department on 15-march-2023 remaining details as follows:

Particulars	On 14 th march 2023	31 st March 2023
a) Raw material in stock	6,00,000	7,00,000
b) Value of semi-finished goods (SFG consists 40% of RM)	7,00,000	8,00,000
c) Value of finished goods (FG consists 60% of RM)	14,00,000	12,00,000
d) Capital goods purchase on 1-8-21 for the worth of 15L + GST @ 18%		

Note: rate of GST on inward supply 12%.

Determine the amount of ITC to be reversed in the following two situations

- a) Amount credited in electronic credit ledger is 2,00,000
- b) Amount credited in electronic credit ledger is 8,00,000

Solution:

Statement showing ITC that can be reversed by Mr. Naresh

Particulars	Amount
Amount credited in electronic credit ledger	
Input goods held as stock	
SFG	
FG	
Capital goods (working note)	
Amount that has to be reversed	

Working Note:

Calculation on capital goods: linked up (8(1) (c) & (d))

Particulars	Situation –a	Situation- b
Credit in electronic credit ledger (E.C.L)	2,00,000	8,00,000
Less: ITC to be reversed		
Amount to be paid		
Excess ITC will be lapsed		

SEC 18(5)

THE amount of credit that can be availed u/s 18(1) the amount of credit to be reversed in sec 18(4) shall be determined in such manner as may be prescribed

SEC 18(6)

Supply of plant and machinery after use – credit implication: In case of supply of capital goods or plant and machinery on which input tax credit has been taken the registered person shall pay higher of the following amount

a)	Amount of input tax credit taken	XXXX	
	(-) 5% per each quarter or part thereof on ITC of capital goods	XXXX	
		<u>(XXXX)</u>	XXXXX
b)	GST on transaction value of CG or plant and machinery as per SEC15		XXXXX
	Amount to be paid / debited to electronic credit ledger		<u>XXXXX</u>

↑
W
E
H

Example:

XYZ Ltd registered under normal scheme of GST and dealing with taxable goods company purchased a capital good on 01-07-17 for the worth of 20L + 18% GST due to financial crises above capital goods has been sold for the worth of 14,00,000 on 01-09-19.

- How much of ITC has to be reversed.
- Will your answer will be differ if CG has sold for 8,00,000?

Solution:

i)

- a) amount of input tax credit taken on

Less: 5% for each quarter or Part thereof on ITC of CG

(3,60,000 X 5% X 9Q) (a)

- b) GST on transition value of capital goods or plant and machinery as per sec 15 (14,00,000 X 18%) (b)

Amount to be paid / debited to E.C.L (a) or (b) W.E.H

ii)

iii)

- a) Amount of input tax credit taken on

3,60,000

less: 5% for each quarter or part thereof on ITC of CG

1,62,000

(a)

1,98,000

- b) GST on transaction value (as per sec 15) (b)

1,44,000

(8,00,000 X 18%)

Amount to be paid/ debit to E.C.L (a) or (b) W.E.H

1,98,000

↑
W
E
H

Note: if Refractories, bricks, moulds and dies, jigs and fixtures or supplied as scrap then tax levied on transaction value i.e. 5% reversal concept not applicable.

Taking input tax credit in respect of inputs and capital goods sent for job work [Sec. 19]

The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.

The principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.

Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with sec. 143(1)(a) or (b) within 1 year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

However, where the inputs are sent directly to a job worker, the period of 1 year shall be counted from the date of receipt of inputs by the job worker.

As per sec. 143, a registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,-

- a. bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out, to any of his place of business, without payment of tax;
- b. supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be.

The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.

The principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.

Where the capital goods sent for job work are not received back by the principal within a period of 3 years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

However, where the capital goods are sent directly to a job worker, the period of 3 years shall be counted from the date of receipt of capital goods by the job worker.

However, period of 1 year / 3 years shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Conditions and restrictions in respect of inputs and capital goods sent to the job worker [Rule 45]

The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, and

where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker.

The challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.

Further, the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.

The challan issued by the principal to the job worker shall contain the details specified in rule 55.

The details of challans in respect of goods dispatched to a job worker or received from a job worker during the specified period shall be included in Form GST ITC-04 furnished for that period on or before the 25th day of the month succeeding the said period or within such further period as may be extended by the Commissioner by a notification in this behalf.

Any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

“Specified period” shall mean -

- a. the period of 6 consecutive months commencing on the 1st day of April and the 1st day of October in respect of a principal whose aggregate turnover during the immediately preceding financial year exceeds Rs. 5 crore; and
- b. a financial year in any other case

Where the inputs or capital goods are not returned to the principal within the time stipulated in sec. 143, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in Form GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.

For determining the value of an exempt supply as referred to in sec. 17(3):

- a. the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and
- b. the value of security shall be taken as 1% of the sale value of such security.

Input Service Distributor

Input Service Distributor (ISD) means an office of the supplier of goods or services or both which receives tax invoices towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax (CGST), State tax (SGST)/ Union territory tax (UTGST) or integrated tax (IGST) paid on the said services to a supplier of taxable goods or services or both having same PAN as that of the ISD.

It is important to note that the ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (inputs or capital goods). Companies may have their head office at one place and units at other places which may be registered separately.

The Head Office would be procuring certain services which would be for common utilization of all units across the country. The bills for such expenses would be raised on the Head Office. But the Head Office itself would not be providing any output supply so as to utilize the credit which gets accumulated on account of such input services.

Since the common expenditure is meant for the business of all units, it is but natural that the credit of input services in respect of such common invoices should be apportioned between all the consuming units. ISD mechanism enables such proportionate distribution of credit of input services amongst all the consuming units.

Let's take an example to understand this concept. The corporate office of ABC Ltd., is at Bangalore, with its business locations of selling and servicing of goods at Bangalore, Chennai, Mumbai and Kolkata. Software license and maintenance is used at all the locations, but invoice for these services (indicating CGST and SGST) are received at Corporate Office. Since the software is used at all the four locations, the input tax credit of entire services cannot be claimed at Bangalore. The same has to be distributed to all the four locations. For that reason, the Bangalore Corporate office has to act as ISD to distribute the credit. If the corporate office of ABC Ltd, an ISD situated in Bangalore receives invoices indicating Rs. 4 lakh of Central tax, Rs. 4 lakhs of State tax and Rs. 7 lakh of integrated tax, it can distribute central tax, State tax as well as integrated tax of Rs. 15 lakh as credit of integrated tax amongst its locations at Bangalore, Chennai, Mumbai and Kolkata through an ISD invoice containing the amount of credit distributed.

The credit has to be distributed only to the unit to which the supply is directly attributable to. If input services are attributable to more than one recipient of credit, the distribution shall be in the pro-rata basis of turnover in the State/Union Territory.

For example, if an ISD has 4 units across the country. However, if a particular input service pertains exclusively to only one unit and the bill is raised in the name of ISD, the ISD can distribute the credit only to that unit and not to other units. If the input services are common for all units, then it will be distributed according to the ratio of turnover of all the units.

Manner of distribution of credit by Input Service Distributor [Sec. 20]

The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

The Input Service Distributor may distribute the credit subject to the following conditions:

- the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
- the amount of the credit distributed shall not exceed the amount of credit available for distribution;
- the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

- the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
- the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

For the purposes of this section,-

- The “relevant period” shall be:
 - if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or
 - if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;
- The expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;
- The term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entries 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Example:

M/s XYZ Ltd, having its head Office at Mumbai, is registered as ISD. It has three units in different states namely ‘Mumbai’, ‘Jabalpur’ and ‘Delhi’ which are operational in the current year. M/s XYZ Ltd furnishes the following information for the month of May, 2022 & asks for permission to distribute the below input tax credit to various units.

- CGST paid on services used only for Mumbai Unit: Rs.3,00,000/-
- IGST, CGST & SGST paid on services used for all units: Rs.12,00,000/-

Total Turnover of the units are as follows:

Unit	Turnover (Rs.)
Total Turnover of three units	Rs.10, 00, 00,000
Turnover of Mumbai unit	Rs.5, 00, 00,000 (50%)
Turnover of Jabalpur unit	Rs.3, 00, 00,000 (30%)
Turnover of Delhi unit	Rs.2, 00, 00,000 (20%)

Computation of Input Tax Credit Distributed to various units is as follows :

Particulars	Credit distributed to all units			
	Total credit available	Mumbai	Jabalpur	Delhi
CGST paid on services used only for Mumbai Unit	3,00,000	3,00,000	-	-
IGST, CGST & SGST paid on services used in all units [Distribution on pro rata basis to all the units which are operational in the current year]	12,00,000	6,00,000	3,60,000	2,40,000
Total	15,00,000	9,00,000	3,60,000	2,40,000

Credit distributed pro rata basis on the basis of the turnover of all the units is as under:

- a) Unit Mumbai: (Rs. 5,00,00,000 / Rs. 10,00,00,000) x Rs. 12,00,000 = Rs. 6,00,000
- b) Unit Jabalpur: (Rs. 3,00,00,000 / Rs. 10,00,00,000) x Rs. 12,00,000 = Rs. 3,60,000
- c) Unit Delhi: (Rs. 2,00,00,000 / Rs. 10,00,00,000) x Rs. 12,00,000 = Rs. 2,40,000

Manner of recovery of credit distributed in excess [Sec. 21]

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in sec. 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of sec. 73 or 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

Availment of input tax credit [Sec. 41]

1. Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.
2. The credit of input tax availed by a registered person in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

However, where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

Illustration:

M/s. Abishek Industries Ltd., has given the following information pertaining to the month of October, 2022:

S. No.	Particulars	Amount
1.	Total Input Tax Credit (ITC) on inputs and input services	18,00,000
2.	ITC attributable exclusively for non-business purposes (included in S.No. 1 above)	1,50,000

3.	ITC attributable exclusively for effecting exempt supplies (included in S. No. 1 above)	6,50,000
4.	ITC in respect of inputs on which credit is not available u/s.17(5) (included in S.No. 1 above)	50,000
5.	ITC attributable exclusively for effecting taxable supplies (included in S.No. 1 above)	5,50,000
6.	Total turnover	1,12,65,000
7.	Total value of exempt supplies	54,16,000

a. State the quantum of common credit.

b. State the amount of ITC to be reversed as per Rule 42.

Solution:

Computation of common credit and amount to be reversed as per Rule 42 :

Particulars	Reference	Amount
Total input tax on inputs & input services for the tax period	T	18,00,000
Out of the total input tax (T):		
Input tax used exclusively for non-business purposes	T1	1,50,000
Input tax used exclusively for effecting exempt supplies	T2	6,50,000

Particulars	Reference	Amount
Input tax ineligible u/s 17(5)	T3	50,000
Total		8,50,000
ITC credited to Electronic Credit Ledger	$C1 = T - (T1 + T2 + T3)$	9,50,000
Input tax credit used exclusively for taxable supplies (including zerorated supplies)	T4	5,50,000
Common Credit	$C2 = C1 - T4$	4,00,000
Aggregate Value of exempt supplies for the tax period	E	54,16,000
Total Turnover of the registered person for the tax period	F	1,12,65,000
Proportionate of Common credit not allowed	$D1 = C2 \times E/F$	1,92,312
5% of Common credit not allowed	$D2 = C2 \times 5\%$	20,000
ITC to be reversed out of common credit	D1 + D2	2,12,312

(1) Free samples and gifts:

- i) It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration.

- ii) Not regarded as supply:** The goods or services or both which are supplied free of cost (without any consideration) shall not be treated as 'supply' under GST (except in case of activities mentioned in Schedule I of the said Act).

Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as 'supply' under GST, except where the activity falls within the ambit of Schedule I of the said Act.

- iii) ITC not admissible, if activity not regarded as supply:** Further, Section 17(5)(h) of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.

However, where the activity of distribution of gifts or free samples falls within the scope of 'supply' on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

(2) Buy one get one free offer:

- (i)** Sometimes, companies announce offers like 'Buy One, Get One free' For example, 'buy one soap and get one soap free' or 'Get one tooth brush free along with the purchase of tooth paste'.

As per Section 7(1)(a) of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as 'supply' under GST (except in case of activities mentioned in Schedule I of the said Act).

Supply of two goods for the price of one: It may appear at first glance that in case of offers like 'Buy One, Get One Free', one item is being 'supplied free of cost' without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

- (ii) Taxability to be determined as per section 8:** Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

- (iii) ITC admissible:** It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

(3) Discounts including 'Buy more, save more' offers:

- (i) Staggered discount:** Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume).

For example - Get 10% discount for purchases above Rs.5,000/-, 20% discount for purchases above Rs.10,000/-and 30% discount for purchases above Rs.20,000/.

Such discounts are shown on the invoice itself.

(ii) Periodic / year ending discounts i.e. Volume discounts: Some suppliers also offer periodic/year ending discounts to their stockists, etc.

For example - Get additional discount 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year.

Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end.

In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.

(iii) Staggered discount / Volume discounts - deductible as per Section 15(3): It is clarified that discounts offered by the suppliers to customers (including staggered discount under ‘Buy more, save more’ scheme and post supply/volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in Section 15(3) of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

(iv) Supplier entitled to avail ITC: It is further clarified that the supplier shall be entitled to avail the ETC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

(4) Secondary Discounts:

i) These are the discounts which are not known at the time of supply or are offered after the supply is already over.

For example, M/s. A supplies 10000 packets of biscuits to M/s. B at Rs.10/- per packet. Afterwards M/s. A re-values it at Rs.9/- per packet. Subsequently, M/s. A issues credit note to M/s. B for 17/- per packet.

ii) **The provisions of Section 34(1) provides as under:**

“Where one or more tax invoices have 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 exceed the 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 one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”

- iii) Representations have been received from the trade and industry that whether credit notes(s) u/s 34(1) of the said Act can be issued in such cases even if the conditions laid Section 15(3)(b) of the said Ad are not satisfied.

It is hereby clarified that financial/commercial credit note(s) can be issued by the supplier even if the conditions mentioned in Section 15(3)(b) of the said Act are not satisfied.

In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

- iv) **Secondary discounts not deductible:** It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in Section 15(3)(b) of the said Act are not satisfied.
- v) In other words, value of supply shall not include any discount by way of issuance of credit note(s) as- explained above or by any other means, except in cases where the provisions contained in Section 15(3)(b) of the said Act are satisfied.
- vi) There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

ILLUSTRATIONS

Illustration 1: ABC Co. Ltd., registered under GST, 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. These items were supplied free of cost to the customers in a customer meet organized by the company	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. Assume all the conditions necessary for availing the ITC have been fulfilled.

Ans:

Computation of ITC available with ABC Co. Ltd. for the month of July

S. No.	Items	ITC (Rs.)
(i)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a)]	1,00,000
(iii)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000

(iv)	Confectionery items for consumption of customers at customers meet [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total ITC	8,20,000

Illustration 2: XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 20XX from the following particulars:-

S. No.	Inward supplies	GST (Rs.)	Remarks
(i)	Inputs 'A'	1,00,000	One invoice on which GST payable was Rs.10,000, is missing
(ii)	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October, 20XX.
(iii)	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.
(iv)	Input services	2,25,000	One invoice dated 20.01.20XX on which GST payable was Rs.50,000 has been received in October, 20XX.

Note:

- i) All the conditions necessary for availing the ITC have been fulfilled.
- ii) The annual return for the financial year ending 31st March 20XX was filed on 15th September, 20XX.

Ans:

Computation of ITC available with XYZ Ltd. for the month of October, 20XX

S. No.	Inward supplies	GST (Rs.)
(i)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
(ii)	Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First proviso to section 16(2)]	Nil
(iii)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
	Input services [As per section 16(4), ITC on an invoice cannot be availed after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier.	1,75,000

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

Illustration 3: Mr. X, a supplier of goods, pays GST under regular scheme. He has made the following outward taxable supplies in a tax period:

Particulars	(Rs.)
Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	(Rs.)
Intra-State purchases of goods	2,00,000
Inter-State purchases of goods	50,000

Mr. X has following ITCs with him at the beginning of the tax period:

Particulars	(Rs.)
CGST	57,000
SGST	Nil
IGST	70,000

Note:

Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

Both inward and outward supplies are exclusive of taxes, wherever applicable.

All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Mr. X during the tax period. Make suitable assumptions as required. (MTP – OCT19)

Ans:

Computation of minimum GST payable in cash by Mr. X on outward supplies

S. No.	Particulars	(Rs.)	GST (Rs.)
(i)	Intra-State supply of goods		
	CGST @ 9% on Rs.8,00,000	72,000	
	SGST @ 9% on Rs.8,00,000	<u>72,000</u>	1,44,000
(ii)	Inter-State supply of goods		
	IGST @ 18% on Rs.3,00,000		54,000
	Total GST payable		1,98,000

Computation of total ITC

Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
Opening ITC	57,000	Nil	70,000
Add: ITC on Intra-State purchases of goods valuing Rs.2,00,000	18,000	18,000	Nil
Add: ITC on Inter-State purchases of goods valuing Rs.50,000	Nil	Nil	9,000
Total ITC	75,000	18,000	79,000

Computation of minimum GST payable from cash ledger

Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18%(Rs.)
GST payable	72,000	72,000	54,000
Less: ITC	(Nil)-IGST	(25,000)-IGST	(54,000)-IGST
	(72,000) – CGST	(18,000) – SGST	Nil
Minimum GST payable in cash	Nil	29,000	Nil

Note : Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cashoutflow.

Illustration 4: What is input tax?

Ans:

Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reversecharge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

Illustration 5: What are the conditions necessary for obtaining ITC?

Ans:

Following four conditions are to be satisfied by the registered taxable person for obtaining ICT:

- a) He is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
- b) He has received the goods or services or both;
- c) Subject to section 41, the supplier has actually paid the tax charged in respect of the supply to the Government; and
- d) He has furnished the return under section 39.

Illustration 6: Can a person take ITC without payment of consideration for the supply along with tax?

Ans:

Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

Illustration 7: What is the time limit for taking ITC and reasons therefor?

Ans:

Refer point (vi) "Time limit for availing ITC: Due date of filing return for the month of September of succeeding financial year or date of filing of annual return, whichever is earlier" under Heading No. 3 "Eligibility and Conditions for Taking Input Tax Credit [Section 16]".

Illustration 8: What is the ITC entitlement of a newly registered person?

Ans:

A person applying for registration can take input tax credit 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. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

In case of voluntary registration, ITC of such goods held in stock on the day immediately preceding the date of registration can be taken.

Illustration 9: What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

Ans:

In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods, whichever is higher.

Illustration 10: A taxable person is in the business of information technology. He buys a car (maximum seating capacity – 5 persons) for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such car?

Ans:

No. As per section 17(5) (a), ITC on motor vehicles for transportation of persons with seating capacity of up to 13 persons (including driver), can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of supply of such motor vehicles.

Illustration 11: A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

Ans:

Under section 16(2) of the IGST Act, credit of input tax is allowed to be taken for inward supplies used to make zero rated supplies. Under section 17 of the CGST Act also, ITC is disallowed only to the

extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies. Supplies to SEZ units are zero rated supplies in terms of section 16(1) of IGST Act. Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ.

Illustration 12: A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory.

Ans:

Thread and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be reversed in terms of rule 42 of the CGSTRules.

Credit attributable to exempt supplies = Common credit x (Exempt turnover/ Total turnover)

Common credit = Rs.15,000 + Rs.5,000 = Rs.20,000

Exempt turnover = Rs.1 crore

Total turnover = Rs.5 crore [Rs.1 crore + Rs.4 crore]

Credit attributable to exempt supplies = (Rs.1 crore /Rs.5 crore) x Rs.20,000 = Rs.4,000.

Ineligible credit of Rs.4,000 will be reversed. Credit of Rs.16,000 will be eligible credit for the month of July.

Illustration 13: Mr. A, a registered person was paying tax under Composition scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for any ITC?

Ans:

Mr. A is eligible for ITC on inputs held in stock and inputs contained in semi- finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice [Section18(1)(c)].

Illustration 14: M/s. Comfortable (P) Ltd. is registered under GST in Chennai, Tamil Nadu. It is engaged in the manufacture of iron and steel products. It has carried out following transactions in the financial year 20XX-XX:-

Purchased 1,000 Metric Ton (MT) iron @ 1,000 per MT (excluding GST) from M/s. Hard Ltd. of Chennai. M/s. Hard Ltd. has fulfilled the order as follows:

Date	Quantity (MT)	Taxable Value
28-Feb-20XX	200	2,00,000/-
10-Mar-20XX	250	2,50,000/-
25-Mar-20XX	250	2,50,000/-
28-Mar-20XX	200	2,00,000/-

Balance order requirement has been fulfilled by Hard Ltd. on 5-Apr-20XX. However, Hard Ltd. has raised the invoice for full order at the time of dispatch of first lot, i.e. on 28-Feb-20XX. M/s. Comfortable (P) Ltd. has made the full payment on 28-Feb-20XX for the order. (MTP – MAR 19)

Ans:

Computation of net GST payable for the financial year 20XX-XX

Particulars	Value (Rs.)	CGST (Rs.)	SGST (Rs.)
Tax liability			
Intra-State supplies made to registered persons	10,00,000	90,000	90,000
Intra State supplies made to unregistered persons	2,00,000	<u>18,000</u>	<u>18,000</u>
Total (A)		1,08,000	1,08,000
Input Tax credit			
Supply of iron in lots by M/s Hard Limited [Note-1]	10,00,000	-	-
Supply of IT engineering service [Note-2]	11,00,000	<u>99,000</u>	<u>99,000</u>
Total (B)		99,000	99,000
Net GST payable (A)-(B)		9,000	9,000

Notes:

- Section 16 of CGST Act, 2017 provides that where the goods against an invoice are received in lots or installments, the registered person shall be entitled to take credit upon receipt of the last lot or installment. Although 900 tonnes of iron are received in financial year 20XX-XX, the last lot of iron has been received after FY 20XX-XX only, i.e. on 5, April 20XX, thus no input tax credit is available in FY 20XX-XX.

In view of above provisions, full input tax credit in respect of transaction (a) will be claimed in financial year 20XX-20XX i.e. on receipt of last installment.

- Section 16 of CGST Act, 2017 *inter alia* provides that every registered person is entitled to take credit of input tax charged on supply of services to him which are used in the course of business on receipt of the said services.

Thus, in view of the above mentioned provisions full input tax credit of Rs. 1,98,000/- can be claimed in financial year 20XX-XX.

Illustration 15: Company has received IT engineering service from M/s. Dynamic Infotech (P) Ltd. of Chennai for Rs. 11,00,000/- (excluding GST) on 28-Oct-20XX. Invoice for service rendered was issued on 5-Nov-20XX. M/s Comfortable (P) Ltd. made part-payment of Rs. 4,13,000/- on 31-Dec-20XX. Being unhappy with service provided by M/s Dynamic Infotech (P) Ltd., it did not make the balance payment. Deficiency in service rendered was made good by M/s Dynamic Infotech (P) Ltd. by 15-Feb-20XX. M/s. Comfortable (P) Ltd. made payment of Rs. 2,95,000/- on 15-Feb-20XX towards full and final settlement of the dues and did not pay the balance amount (MTP – MAR 19)

Ans:

Section 16 of CGST Act, 2017 provides that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in the prescribed manner.

However, the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon. Since the full amount of value along with tax payable thereon has not been paid by M/s Comfortable (P) Ltd. to M/s Dynamic Infotech (P) Ltd within a period of 180 days from the date of issue of invoice, the proportionate amount of input tax credit availed needs to be reversed. However, the reversal will be done in the financial year 20XY-YZ during when the time period of 180 days expire.

Input tax credit to be reversed in financial year 20XX - XX

Particulars	Amount (Rs.)
Total value of procurement of IT engineering service	11,00,000
Add: Total GST on the above value @ 18%[CGST + SGST]	<u>1,98,000</u>
Value including GST	12,98,000
Amount paid for the said service including GST [Rs. 4,13,000 + Rs. 2,95,000]	<u>7,08,000</u>
Amount [value along with tax payable thereon] not paid for the said service	5,90,000
ITC to be reversed [Rs. 5,90,000 x 18/118]	90,000

Illustration 16: Advise regarding availability of input tax credit (ITC) under the CGST Act, 2017 in the following independent cases:-

- i) AMT Co. Ltd. purchased a mini bus having seating capacity of 16 persons for transportation of its employees from their residence to office and back.**
- ii) Bangur Ceramics Ltd., a manufacturing company purchased two trucks for transportation of its finished goods from the factory to dealers located in various locations within the country.**
- iii) “Hans premium” dealing in luxury cars in Chankyapuri, Delhi purchased five Skoda VRS cars for sale to customers.**
- iv) Sun & Moon Packers Pvt. Ltd. availed outdoor catering service to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. (RTP – NOV 19)**

Ans:

- (i)** Section 17(5) of the CGST Act, 2017, *inter alia*, blocks input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for certain specified purposes.
Since in the given case, the mini bus has a seating capacity of 16 persons, the ITC thereon will not be blocked.

(ii) Section 17(5) of the CGST Act, 2017, *inter alia*, blocks input tax credit in respect of motor vehicles **for transportation of persons** with certain exceptions. Thus, ITC on motor vehicles for transportation of goods is allowed unconditionally.

Therefore, ITC on trucks purchased by Bangur Ceramics Ltd for transportation of its finished goods from the factory to dealers located in various locations within the country is allowed.

(iii) Section 17(5) of the CGST Act, 2017, *inter alia*, blocks input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making further supply of such motor vehicles.

Being a dealer of cars, "Hans Premium" has purchased the cars for further supply. Therefore, ITC on such cars is allowed even though seating capacity is less than 13.

(iv) Section 17(5) of the CGST Act, 2017 *inter alia*, blocks input tax credit in respect of outdoor catering services. However, ITC is available on such services, when the same are provided by an employer to its employees under a statutory obligation.

Thus, in view of the above- mentioned provisions, Sun & Moon packers Pvt. Ltd. can avail ITC in respect of outdoor catering services availed by it as the same is being provided under a statutory obligation.

Illustration 17: Harshgeet Pvt. Ltd., a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to purchases made/services availed by it during the month of July:

S. No	Particulars	GST (Rs.)
(1)	Raw material (to be received in the month of September)	2,50,000
(2)	Membership of a club availed for employees working in the factory	1,45,000
(3)	Inputs to be received in 5 lots, out of which 3rd lot was received during the month	80,000
(4)	Trucks used for transport of raw material	40,000
(5)	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is Rs.80,000)	1,50,000

Determine the amount of ITC available with Harshgeet Pvt. Ltd. for the month of July by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

Ans:

Computation of ITC available with Harshgeet Pvt. Ltd. for the month of July

Particulars	ITC (Rs.)
Raw Material	Nil
[ITC not available as raw material is not received in July]	
Membership of a club availed for employees working in the factory	Nil
[Blocked credit in terms of section 17(5)]	

Inputs to be received in 5 lots, out of which 3rd lot was received during the month	Nil
[In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	
Trucks used for transport of raw material	40,000
[ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally]	
Capital goods	70,000
[ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. Rs. 80,000, is not available.]	
Total ITC	1,10,000

Illustration 18: Dina Ltd., a registered supplier from Maharashtra, is engaged in the manufacture of passenger autos. The company provides the following details of purchases made/services availed by it during the month of March:

S. No.	Particulars	GST (Rs.)
(1)	Purchase of iron which is used as a raw material	2,50,000
	[Goods were received in two instalments - first in March and the second in April]	
(2)	Purchase of accessories which were delivered directly to the dealers of the company on the direction of Dina Ltd.	90,000
	[Only invoice was received by Dina Ltd.]	
(3)	Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back	1,97,000
(4)	General insurance taken on a car used by executives of the company for official purposes	5,200

You are required to determine the ITC available with Dina Ltd. for the month of March, by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

Ans:

Computation of ITC available with Dina Ltd. for the month of March

Particulars	ITC (Rs.)
Purchase of iron used as a raw material	Nil
[When inputs are received in instalments, ITC can be availed only on the receipt of last instalment. Hence, since last instalment is received in April, ITC cannot be availed in March.]	
Purchase of accessories delivered directly to the dealers of the company	90,000
[Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.]	

Bus for the transportation of employees	1,97,000
[ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.	
General insurance taken on car used by executives of the company for official purpose	Nil
[ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.]	
Total ITC	2,87,000

Illustration 19: Paritosh & Co., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	Amount (Rs.)
Intra-State supply of goods	10,00,000
Inter-State supply of goods	8,00,000

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	Amount (Rs.)
Intra-State purchases of goods	3,00,000
Inter-State purchases of goods	2,50,000

Paritosh & Co. has following ITCs with it at the beginning of the tax period:

Particulars	Amount (Rs.)
CGST	57,000
SGST	60,000
IGST	1,40,000

Note:

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 ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Paritosh & Co. for the tax period and the ITC to be carried forward to the next month. Make suitable assumptions as required.

Ans:

Computation of GST payable on outward supplies

S.No.	Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)	Total (Rs.)
(i)	Intra-State supply of goods for Rs.10,00,000	90,000	90,000		1,80,000
(ii)	Inter-State supply of goods for Rs.8,00,000			1,44,000	1,44,000
	Total GST payable				3,24,000

Computation of total ITC

Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
Opening ITC	57,000	60,000	1,40,000
Add: ITC on Intra-State purchases of goods valuing Rs.3,00,000	27,000	27,000	Nil
Add: ITC on Inter-State purchases of goods valuing Rs.2,50,000	Nil	Nil	45,000
Total ITC	84,000	87,000	1,85,000

Computation of minimum GST payable from electronic cash ledger

Particulars	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)	Total (Rs.)
GST payable	90,000	90,000	1,44,000	3,24,000
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST and SGST liabilities in a manner to minimize cash outflow]	(38,000) IGST	(3,000) IGST	(1,44,000) IGST	1,85,000
	(52,000) CGST	(87,000) SGST		1,39,000
Minimum GST payable in cash	Nil	Nil	Nil	Nil
ITC balance to be carried forward next month	Nil	Nil	32,000	

Note: The above computation is one of the many ways to set off the ITC of IGST (Rs.41,000-after set off against IGST liability) against CGST and SGST liability to compute minimum GST payable in cash. To illustrate, IGST of Rs.10,000 can be set off against SGST payable and IGST of Rs.31,000 can be set off against CGST payable. In this situation also, the net GST payable will be nil but the ITC of CGST and SGST to be carried forward will be Rs.25,000 and Rs.7,000 (totaling to Rs.32,000) respectively. However, if the entire ITC of Rs.41,000 is set off against CGST payable, then SGST of Rs.3,000 will be payable in cash thus, increasing the cash outflow. Therefore, such a set off would not be advisable for computing the minimum GST payable.

ILLUSTRATION 20: Jamku Ltd., a registered person, is engaged in the business of spices. It provides following details in relation to GST paid on inward supplies procured by it during the month of October.

S. No.	Particulars	GST (Rs.)
(1)	Raw spices purchase	
	- Raw spices sold to customers	50,000
	- Raw spices used for personal use of directors	20,000
(2)	Electric machinery purchased for being used in the manufacturing process	25,000
(3)	Motor vehicle used for transportation of the employee	55,000
(4)	Payment made to contractor for construction of staff quarter	1,25,000

Determine the amount of ITC available with Jamku Ltd. for the month October by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

Ans:

Computation of ITC available with Jamku Ltd. for the month of October

Particulars	ITC (Rs.)
Purchase of raw spices which are sold to customers [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	50,000
Purchase of raw spices for personal use of directors [ITC is not available on goods used for personal consumption.]	Nil
Electric machinery purchased for being used in the manufacturing process [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	25,000
Motor vehicle used for transportation of employee [ITC on motor vehicles for transportation of persons with seating capacity \leq 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. In the given case, since the supplier is in the business of spices, ITC on motor vehicle used for transportation of the employee is blocked credit.]	Nil
Payment made to contractor for construction of staff quarter [ITC is not available on goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.]	Nil
Total ITC	75,000

TEST YOUR KNOWLEDGE

1. In which of the following situations, taxpayer needs to reverse the credit already taken?
 - a) If payment is not made to the supplier within 45 days from the date of invoice
 - b) If payment is not made to the supplier within 90 days from the date of invoice
 - c) If payment is not made to the supplier within 180 days from the date of invoice
 - d) None of the above
2. What is the time limit for taking ITC on invoices pertaining to a financial year?
 - a) 180 days
 - b) 1 year
 - c) Due date of filing return for the month of September of the next financial year or the date of filing annual return, whichever is earlier
 - d) No limit
3. If the goods are received in lots/instalment, _____
 - a) 50% ITC can be taken on receipt of 1st installment and balance 50% on receipt of last installment.
 - b) ITC can be availed upon receipt of last installment
 - c) 100% ITC can be taken on receipt of 1st installment.
 - d) Proportionate ITC can be availed on receipt of each lot/ installment
4. For banking companies using inputs and input services partly for taxable supplies and partly for exempt supplies, which of the statement is true?
 - a) ITC shall be compulsorily restricted to credit attributable to taxable supplies including zero rated supplies
 - b) 50% of eligible ITC on input capital good, and input service shall be mandatorily availed in a month and the rest shall lapse.
 - c) Banking company can choose to exercise either option (a) or option (b)
 - d) None of the above
5. A supplier takes deduction of depreciation on the GST component of the cost of capital goods as per Income- tax Act, 1961. The supplier can-
 - a) avail only 50% of the said tax component as ITC
 - b) not avail ITC on the said tax component
 - c) avail 100% ITC of the said tax component
 - d) avail only 25% of the said tax component as ITC
6. Which of the following inward supplies are not eligible for ITC in case of a company manufacturing shoes?
 - a) Food and beverages
 - b) Outdoor catering
 - c) Health services
 - d) All of the above
7. Which of the following statement is true for a composition tax payer?
 - a) A composition tax payer can avail only 50% of ITC on capital goods.
 - b) A composition tax payer can avail 100% ITC on inputs.
 - c) ITC is not available on inward supplies made by a composition tax payer.
 - d) Composition tax will be available as ITC to the recipient only if the tax is mentioned separately in the invoice raised by the composition tax payer.

HINTS

1. (c) 2. (c) 3. (b) 4. (c) 5. (b) 6. (d) 7. (c)

THE END

CHAPTER OVERVIEW:

Sec 22: Persons liable for registration

Sec 23: Persons not liable for registration

Sec 24: Compulsory registration in certain cases

Sec 25: Procedure for registration

Sec 26: Deemed registration


Sec 27: Special provisions in relation to casual taxable person & non – resident taxable person

Sec 28: Amendment of registration

Sec 29: Cancellation **or** suspension of registration


Sec 30: Revocation of cancellation of registration

Relevant definitions:

 Exempt supply

 Business

 Registered person

 Taxable supply




 Taxable territory

 Taxable person

 Aggregate turnover





} As we discussed in previous chapters

a) Place of business Sec 2(85):

-  A place from where the business is ordinarily carried on and includes a warehouse, a godown or any other place where a taxable person stores his goods supplies or receives goods or services or both or
-  A place where taxable person maintains his books of accounts or;
-  A place where a taxable person is engaged in business through an agent by whatever name called,

b) Agriculturist Sec 2(7):

Means an individual / HUF who undertakes cultivation of land:

-  By own labour, or
-  By the labour of family or,
-  By servants on wages payable in cash or kind or by hired labour
-  Under personal supervision or the personal supervision of any member of the family.

c) Principle place of business Sec 2(89): Means the place of business specified as the principle of business in the certificate of registration.

Example:

Srinivasa electrical having 6 branches in AP, for all the branches single registration is enough. However, for proper communication with department a permanent business address has to be given, out of all the branches any one branch can be chosen as PPB.

Note: Other than principle place of business will be treated as additional place of business.

d) Tax period Sec 2(106):

Means the period for which the return is required to be furnished.

Example: For regular / normal dealer: 1 month and
For composite dealers: 3 months

- e) Fixed establishment Sec 2(50):** 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.

SEC 22: PERSONS LIABLE FOR REGISTRATION

1) Threshold limit for registration

- ✍ **Who:** Every supplier of goods or services or both is required to obtain registration
- ✍ **Where:** in the State or the Union territory from where he makes the taxable supply
- ✍ **When:** if his aggregate turnover exceeds specified threshold limit in a FY.

2) Applicable threshold limit:

- a)** The threshold limit prescribed under section 22(1) is Rs.20 lakh in a FY, i.e. every supplier, whose aggregate turnover in a financial year exceeds Rs.20 lakh, is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services.
- b)** However, the limit of Rs.20 lakh will be reduced to Rs.10 lakh if the person is carrying out business in **Special Category States**. As per Article 279A(4)(g) of the Constitution, there are 11 Special Category States, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

However, as per the explanation (iii) to section 22, for the purposes of registration, only Mizoram, Tripura, Manipur and Nagaland are Special Category States. Therefore, the threshold limit Rs.10 lakh is applicable for Mizoram, Tripura, Manipur and Nagaland.
- c)** Government is empowered to enhance the threshold limit of Rs.20 lakh upto Rs.40 lakh for a supplier engaged exclusively in the supply of goods, at the request of a State and on the recommendations of the Council. This shall be subject to such conditions and limitations, as may be notified.

For the purposes of section 22(1), a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Further, Notification No. 10/2019 CT dated 07.03.2019 exempts any person who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed **Rs.40 lakh**, from registration requirement.

- d) Exceptions to this exemption are as follows:** (i.e. for enhance limit of 40L)

Persons required to take compulsory registration under section 24 of the CGST Act.

- i) Persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa [2105 00 00], Pan masala [2106 90 20] and all goods of Chapter 24, i.e. Tobacco and manufactured tobacco substitutes.

6815	Fly ash bricks
6901 00 10	Bricks of fossil meals
6904 10 00	Building bricks
6905 10 00	Roofing tiles

- ii) Persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Uttarakhand, Meghalaya, Sikkim, Telangana, Puducherry and Special Category States as per section 22 [Nagaland, Mizoram, Manipur, Tripura]. Inter-State supplies of goods are nevertheless liable to compulsory registration and are already covered in exception (a) above.

- iii) Person who has opted for voluntary registration or such registered persons who intend to continue with their registration under the CGST Act.



			Threshold limit for persons engaged	
			exclusively in supply of goods	in supply of services/ both goods and services
States other than Special Category States		Puducherry	Rs.20 lakh	Rs.20 Lakh
		Telangana	Rs.20 lakh	Rs.20 Lakh
		Others	Rs.40 lakh	Rs.20 Lakh
Special Category States as per Constitution	Special Category States as per section 22	Manipur	Rs.10 lakh	Rs.10 Lakh
		Mizoram	Rs.10 lakh	Rs.10 Lakh
		Nagaland	Rs.10 lakh	Rs.10 Lakh
		Tripura	Rs.10 lakh	Rs.10 Lakh
	Others	Jammu and Kashmir	Rs.40 lakh	Rs.20 Lakh
		Assam	Rs.40 lakh	Rs.20 Lakh
		Himachal Pradesh	Rs.40 lakh	Rs.20 Lakh
		Arunachal Pradesh	Rs.20 Lakh	Rs.20 Lakh
		Meghalaya	Rs.20 Lakh	Rs.20 Lakh
		Sikkim	Rs.20 Lakh	Rs.20 Lakh
		Uttarakhand	Rs.20 Lakh	Rs.20 Lakh

States with threshold limit of Rs.10 lakh for both goods and services	States/UTs with threshold limit of Rs.20 lakh for both goods and services	States/UTs with threshold limit of Rs.20 lakh for services and Rs.40 lakh for goods**
Manipur	Arunachal Pradesh	Jammu and Kashmir
Mizoram	Meghalaya	Assam
Nagaland	Sikkim	Himachal Pradesh
Tripura	Uttarakhand	All other States
	Puducherry	
	Telangana	

3) Registration required only for a place of business from where taxable supply takes place

- A person is required to obtain registration with respect to his each place of business in India from where a taxable supply has taken place.
- However, a supplier is not liable to obtain registration in a State/UT from where he makes an exempt/non-taxable supply.
- Further, the threshold limit of a person having places of business in more than one State/UT in India gets reduced to Rs.10 lakh only when such person makes **taxable supplies** of goods or services or both from any of the Special Category States as per section 22.
- However, in case he makes exempt/non-taxable supply from a Special Category State and taxable supplies from a State other than Special Category State, the threshold limit shall not be so reduced.

4) Person liable for registration in case of transfer of business

-  Where a business is transferred, whether on account of succession/ any other reason [including transfer/change in the ownership of business due to death of the sole proprietor], to another person as a **going concern**, the transferee/ successor, is to be registered with effect from the date of such transfer/succession.
-  Where the business is transferred, pursuant to sanction of a scheme/ arrangement for amalgamation/ de-merger of two or more companies, pursuant to an order of a High Court/Tribunal, the transferee is to be registered with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order.

PERSONS NOT LIABLE FOR REGISTRATION [SECTION 23]

- Persons not liable to registration:** Section 23 lists the persons who are not liable to registration. Thus, the persons so listed will not be the 'taxable persons'.

(A) Person engaged exclusively in the business of supplying goods and /or services not liable to tax/wholly exempt from tax: As per section 23, 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 CGST Act/ IGST Act shall not be liable to registration.

(B) An agriculturist, to the extent of supply of produce out of cultivation of land: An agriculturist to the extent of supply of produce out of cultivation of land is also not liable to registration.

ii) Specified category of persons notified by the Government exempted from obtaining registration

Following category of persons have been notified as being exempted from obtaining registration under GST law:

A. Persons making only reverse charge supplies

Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) have been exempted from obtaining registration

B. Persons making inter-State supplies of taxable services up to Rs.20 lakh

C. Persons making inter-State taxable supplies of notified handicraft goods up to Rs.20,00,000

D. Casual Taxable Persons making inter-State taxable supplies of notified handicraft goods up to Rs.20 lakh

COMPULSORY REGISTRATION IN CERTAIN CASES [SECTION 24]

The following category of persons are mandatorily required to obtain the registration under GST irrespective of their turnover-However, certain exemptions from registration have also been provided under section 23. These exceptions have been incorporated briefly at the relevant places in the discussion under this heading in order to provide a holistic picture.

- i) Persons making any inter-State taxable supply** (It must be noted that Central Government has granted exemption from Registration to person making interstate supplies of taxable services having aggregate turnover not exceeding Rs.20 lakh (Rs.10 lakhs in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland)) (Notification No. 10/2017-IT dated 13-10-2017 w.e.f 13-10-2017)
- ii) Casual taxable person** who does not have a fixed place of business in the State or Union Territory from where he wants to make supply [However, threshold limit of Rs.20 lakh (Rs.10 lakh in case of Special category, States of Mizoram, Tripura, Manipur and Nagaland) is available in case of CTP who is making inter-State taxable supplies of notified handicraft goods and other notified products;
- iii) Persons who are required to pay tax under reverse charge** i.e. recipient of supply is liable to pay tax; However, persons engaged exclusively in making outward supplies, tax on which is liable to be paid on reverse charge basis are exempt from registration
- iv) Person who are required to pay tax under section 9(5)** i.e. E-Commerce operator who is required to pay tax on specified services;

- v) **Non-resident taxable persons** making taxable supply;
- vi) Persons who are required to **deduct tax u/s 51**, whether or not separately registered under this Act;
- vii) Persons who make taxable supply of goods or services or both **on behalf of other** taxable persons whether as an agent or otherwise;
 - a) the principal should be a taxable person; and
 - b) the supplies made by the commission agent should be taxable.
- viii) **Input Service Distributor**, whether or not separately registered under this Act;
- ix) Persons who supply goods or services or both, other than supplies specified u/s 9(5), **through such electronic commerce** operator who is required to collect tax at source u/s 52; [Persons who are suppliers of service and supplying services through e-commerce operator are not required to register under GST if their aggregate turnover is less than Rs.20 lakhs per annum (Rs.10 lakhs in case of specified States) - Notification No. 65/2017-CT dated 15-12-2017];
- x) Every electronic commerce operator who is required to **collect tax at source** under section 52; (Thus, small e-commerce operators who are not required to collect tax at source under section 52 would now be eligible for availing the threshold exemption limit benefit for registration purposes.)
- xi) 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
- xii) Such **other person** or class of persons as may be notified by the Govt. on the recommendations of the Council.

PROCEDURE FOR REGISTRATION [SECTIONS 25, 26 & 27]

Procedure for registration is governed by section 25 of the CGST Act read with relevant CGST Rules, 2017. Relevant provisions of CGST Rules, 2017 have been incorporated at the relevant places. Further, special provisions have been provided for registration of casual taxable person and non-resident taxable person under section 27. Concept of deemed registration has been elaborated under section 26.

Under GST, the application for registration has to be submitted electronically at the GST Common Portal – www.gst.gov.in, duly signed or verified.

A large number of forms/formats relating to registration have been prescribed in the CGST Rules. For every process in the registration chain such as application for registration, acknowledgment, query, rejection, registration certificate, show cause notice for cancellation, reply, cancellation, amendment, field visit report etc., there are separate standard formats. This makes the process uniform all over the country. The decision-making process has also been expedited. Strict time-lines have been stipulated for completion of different stages of registration process.

i) Where and by when to apply for registration.[Section 25(1)]

Particulars	Where	When
Person who is liable to be registered under section 22 or section 24	in every such State/UT in which he is so liable	within 30 days from the date on which he becomes liable to registration
A casual taxable person or a nonresident taxable person		at least 5 days prior to the commencement of business
Every person who makes a supply from the territorial waters of India	in the coastal State/UT where the nearest point of the appropriate base line is located.	within 30 days from the date on which he becomes liable to registration

ii) State-wise registration [Section 25(2) read with rule 11]

A. One registration per State

- ✎ Registration needs to be taken State-wise, i.e. there is no centralized registration under GST. A business entity having its branches in multiple States will have to take separate State-wise registration for its branches in different States.
- ✎ Further, within a State, an entity with different branches shall be granted single registration wherein it can declare one place as principal place of business (PP)B) and other branches as additional places of business (APOB)

B. Separate registration for different places of business within a State/UT may be granted

- ✎ Although a taxpayer having multiple places of business in one State is not mandatorily required to obtain separate registration for each such place of business in the State, he has an option to obtain independent registrations with respect to each such separate place of business.
- ✎ However, separate registration for each place of business shall be granted provided all separately registered places of business of such person pay tax on supply of goods/services/both made to another registered place of business, of such person and issue a tax invoice/bill of supply, for such supply. Separate registration application needs to be filed for each place of business.
- ✎ A registered person opting to obtain separate registration for a place of business shall submit a separate application in Form GST REG 01 in respect of such place of business.
- ✎ The provisions of rules 9 and 10 [Discussed in subsequent paras] relating to verification and grant of registration shall mutatis mutandis apply to an application submitted under this rule.

C. Composition levy in case of separate registration for multiple places of business within a State/UT

- ✎ If a person is paying tax for one of his places of business under normal scheme, he shall not pay tax under composition levy for any other place of business.

- ✎ If one of the places of business [separately registered] of a registered person becomes ineligible to pay tax under composition levy, all other registered places of business of said person would also become ineligible to pay tax under composition levy.
- ✎ The provisions of rules 9 and 10 [Discussed in subsequent paras] relating to verification and grant of registration shall mutatis mutandis apply to an application submitted under this rule.

iii) Voluntary registration [Section 25(3)]

A person who is not liable to be registered under section 22 or section 24 may get himself registered voluntarily. In case of voluntary registration, all provisions of this Act, as are applicable to a registered person, shall apply to voluntarily registered person.

However, once a person obtains voluntary registration, he has to pay tax even though his aggregate turnover does not exceed Rs.40 lakh/Rs.20 lakh/ Rs.10 lakh, as the case may be.

iv) Distinct Persons/ establishments of distinct persons [Section 25(4) & (5)] A person who has obtained/ is required to obtain more than one registration, whether in one State/ Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons**.

Further, 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**.

These concepts have already been discussed in detail in Chapter 2– Supply under GST.

v) PAN must for obtaining registration [Section 25(6) & (7)]

A Permanent Account Number is mandatory to be eligible for grant of registration.

- ❖ A Non-Resident Taxable Person (NRTP) may be granted registration on the basis of other prescribed documents [Elaborated in subsequent paras].

vi) Unique Identity Number (UIN) [Section 25(9) & (10) read with rule 17]

Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization as notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries and any other person notified by the Commissioner, is required to obtain a UIN from the GSTN portal.

This UIN is needed for claiming refund of taxes paid on notified supplies of goods and/or services received by them, and for such other purpose as may be notified. UIN granted is a centralized UIN i.e. it shall be applicable to the territory of India. A person having UIN is not registered person and thus, is not a taxable person.

The proper officer may, upon submission of an application in prescribed form or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN to the said person and issue a certificate in Form GST REG 06 within **3 working days** from the date of submission of application.

vii) Suo-motu registration by the proper officer [Section 25(8) read with rule 16]

Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act** has failed to

apply for such registration, such officer may register the said person on a temporary basis and issue an order in prescribed form.

****Such person shall either:**

- (i) submit an application for registration in prescribed form within 90 days from the date of grant of temporary registration, or
- (ii) file an appeal against such temporary registration.





In case (ii), if the Appellate Authority upholds the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Authority.

Provisions relating to verification and issue of registration certificate [as contained in rules 9 and 10] [discussed in subsequent paras] shall, mutatis mutandis, apply to such application submitted by the person granted temporary registration. GSTIN thereafter granted shall be effective from the date of order of proper officer granting temporary registration.

viii) Procedure for registration [Section 25 read with rules 8, 9 & 10]

Provisions relating to procedure for application for registration, verification of the application and approval & issue of registration certificate are contained in the rules 8, 9 and 10 respectively. The same have to be read in conjunction with section 25 provisions. The procedure for registration prescribed under rules 8, 9 and 10 are also applicable to a person paying tax under composition levy, every person seeking voluntary registration as well as a casual taxable person.

However, procedure so laid down will not apply to:

-  Non-resident taxable person (NRTP)
-  A person required to deduct tax at source under section 51
-  A person required to collect tax at source under section 52
-  A person supplying OIDAR services from a place outside India to a non-taxable online recipient referred to in section 14 of IGST Act.

Separate registration forms and procedure have been prescribed for each of the aforesaid persons. Procedure relating to NRTP has been discussed subsequently, but procedure for other three persons has been covered at the Final level.

Such persons shall apply for registration in **Form GST REG 01**. The application for registration in GST Form REG 01 is divided into two parts – Part A and Part B.

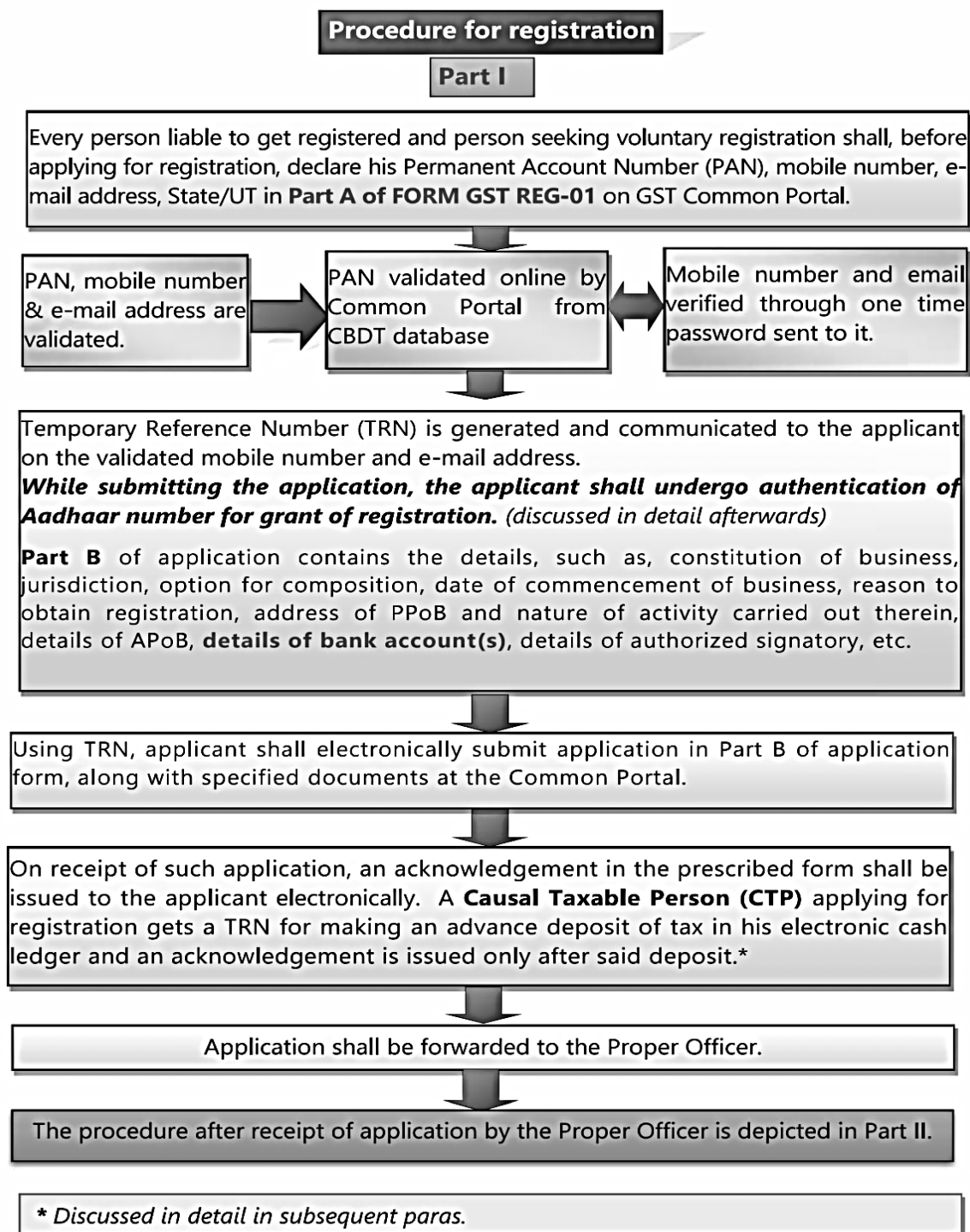
In order to cater to the needs of tax payers who are not IT savvy, Facilitation centers have been established which help the taxpayer in submitting the application for registration, amending the registration certificate, submitting application for cancellation of registration, revocation of cancellation of registration, etc. Facilitation Centre shall be responsible for the digitization and/or uploading of the forms and documents.

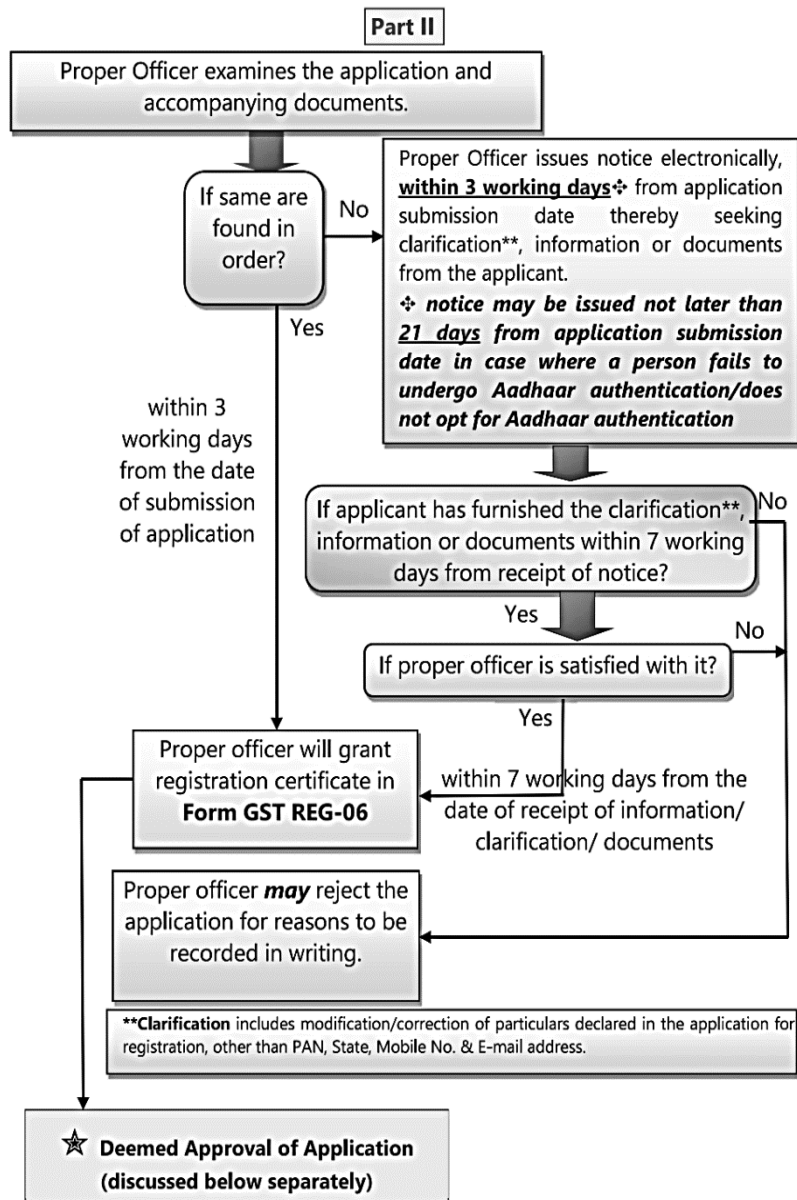
Application for registration by Special Economic Zone (SEZ) [Second proviso to section 25(1): A person having unit in SEZ/an SEZ developer will have to make a separate application for registration as distinct from his place of business located outside SEZ in the same State/UT.

Thus, there may be a case where two units of a tax payer are located in same State/UT - one in SEZ and another outside SEZ. In that case, separate registrations have to be obtained for each of the two units as separate places of business.

Application for registration by Input Service Distributor [Second proviso to rule 8(1) of the CGST Rules, 2017]: Every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor. There is no threshold limit for registration for an ISD. An ISD is required to obtain a separate registration even though it may be otherwise registered, though the application shall be made in Form GST REG 01 only. Different offices like marketing division, security division etc. may apply for separate ISD registration.

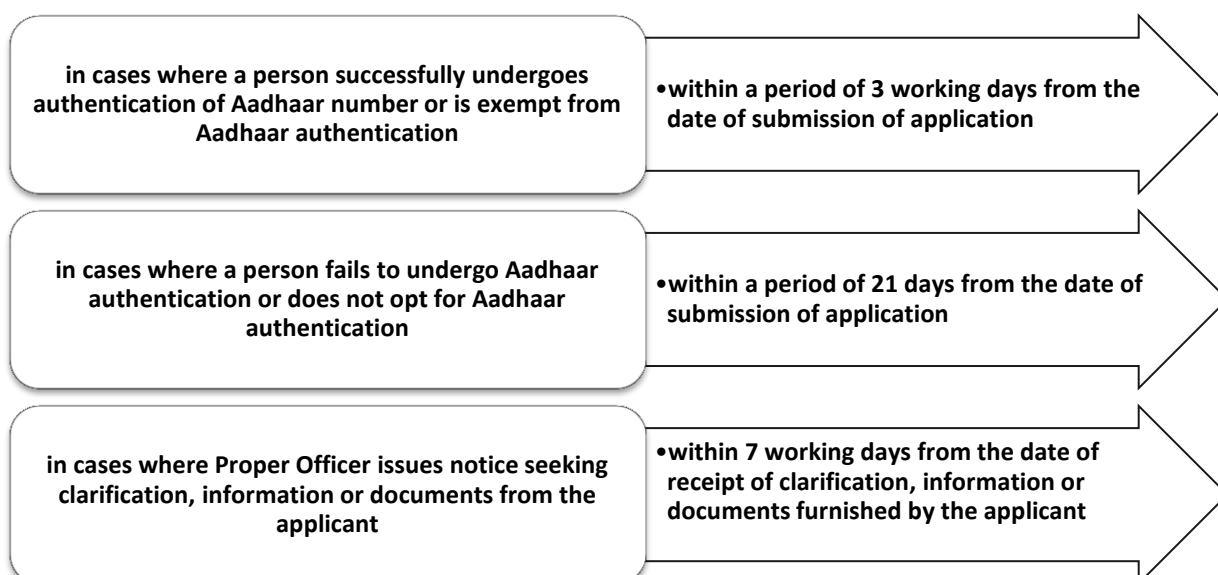
Procedure for registration has been depicted by way of a diagram on next page:





★ Deemed Approval of Application

If the proper officer fails to take any action in the following cases within the stipulated time, the application for grant of registration shall be deemed to have been approved-



Thus, in case of successful authentication of Aadhaar, registration will be deemed approved within 03 working days. However, if Aadhaar authentication is not opted for or if authentication fails in validation and no SCN is issued within 21 days by tax official, registration will be deemed approved.

Tax Officer can issue SCN within the period specified for grant of registration, like in cases of successful Aadhaar authentication i.e. 3 working days, or in cases when taxpayer do not opt to provide Aadhaar or when Aadhaar authentication fails i.e. 21 working days. Applicants can submit their reply within 7 working days from issue of SCN.

AADHAAR AUTHENTICATION

[Section 25(6A), (6B), (6C) & (6D) read with rules 8, 9 and 25]

As seen above, there's a simplified registration procedure under GST. However, this easy registration procedure was unduly misused by fly-by-night operators. Thus, in an endeavor to curb/check such operators and to increase compliance, aadhaar e-KYC based registration has been introduced under the GST law. With effect from 21.08.2020, aadhaar authentication is mandatory for the new applicants (whether an individual applicant or an applicant other than individual) in order to be eligible for grant of registration. Aadhaar Authentication process has been introduced, for the persons applying for GST registration as normal taxpayer/ composition/ casual taxable person/ Input Service Distributor (ISD)/ SEZ Developer/ SEZ Unit etc, in Form GST REG 01.

Applicants, who, either do not provide Aadhaar, while applying for new registration or whose Aadhaar authentication fails in validation, would be subjected to site verification by the tax department. However, tax authority, based on the documents produced, can grant registration.

Subsequently, existing registrants (those who are already registered under GST) will also be required to undergo aadhaar authentication otherwise their registration shall be deemed to be invalid. However, no notification has been issued yet prescribing the manner of undergoing aadhaar authentication of already registered persons.

A. Persons required to undergo aadhaar authentication

As per section 25(6A), (6B) and (6C), following persons are required to undergo aadhaar authentication:

(i) New applicant

Every (i) individual applicant or (ii) an applicant, other than an individual, shall undergo authentication/furnish proof of possession of Aadhaar number, in the manner prescribed in rule 810. Rule 8(4A) provides that where an applicant opts for authentication of Aadhaar number, he shall, while submitting an application for registration, undergo authentication of Aadhaar number. Said authentication is required to be eligible for grant of registration.

Date of submission of the application in such cases shall be earlier of:

(a) the date of authentication of the Aadhaar number, or

(b) 15 days from the submission of the application in Part B of Form GST REG-01

In case applicant is an individual, he shall undergo authentication of his own aadhaar number.

In case applicant is other than individual, the authentication will be of aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other notified class of persons [authorised signatory of all types, Managing and

Authorised partners of a partnership firm and Karta of a Hindu Undivided Family, have been so notified¹¹].

(ii) Persons already registered

Every registered person shall undergo authentication/furnish proof of possession of Aadhaar number, in prescribed form and manner and within the prescribed time.

B. Where Aadhaar number is not assigned

(i) In case of new applicant

If an aadhaar number is not assigned to a new applicant – either (i) an individual or (ii) person/class of persons (other than individual), such individual/person/class of persons shall be offered alternate and viable means of identification in the manner specified in rule 912.

First proviso to rule 9(1) provides that where a person fails to undergo authentication of aadhaar number or does not opt for authentication of Aadhaar number, the registration shall be granted only after physical verification of the principal place of business in the prescribed manner (specified in rule 25 discussed subsequently).

However, in lieu of the physical verification of the place of business, the proper officer may carry out the verification of such documents as he may deem fit. For this, he needs to record the reasons in writing and needs to take the approval of an officer not below the rank of Joint Commissioner [Second proviso to rule 9(1)].

Further, in such case, a notice (in prescribed form) seeking clarifications/ information/ documents from the applicant may be issued by the proper officer not later than 21 days from the submission of the application for registration [Proviso to rule 9(2)].

(ii) In case of an already registered persons

If an Aadhaar number is not assigned to an existing registered person, such person shall be offered alternate and viable means of identification in the prescribed manner¹³.

In case of failure to undergo aadhaar authentication/furnish proof of possession of Aadhaar number/furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration¹⁴.

C. Persons/class of persons exempt from aadhaar authentication

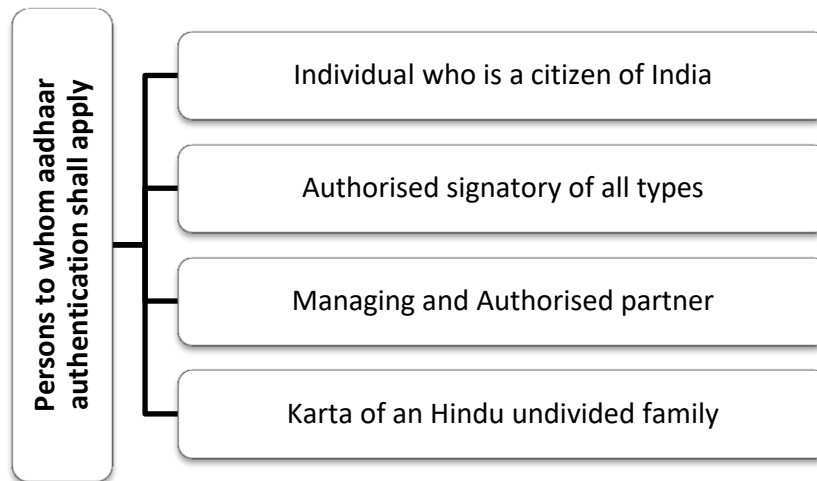
Section 25(6D) stipulates that above provisions shall not apply to such person or class of persons or any State or Union territory or part thereof, as may be notified.

Following have been notified in this regard¹⁵:

(i) A person who is not a citizen of India

(ii) A class of persons other than the following class of persons:

- ✎ Individual
- ✎ Authorised signatory of all types
- ✎ Managing and Authorised partner
- ✎ Karta of a Hindu Undivided Family



How aadhaar authentication is done?

Once registration application is submitted, GST system sends "link" to the concerned persons at their GST registered mobile numbers and email ids mentioned in the GST application, for the aadhaar authentication.

On clicking the verification link, a window for Aadhaar Authentication will open where they have entered Aadhaar Number and the OTP received by them on the mobile number linked with Aadhaar.

Taxpayers need to complete Aadhaar authentication of all Promoters/ Partners/ Authorized Signatories/ Karta etc. as mentioned in the application to avail this option.

On successful authentication, demographic data of the persons is fetched from Aadhaar to GST System.

Furnishing of bank account details [Rule 10A]

As seen in the diagram outlining the procedure for registration, while filing the application for registration on GST portal, in Part B of the application form, a person is required to furnish the details of his bank account. Rule 10A relaxes this requirement to a limited extent. In pursuance to the same, 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.

In short, a taxpayer has an option to give his bank account details after obtaining registration, within 45 days from the date of grant of registration or the due date of furnishing return, whichever is earlier.

However, this relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 1216 or who have obtained suo-motu registration under rule 16. They are mandatorily required to furnish the bank account details at the time of filing the application for registration.

Physical verification of business premises in certain cases [Rule 25]

Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication or due to not opting for Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done. The verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of 15 working days following the date of such verification.

Issuance of registration certificate [Rule 10]

Where the application for grant of registration has been approved, a certificate of registration [duly signed or verified through EVC by the proper officer] in **Form GST REG-06** showing the PPOB and APoB is made available to the applicant on the Common Portal and a Goods and Services Tax Identification Number (hereinafter referred to as "GSTIN") i.e. the GST registration no. is communicated to applicant, within 3 days after the grant of registration.

GSTIN format

State Code		PAN	PAN									Entity Code		Check sum character

Display of registration certificate and GSTIN on the name board [Rule 18]

Every registered person shall display his registration certificate in a prominent location at his PPOB and at every APoB. Further, his GSTIN also has to be displayed on the name board exhibited at the entry of his PPOB and at every APoB

ix) Effective date of registration [Rule 10]

Where an applicant submits application for registration	effective date of registration is
within 30 days from the date he becomes liable to registration	the date on which he becomes liable to registration
after 30 days from the date he becomes liable to registration	date of grant of registration

x) Special provisions for grant of registration in case of Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP) [Sections 25 & 27 read with rules 13 & 15]

(A) Meaning of casual taxable person and non-resident taxable person

Before going into nuances of the registration provisions of CTP and NRTP, let us first understand the meaning of casual taxable person and non-resident taxable person:

Casual Taxable Person: There may be case where a person has a registered business in some State in India, but wants to effect supplies from some other State in which he does not have any fixed place of business. Such person needs to register in the State from where he seeks to supply as a 'casual taxable person'.

CGST Act defines a **casual person** as a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in **a State/UT where he has no fixed place of business** [Section 2(20)]. Further, he cannot exercise the option to pay tax under composition levy.

Non-Resident Taxable Person: A person who is a foreigner and occasionally wants to effect taxable supplies from any State in India needs GST registration for the same. Such person needs to register in the State from where he seeks to supply as a non-resident taxable person. CGST Act defines **non-resident taxable person** as 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)]. He cannot exercise the option to pay tax under composition levy.

Based on the aforesaid definitions, following points merit consideration:

- ✎ A CTP does not have a fixed place of business in the State/UT where he undertakes supply though he might be registered with regard to his fixed place of business in some other State/UT, while a NRTP does not have fixed place of business/residence in India at all.
- ✎ A CTP has to undertake transactions in the course or furtherance of business whereas the business test is absent in the definition of NRTP.

(B) Special registration provisions of casual taxable person and nonresident taxable person

GST law prescribes special procedure for registration, as also for extension of the operation period of such casual or non-resident taxable persons. They have to apply for registration at least 5 days in advance before making any supply. Also, registration is granted to them or period of operation is extended, only after they make advance deposit of the estimated tax liability. The **special registration procedure** pertaining to CTP and NRTP are as follows:

- a. Both CTP and NRTP have to compulsorily get registered under GST irrespective of the threshold limit, at least 5 days prior to commencement of business.
- b. As per section 25(6), every person must have a PAN to be eligible for registration. Since NRTP will generally not have a PAN of India, he may be granted registration on the basis of other prescribed documents.

Thus, a NRTP has to submit a self-attested copy of his **valid passport** along with the application signed by his authorized signatory who is an Indian Resident having valid PAN. However, in case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.

Application will be submitted by NRTP in a different prescribed form whereas CTP will submit the application for registration in the normal form for application for registration i.e. Form GST REG 01 and his registration of CTP will be a PAN based registration.

(C) Period of validity of registration certificate granted to CTP/NRTP

Registration Certificate granted to CTP/NRTP will be valid for:

- (i) Period specified in the registration application, or
- (ii) 90 days from the effective date of registration [can be extended further by a period not exceeding 90 days by making an application before the end of the validity of registration granted to him]

whichever is earlier.

Provisions relating to verification of application and grant of registration [under rules 9 and 10] will apply mutatis mutandis, to an application for registration filed by NRTP.

(D) Advance deposit of tax

At the time of submitting the registration application, CTP/NRTP are required to 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.

Further, CTP/NRTP will get a Temporary Reference Number (TRN) for making an advance deposit of tax which shall be credited to his electronic cash ledger. An acknowledgement of receipt of application for registration is issued only after said Deposit Such advance tax deposit amount should be calculated after considering the due eligible ITC which might be available to such casual taxable person [Circular No. 71/45/2018 GST dated 26.10.2018].

****Where extension of time is sought, CTP/NRTP will deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.**

Registration of participants of long running exhibitions In case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.

While applying for normal registration, the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.

In such cases, he would not be required to pay advance tax [Refer Point D.] for the purpose of registration. He can surrender such registration once the exhibition is over [Circular No. 71/45/2018-GST dated 26.10.2018].

xi) Deemed registration [Section 26]

Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cesses. Grant of registration/UIN under any SGST Act/UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act.

Further, rejection of application for registration/UIN under SGST Act/UTGST Act is deemed to be rejection of application for registration under CGST Act.

xii) Special provisions for grant of registration in case of persons required to deduct tax at source under section 51 or to collect tax at source under section 52 [Rule 12]

Application for registration has to be submitted by such persons in a different prescribed form at GST Common Portal. They would be granted registration within **3 working days** from the date of submission of application after due verification.

When a person is applying for registration to collect TCS **or to deduct TDS** in a State/UT where he does not have a physical presence, he shall mention name of said State/UT in Part A of prescribed application form for registration.

Further, the name of the State/UT in which his principal place of business is located is to be mentioned in Part B of the application form. States/UTs mentioned in Part A and Part B of the application form may be different.

Registration will be cancelled if proper officer is satisfied that such person is no longer liable to deduct tax at source or collect tax at source.

Cancellation of registration will be communicated to such person electronically in prescribed form. Proper Officer shall follow the procedure laid down for cancellation of registration prescribed under this Act and rules therein.

xiii) Special provisions for grant of registration in case of person supplying online information and data base access or retrieval services (OIDAR services) from a place outside India to a non-taxable online recipient [Rule 14]

Application for registration has to be submitted by such persons in a different prescribed form. They would be granted registration subject to such conditions and restrictions and by such officer as may be notified by the Central Government on the recommendations of the Council.

AMENDMENT OF REGISTRATION [SECTION 28]

A registered person may need to make some changes/amendments in the registration application. There are two categories of details in registration application – core and non-core fields.

Core fields are name of the business, (legal name) if there is no change in PAN, addition / deletion of stakeholders, principal place of business (other than change in State) or additional place of business (other than change in State). All other fields are **non-core fields** like name of day to day functionaries, e-mail Ids, mobile numbers etc.

In case the change is in **core information** in the registration application, the taxable person will apply for amendment within 15 days of the event necessitating the change. The proper officer, then, will approve the amendment within next 15 days. For other changes – **non-core information**, no approval of the proper officer is required, and the amendment can be affected by the taxable person on his own on the common portal.

The provisions relating to amendment of registration are contained in section 28 read with rule 19.

The significant aspects of the same are discussed hereunder:

- ✎ Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, **within 15 days** of such change, along with documents relating to such change at the Common Portal.
- ✎ **In case of amendment of core fields of information**, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
- ✎ However, **where change relates to non-core fields of information**, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.
- ✎ The proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.
- ✎ Any rejection or approval of amendments under the SGST/UTGST Act shall be deemed to be a rejection or approval under this Act.
- ✎ Any particular of the application for registration shall not stand amended with effect from a date earlier than date of submission of application for amendment on common portal except with order of Commissioner for reasons to be recorded in writing and subject to conditions specified by Commissioner in the said order.
- ✎ Application for amendment of registration cannot be filed for change in PAN because GST registration is PAN-based. One needs to make fresh application for registration in case there is change in PAN. Thus, where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration.
- ✎ Similarly, application for amendment of registration form cannot be filled if there is change in place of business from one State to the other because GST registrations are State-specific. If one wishes to relocate his business to another State, he must voluntarily cancel his current registration and apply for a fresh registration in the State he is relocating his business.

CANCELLATION OR SUSPENSION OF REGISTRATION AND REVOCATION OF CANCELLATION

[SECTIONS 29 & 30]

Cancellation or suspension of registration [Section 29]:








- (i) The proper officer may cancel the registration either suo motu or on application by registered person or by his legal heirs, in case of death of such person.
- (ii) The registration can be cancelled having regard to the following 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 registered under Section 25(3) i.e. Voluntary Registration, is no longer liable to be registered under section 22 or section 24.

During pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.

(iii) Cancellation by proper officer — Reasons thereof:

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder i.e.

-  he does not conduct any business from the declared place of business; or
-  he issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder.
-  he violates the provisions of Section 171 of the Act or the rules made thereunder;
 -  violates the provision of rule 10A (i.e. Furnishing of Bank Account Details).
 -  avails input tax credit in violation of the provisions of section 1626 of the CGST Act or the rules made thereunder.
 -  furnishes the details of outward supplies in Form GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods .
 -  violates the provision of rule 86B .

Note: Section 171 provides for Anti Profiteering Measure.

- (b) a person paying tax under has not furnished the return for a financial year beyond 3 months from the due date of furnishing the said return; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed; or
- (d) any person who has taken voluntary registration has not commenced business within 6 months from the date of registration; or
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts.

The proper officer shall not cancel the registration without giving the person an opportunity of being heard. During pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.

Voluntary registration can be cancelled at any time. Application for cancellation of voluntary registration can be considered even before the expiry of one year from the effective date of registration.

- (iv) Cancellation of registration shall not affect tax and other liability of the registered person.
- (v) Cancellation of registration under SGST/ UTGST Act - Deemed to be cancellation under CGST Act.

- (vi) On cancellation the registered person is required to pay 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, or
 - inputs contained in semi-finished goods held in stock, or
 - inputs contained in finished goods held in stock, or
 - capital goods or plant and machineryon the day immediately preceding the date of such cancellation, or
 - ✍ the output tax payable on such goods,
- whichever is higher.

Payment in case of capital goods: In case of capital goods or plant and machinery, the taxable person shall pay—

- an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed i.e. ITC involved in the remaining useful life in months of the capital goods will be reversed on pro-rata basis, taking the useful life as 5 years; or
- ✍ the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

Application for cancellation of registration [Rule 20 of CGST Rules, 2017]:

- ✍ A registered person seeking cancellation of registration shall electronically submit the application for cancellation of registration in prescribed form within 30 days of occurrence of the event warranting cancellation.
- ✍ He is required to furnish in the application the details of inputs held in stock or inputs contained in semi finished/finished goods held in stock and of capital goods held in stock on the date from which cancellation of registration is sought, liability thereon, details of the payment, if any, made against such liability and may furnish relevant documents thereof.
- ✍ Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered, proper officer shall issue the order of cancellation of registration within 30 days from the date of submission of application for cancellation.

Suspension of registration [Rule 21A]:

- (i) Where a registered person has applied for cancellation of registration u/r 20, the registration shall be deemed to be suspended from —
- ✍ the date of submission of the application or
 - ✍ the date from which the cancellation is sought,
- whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.
- (ii) Suspension of registration by Proper Officer during the pendency of the completion of the proceedings for cancellation of registration under rule 22.

(iii) Taxable supplies not to be effected / return not to be filed during suspension i.e. the registered person shall not issue a tax invoice and not charge tax on supplies made by him during the period of suspension.

(iv) Revocation of suspension upon completion of the proceedings by the proper officer.

(v) Revised tax invoice and First return provisions applicable when any order having the effect of revocation of suspension of registration has been passed.

Procedure for cancellation of registration by proper officer:

✍ Where the proper officer cancels the registration suo-motu, he shall not cancel the same without giving a show cause notice and without giving a reasonable opportunity of being heard, to the registered person. The reply to such show cause notice (SCN) has to be submitted within 7 days of service of notice.

✍ If reply to SCN is satisfactory, proper officer shall drop the proceedings and pass an order in prescribed form. However, where the person instead of replying SCN served for contravention of the provisions contained in section 29(2)(b)/(c) furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order. Where registration of a person is liable to be cancelled, proper officer shall issue the order of cancellation of registration within 30 days from the date of reply to SCN.

✍ The cancellation of registration shall be effective from a date to be determined by the proper officer. He will direct the taxable person to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).

Revocation of cancellation of registration [Section 30]:

(a) Application for restoration of registration is to be made within 30 days from service of cancellation order on sufficient cause being shown, and for reasons to be recorded in writing, be extended—

- i) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days;
- ii) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a).

(b) The proper officer may, by order, either revoke cancellation of the registration or reject the application. However before rejection the applicant must be given an opportunity of being heard.

(c) Restoration of registration under SGST / UTGST Act shall be deemed restoration under CGST Act.

Revocation of cancellation of registration [Rule 23 of CGST Rules, 2017]:

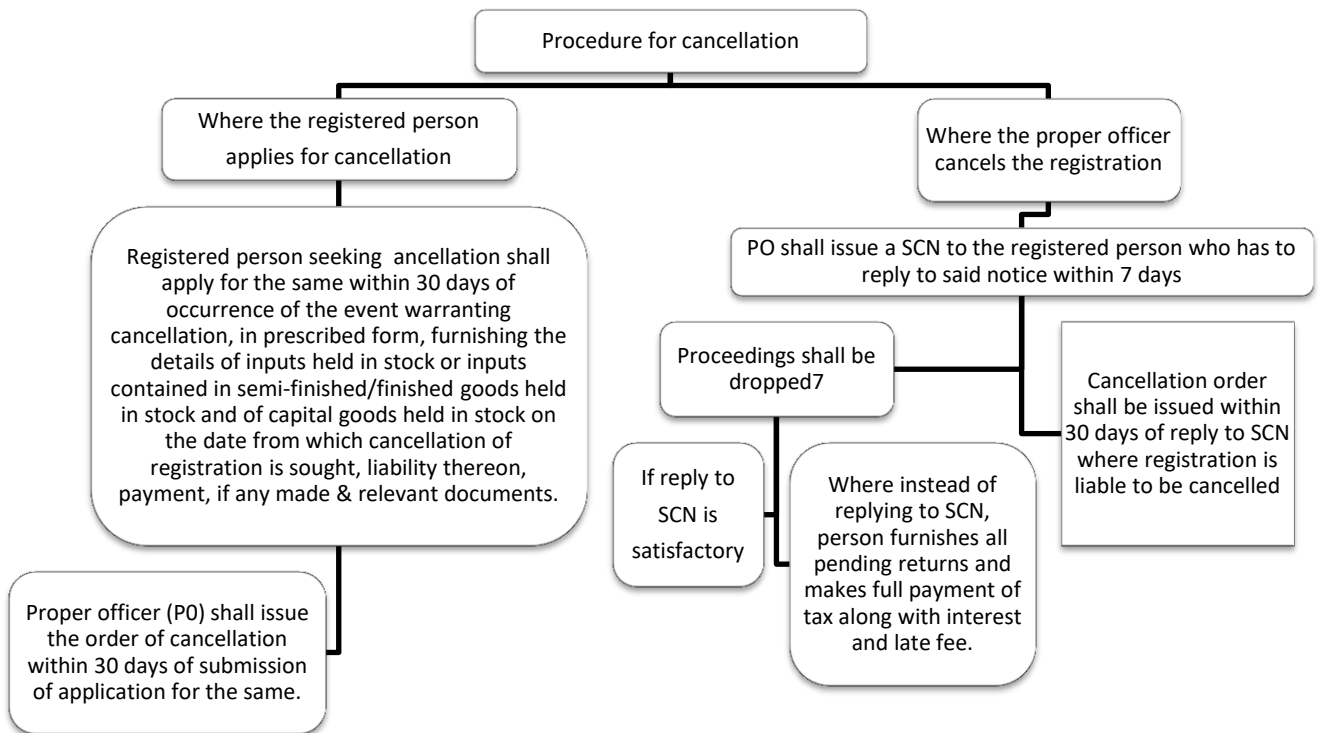
✍ Where the registration of a person is cancelled suo-motu by the proper officer, such registered person may apply for revocation of the cancellation to such proper officer, within 30 days from the date of service of the order of cancellation of registration, at the GST Common Portal in the prescribed manner.

- ✍ However, in case registration was cancelled for failure of registered person to furnish returns, before applying for revocation the person has to make good the defaults (by filing all pending returns, making payment of all dues in terms of such returns along-with interest, penalty, late fee, etc.) for which the registration was cancelled by the officer.
- ✍ Pending returns to be filed before revocation of cancellation of registration: All returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration.
However, where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of 30 days from the date of order of revocation of cancellation of registration.
- ✍ If the proper officer is satisfied that there are sufficient grounds for revocation of cancellation, he may revoke the cancellation of registration, by an order within 30 days of receipt of application and communicate the same to applicant.
- ✍ Otherwise, he may reject the revocation application. However, before rejectin& the application, he has to first issue SCN to the applicant who shall furnish the clarification within 7 working days of service of SCN. The proper officer shall dispose the application (accept/reject the same) within 30 days of receipt of clarification.
- ✍ The revocation of cancellation of registration under the SGST Act/ UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under CGST Act.

Cancellation or suspension of registration & revocation of cancellation of registration is summarized as under:

Registration can be cancelled either by proper officer or on an application of the registered person	Business discontinued / Amalgamated with other legal entity / Demerged or Otherwise disposed of	(Registration can be cancelled by the proper officer on his own)	A registered person has contravened the prescribed provisions
	Change in the constitution of the business		A registered person has not filed returns for continuous 6 months (3 months for composition supplier)
	Taxable person no longer liable to be registered		Voluntarily registered person has not commenced the business within 6 months from the date of registration
			Registration was obtained by means of fraud, wilful misstatement or suppression of facts

Once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, proper officer may suspend his registration during pendency of proceedings relating to cancellation of registration filed by such registered person.



Revocation of cancellation:

In case where registration is cancelled suo-motu by the proper officer, the taxable person can apply within 30 days of service of cancellation order, requesting the officer for revoking the cancellation ordered by him.

However, before so applying, the person has to make good the defaults (by filing all pending returns, making payment of all dues and so) for which the registration was cancelled by the officer.

If satisfied, the proper officer will revoke the cancellation earlier ordered by him.

However, if the officer concludes to reject the request for revocation of cancellation, he will first observe the principle of natural justice by way of issuing notice to the person and hearing him on the issue.

PRACTICAL QUESTIONS

Question 1. Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of ready-made garments at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in the month of June.

It has furnished the following details relating to the supply made at such multiple locations for the month of June:

Particulars	Himachal Pradesh	Uttarakhand	Tripura
Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply non-taxable goods	-	21,00,000	40,000

* excluding GST

With the help of the above mentioned information, answer the following questions giving reasons:-

- (1) Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case assuming that it is not required to pay any tax on inward supplies under reverse charge.**
- (2) Explain with reasons whether your answer in (1) will change in the following independent cases:**
 - (a) If Mahadev Enterprises is dealing exclusively in taxable supply of goods only from Himachal Pradesh;**
 - (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;**
 - (c) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter-State supplies of taxable goods (other than notified handicraft goods) amounting to Rs.4,00,000.**

Answer:

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/ Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

- i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.**
- ii) Rs.20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.**
- iii) Rs.40 lakh for rest of India.**

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.**
- (ii) Rs.20 lakh for the rest of India.**

As per section 2(6), aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis.

In the light of the afore-mentioned provisions, the aggregate turnover of Mahadev Enterprises is computed as under:

Computation of State-wise aggregate turnover of Mahadev Enterprises

Particulars	Himachal Pradesh	Uttarakhand	Tripura
	(Rs.)*	(Rs.)*	(Rs.)*
Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply of non-taxable goods [As per section 2(47), exempt supply includes nontaxable supply. Thus, intra-State supply of non-taxable goods in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, included in the aggregate turnover]	-	21,00,000	40,000
Aggregate Turnover	22,50,000	21,00,000	13,40,000

In the given case, Mahadev Enterprises is engaged in exclusive intra-State supply of goods from Himachal Pradesh, Tripura and Uttarakhand.

However, since Mahadev Enterprises makes taxable supply of goods from one of the specified Special Category States (i.e. Tripura), it will not be eligible for the higher threshold limit of Rs.40 lakh; instead, the threshold limit for registration will be reduced to Rs.10 lakh.

(1) In view of the above-mentioned provisions, Mahadev Enterprises is liable to be registered under GST law with the aggregate turnover amounting to Rs.56,90,000 (computed on all India basis). The applicable threshold limit of registration in this case is Rs.10 lakh. Further, he is not liable to be registered in Uttarakhand since he is not making any taxable supply from Uttarakhand.

(2)

- i) If Mahadev Enterprises is dealing in supply of goods only from Himachal Pradesh, the applicable threshold limit of registration would be Rs.40 lakh. Thus, Mahadev Enterprises will not be liable for registration as its aggregate turnover would be Rs.22,50,000.
- ii) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh then higher threshold limit of Rs.40 lakh will not be applicable as the same applies only in case of exclusive supply of goods. Therefore, in this case, the applicable threshold limit will be Rs.20 lakh and hence, Mahadev Enterprises will be liable to registration.
- iii) In case of inter-State supplies of taxable goods, section 24 requires compulsory registration irrespective of the quantum of aggregate turnover. Thus, Mahadev Enterprises will be liable to registration.

Question 2. LMN Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'X' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells product 'X' only within Tamil Nadu and is not registered under GST. Further, all the inward supply of the company are taxable under forward charge. The turnover of the company in the previous year was Rs.45 lakh. The company expects the sales to grow by 30% in the current year. The company purchased additional machinery for manufacturing 'X' on 1st July. The purchase price of the capital goods was Rs.30 lakh exclusive of GST @ 18%.

However, effective from 1st November, exemption available on 'X' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30th September was Rs.45 lakh.

- (a) Examine the above scenario and advise LMN Pvt Ltd. whether it needs to get registered under GST.
- (b) If the answer to the above question is in affirmative, advise LMN Pvt. Ltd. whether it can avail input tax credit on the additional machinery purchased exclusively for manufacturing "X"?

Answer:

- (a) Section 22(1) read with Notification No. 10/2019 CT dated 07.03.2019 inter alia provides that every supplier who is exclusively **engaged in intra-State supply of goods** is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds Rs.40,00,000.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

Further, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a).

In the given case, the turnover of the company for the half year ended on 30th September is Rs.45 lakh which is more than the applicable threshold limit of Rs.40 lakh. Therefore, as per above mentioned provisions, the company should be liable to registration. However, since LMN Pvt. Ltd. supplied exempted goods till 31st October, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3).

However, the position will change from 1st November as the supply of goods become taxable from that day and the turnover of company is above Rs.40 lakh. It is important to note here that in terms of section 2(6), the aggregate turnover limit of Rs.40 lakh includes exempt turnover also. Therefore, turnover of 'X' prior to 1st November will also be considered for determining the limit of Rs.40 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 1st November (the date on which it becomes liable to registration) in terms of section 25(1).

(b) Section 18(1)(a) provides that a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration 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.

Thus, LMN Pvt. Ltd. cannot avail credit for additional machinery purchased exclusively for manufacturing X as input tax credit of only inputs is allowed when a person gets registered for the first time.

Question 3. SNP Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells product 'Z' only within Tamil Nadu and it not registered under GST. Further, all the inward supply of the company are taxable under forward charge. The turnover of the company in the previous year was Rs.55 lakh. The company expects the sales to grow by 20% in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery for manufacturing 'Z' on 1st July. The purchase price of the capital goods was Rs.20 lakh exclusive of GST @ 18%. However, effective from 1st November, exemption available on 'Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30th September was Rs.50 lakh.

(a) The Board of Directors of SNP Pvt. Ltd. wants to know whether they have to register under GST?

(b) In case in the above question, SNP Pvt. Ltd. is already registered with respect to certain taxable supplies being made by it along with manu facture of exempt product 'Z', other facts remaining the same, can it take input tax credit on additional machinery purchased exclusively for manufacturing 'Z'Rs.If yes, then how much credit can be availed?

Advice SNP Pvt. Ltd. on the above issues with reference to the provisions of GST law.

Answer:

(a) Section 22(1) read with Notification No. 10/2019 CT dated 07.03.2019 inter alia provides that every supplier who is exclusively **engaged in intra-State supply of goods** is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds Rs.40,00,000.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

However, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a). In the given case, the turnover of the company for the half year ended on 30th September is Rs.50 lakh which is more than the applicable threshold limit of Rs.40 lakh. Therefore, as per section 22, the company will be liable to registration. However, since SNP Pvt. Ltd. supplied exempted goods till 31st October, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3).

However, the position will change from 1st November as the supply of goods become taxable from that day and the turnover of company is above Rs.40 lakh. It is important to note here that in terms of section 2(6), the aggregate turnover limit of Rs.40 lakh includes exempt turnover also. Therefore, turnover of 'Z' will be considered for determining the threshold limit even though the same was exempt from GST.

Therefore, the company needs to register within 30 days from 1st November (the date on which it becomes liable to registration) in terms of section 25(1).

Further, the company cannot avail exemption of Rs.40 lakh from 1st November as the GST law does not provide any threshold exemption from payment of tax but threshold exemption from obtaining registration (which in this case had been crossed).

- (b)** Rule 43(1)(a) of the CGST Rules, 2017 disallows input tax credit on capital goods used or intended to be used exclusively for effecting exempt supplies.

However, as per section 18(1)(d), where an exempt supply of goods and/or services by a registered person becomes a taxable supply, such person gets 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 relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

Rule 40(1)(a) of the CGST Rules, 2017 lays down that the credit on capital goods can be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice.

Therefore, in the given case, SNP Pvt. Ltd. could not claim credit on machinery till the time the supply of product 'Z' for which said machinery was being used was exempt. However, it can claim credit from 31st October - the day immediately preceding the date from which the supply of product 'Z' became taxable (1st November).

The credit will be available for the remaining useful life of the machinery and will be computed as follows:

Date of purchase of machinery	1st July
Date on which credit becomes eligible	31st October
Number of quarters for which credit is to be reduced	2 (including part of quarter)
GST paid on machinery [Rs.20,00,000 x 18%]	Rs.3,60,000
Credit to be reduced [Rs.3,60,000 x 5% x 2]	Rs.36,000
Amount of credit that can be taken [Rs.3,60,000 – Rs.36,000]	Rs.3,18,000

Question 4. Rishabh Enterprises – a sole proprietorship firm – started an air-conditioned restaurant in Virar, Maharashtra in the month of February wherein the customers are served cooked food as well as cold drinks/non-alcoholic beverages. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption.

Determine whether Rishabh Enterprises is liable to be registered under GST law with the help of the following information:

Particulars	February (Rs.)*	March (Rs.)*
Serving of cooked food and cold drinks/nonalcoholic beverages in restaurant in Maharashtra	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Uttarakhand		5,00,000
Supply of packed food items from restaurant in Maharashtra	1,50,000	2,00,000

* excluding GST

You are required to provide reasons for treatment of various items given above.

Answer:

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/ Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs.20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (iii) Rs.40 lakh for rest of India.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs.20 lakh for the rest of India.

As per section 2(6), aggregate turnover includes the aggregate value of:

- (i) all taxable supplies
- (ii) all ex empt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess.

Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

In the given question, since Rishabh Enterprises is engaged in making taxable supplies of goods and services from Maharashtra and non-taxable supplies from Uttarakhand, the threshold limit for obtaining registration is Rs.20 lakh.

In the light of the afore-mentioned provisions, the aggregate turnover of Rishabh Enterprises is computed as under:

Computation of aggregate turnover of Rishabh Enterprises

Particulars	Turnover of February (Rs.)	Cumulative turnover of February & March (Rs.)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [Rs.5,50,000 + Rs.6,50,000]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand [As per section 2(47), exempt supply includes nontaxable supply. Thus, supply of alcoholic liquor for human consumption in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.]		5,00,000
Add: Supply of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [Rs.1,50,000 + Rs.2,00,000]
Aggregate Turnover	7,00,000	20,50,000

Rishabh Enterprises was not liable to be registered in the month of February since its aggregate turnover did not exceed Rs.20 lakh in that month.

However, since its aggregate turnover exceeds Rs.20 lakh in the month of March, it should apply for registration within 30 days from the date on which it becomes liable to registration. Further, he is not liable to be registered in Uttarakhand since he is not making any taxable supply from Uttarakhand.

Question 5. AB Pvt. Ltd., Pune provides house-keeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the current financial year is Rs.18 lakh.

Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd.?

Answer:

As per section 22 of the CGST Act every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year.

However, section 24 of the said Act enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24. However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption.²²

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Hi-Tech Indya Pvt. Ltd. owns and manages a website for e commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, AB Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source under section 52. However, house-keeping services provided by AB Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than Rs.20 lakh, is a service notified under section 9(5). Thus, AB Pvt. Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, AB Pvt. Ltd. sells readymade garments through ECO. Such supply cannot be notified under section 9(5) as only supplies of services are notified under that section. Therefore, in the second case, AB Pvt. Ltd. will not be entitled for threshold exemption and will have to compulsorily obtain registration in terms of section 24(ix).

Question 6. Discuss the procedure for amendment of registration under CGST Act and rules thereto?

Answer:

The procedure for amendment of registration are contained in section 28 read with rule 19 of CGST Rules. The significant aspects of the same are discussed hereunder:

1. Where there is any change in the particulars furnished in registration application/UIN application at the time of obtaining the registration or thereafter, registered person shall submit an application in prescribed manner, within 15 days of such change, along with documents relating to such change at the Common Portal.
2. In case of amendment of core fields of information, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
3. However, where change relates to non-core fields of information, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.
4. Where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

Question 7. Pari & Sons is an unregistered dealer. On 10th August, aggregate turnover of Pari & Sons exceeded Rs.20,00,000. The firm applied for registration on 27th August and was granted the registration certificate on 1st September.

Under CGST Rules, 2017, you are required to advise Pari & Sons as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of revised tax invoices.

Answer:

Section 22(1) provides that every supplier is 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 the threshold limit.

Section 25(1) provides that a supplier whose aggregate turnover in a financial year exceeds the threshold limit in a State/UT is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit).

Where the application is submitted within the said period, the effective date of registration is the date on which the person becomes liable to registration vide rule 10(2) of the CGST Rules, 2017; otherwise it is the date of grant of registration in terms of rule 10(3) of the CGST Rules, 2017.

In the given case, since Pari & Sons have applied for registration on 27th August which is within 30 days from the date of becoming liable to registration (10th August), its effective date of registration is 10th August.

Further, every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices in respect of taxable supplies effected during this period within one month from the date of issuance of registration certificate [Section 31(3)(a) read with rule 53(2) of CGST Rules, 2017]23.

In view of the same, Pari & Sons may issue revised tax invoices against the invoices already issued during the period between effective date of registration (10th August) and the date of issuance of registration certificate (1st September), on or before 1st October.

Question 8. With the help of the following information in the case of M/s Jayant Enterprises, Jaipur (Rajasthan) for the financial year, determine the aggregate turnover for the purpose of registration under the CGST Act.

S. No.	Particulars	Amount (Rs.)
i)	Sale of diesel on which Sale Tax (VAT) is levied by Rajasthan Government.	1,00,000
ii)	Supply of goods, after completion of job work, from the place of Jayant Enterprises directly by principal by declaring the place of M/s Jayant Enterprises as its additional place of business.	3,00,000
iii)	Export of goods to England (U.K.)	5,00,000
iv)	Supply to its own additional place of business in Rajasthan.	5,00,000
v)	Outward supply of services on which GST is to be paid by recipient under	

	reverse charge.	1,00,000
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All the above amounts are excluding GST.

You are required to provide reasons for treatment of various items given above.

Answer:

Computation of aggregate turnover of M/s Jayant Enterprises for the FY

Particulars	Rs.
Supply of diesel on which Sales Tax (VAT) is levied by Rajasthan Government [Note-1]	1,00,000
Supply of goods, after the completion of job work, from the place of Jayant Enterprises, directly by the principal [Note-2]	Nil
Export supply to England [Note-3]	5,00,000
Supply to its own additional place of business in Rajasthan ²⁴ [Note-4]	Nil
Outward supply of services on which GST is to be paid by recipient under reverse charge [Note-5]	1,00,000
Aggregate turnover	7,00,000

Notes:-

1. As per section 2(47), exempt supply includes non-taxable supply. Thus, supply of diesel, being a non-taxable supply, is an exempt supply and exempt supply is specifically includible in aggregate turnover in terms of section 2(6).
2. Supply of goods after completion of job work by a principal by declaring the place of business of job worker its additional place of business shall be treated as the supply of goods by the principal in terms of explanation (ii) to section 22.
3. Export supplies are specifically includible in the aggregate turnover in terms of section 2(6).
4. Supply made without consideration to units within the same State (under same registration) is a not a supply and hence not includible in aggregate turnover.
5. Outward supplies taxable under reverse charge would be part of the “aggregate turnover” of the supplier of such supplies. Such turnover is not included as turnover in the hands of recipient.

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/ Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs.20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (iii) Rs.40 lakh for rest of India.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs.20 lakh for the rest of India.

The applicable turnover limit for registration, in the given case, will be Rs.20 lakh as Rajasthan is not a Special Category State and M/s. Jayant Enterprises is engaged in supply of goods and services. Although, the aggregate turnover of M/s Jayant Enterprises does not exceed Rs.20 lakh, it is compulsorily required to register in terms of section 24(i) irrespective of the turnover limit as it is engaged in making inter-State supply of goods in the form of exports to England.

Question 9. Rajesh Dynamics, having its head office in Chennai, Tamil Nadu carries on the following activities with respective turnovers in a financial year:

	Rs.
Supply of petrol at Chennai, Tamil Nadu	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	9,00,000
Supply of transformer oil at Chennai, Tamil Nadu	2,00,000
Value of branch transfer from Chennai, Tamil Nadu to Bengaluru, Karnataka without payment of consideration	1,50,000
Value of taxable supplies at Manipur branch	11,50,000

It argues that it does not have taxable turnover crossing threshold limit of Rs.40,00,000 either at Chennai, Tamil Nadu or Bengaluru, Karnataka and including turnover at Manipur branch. It believes that the determination of aggregate turnover is not required for the purpose of obtaining registration, but is required for determining composition levy.

Decide based on the above facts:

- (i) The aggregate turnover of Rajesh Dynamics.
- (ii) All conditions that fulfil the requirements for registration under CGST Act in the given circumstances.

Answer:

Computation of aggregate turnover of Rajesh Dynamics:

Particulars	Rs.
Supply of petrol at Chennai, Tamil Nadu [Being a nontaxable supply, it is an exempt supply and thus, includible in aggregate turnover vide section 2(6)]	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	Nil
Supply of transformer oil at Chennai, Tamil Nadu	2,00,000
Value of branch transfer from Chennai, Tamil Nadu to Bengaluru, Karnataka without payment of consideration [Being a taxable supply, it is includible in aggregate turnover]	1,50,000
Value of taxable supplies of Manipur Branch	11,50,000

Aggregate turnover 33,00,000

Rajesh Dynamics is not liable to be registered in Chennai, Tamil Nadu, if his aggregate turnover in a financial year does not exceeds Rs.40 lakh. However, since Rajesh Dynamics also makes taxable supplies from Manipur, a specified Special Category State, the threshold exemption gets reduced to Rs.10 lakh in terms of section 22(1) [Notification No.10/2019-CT dated. 07.03.2019].

Rajesh Dynamics' argument that it is not liable to registration since the threshold exemption of Rs.40 lakh is not being crossed either at Chennai, Tamil Nadu, Bengaluru, Karnataka or Manipur is not correct as firstly, the aggregate turnover to be considered in its case is Rs.10 lakh and not Rs.40 lakh and secondly, the same is computed on all India basis and not Statewise.

Further, Rajesh Dynamics is also wrong in believing that aggregate turnover is computed only for the purpose of determining the eligibility limit for composition levy since the aggregate turnover is required for determining the eligibility for both registration and composition levy.

Further, Rajesh Dynamics is compulsorily required to register under section 24 irrespective of the turnover limit as it is liable to pay tax on inward supplies under reverse charge and it also makes inter-State taxable supply.

ADDITIONAL PRACTICE QUESTIONS

Question 10. What are the advantages of taking registration in GST?

Answer: Registration will confer following advantages to the business:

- i) Legally recognized as supplier of goods or services.
- ii) Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- iii) Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- iv) Become eligible to avail various other benefits and privileges rendered under the GST laws.

Question 11. Registration — Section 22: Examine whether the supplier is liable to get registered in the following independent cases:

- (i) Raghav of Assam is exclusively engaged in intra-State taxable supply of readymade garments. His turnover in the current financial year (FY) from Assam showroom is Rs.28 lakh. He has another showroom in Tripura with a turnover of li lakh in the current FY.
- (ii) Pulkit of Panjim, Goa is exclusively engaged in intra-State taxable supply of shoes. His aggregate turnover in the current financial year is Rs.22 lakh.
- (iii) Harshit of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is Rs.24 lakh.
- (iv) Ankit of Assam is exclusively engaged in intra-State supply of taxable services. His aggregate turnover in the current financial year is Rs.25 lakh. —
- (v) Sanchit of Assam is engaged in intra-State supply of both taxable goods and services. His aggregate turnover in the current financial year is Rs.30 lakh.

Answer: As per section 22 of the WST Act, 2017 read with Notification No. 10/2019 CT dated 07-03-2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/ or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold for a person making exclusive intra-State taxable supplies of goods is as under

- (i) Rs.10 lalch for the States of Mizoram, Tripura, Manipur and Nagaland.

(ii) Rs.20 lakh for the States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(iii) Rs.40 lakh for rest of India.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:

(i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.

(ii) Rs.20 lakh for the rest of India.

In the light of the afore-mentioned provisions, the answer to the independent cases is as under:

(i) Raghav is eligible for higher threshold limit of turnover for registration, i.e. Rs.40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, the threshold limit gets reduced to Rs.10 lakh. Thus, Raghav is liable to get registered under GST as his turnover exceeds Rs.10 lakh. Further, he is required to obtain registration in both Assam and Tripura as he is making taxable supplies from both the States.

(ii) The applicable threshold limit for registration for Pulkit in the given case is Rs.40 lakh as he is exclusively engaged in intra-State taxable supply of goods. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.

(iii) Harshit being exclusively engaged in supply of pan masala is not eligible for higher threshold limit of Rs.40 lakh. The applicable threshold limit for registration in this case is Rs.20 lakh. Thus, Harshit is liable to get registered under GST.

(iv) Though Ankit is dealing in Assam, he is not entitled for higher threshold limit for registration as the same is applicable only in case of exclusive supply of goods while he is exclusively engaged in providing services. Thus, the applicable threshold limit for registration in this case is Rs.20 lakh and hence, Ankit is liable to get registered under GST.

(v) Since Sanchit is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in his case is Rs.20 lakh. Thus, Sanchit is liable to get registered under GST as his turnover is more than the threshold limit.

Question 12. Registration — Section 22: Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex — dealing in supply of goods at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in the month of June.

It has furnished the following details relating to the sale made at such multiple locations for the month of June:

Particulars	Himachal Pradesh (Rs.)*	Uttarakhand (Rs.)	Tripura (Rs.)
Intra- State sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the fixed	-	-	60,000

deposits			
Intra-State sale of non-taxable goods	-	21,00,000	40,000

* excluding GST

With the help of the above mentioned information, answer the following questions giving reasons:___

- (1) Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case.
- (2) Explain with reasons whether your answer in (1) will change in the following independent cases:
 - (a) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh;
 - (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;
 - (c) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter - State supplies of taxable goods amounting to Rs.4,00,000.

(RTP Nov. 2019) (ICAI P.Q.)

Answer: Registration requirements: As per section 22 of the CGST Act, 2017 read with Notification No. 10/2019-CT dated 07-03-2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs.20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (iii) Rs.40 lakh for rest of India.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs.20 lakh for the rest of India.

Aggregate turnover; As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis.

In the light of the afore-mentioned provisions, the aggregate turnover of Mahadev Enterprises is computed as under:

Computation of State-wise aggregate turnover of Mahadev Enterprises

Particulars	Himachal Pradesh (Rs.)*	Uttarakhand (Rs.)	Tripura (Rs.)
Intra- State sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the fixed deposits [WN-1]	-	-	60,000
Intra-State sale of non-taxable goods [WN-2]	-	21,00,000	40,000
Aggregate Turnover	22,50,000	21,00,000	14,00,000

Working Notes:

- (1) 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) is exempt vide Notification No. 12/2017-CT (R) dated 28.06.2017. Since aggregate turnover includes exempt supply, interest received from banks on the fixed deposits, being exempt supply, is included in the aggregate turnover.
- (2) As per section 247) of the GST Act, 2017, exempt supply includes non-taxable supply. Thus, intra-State supply of non-taxable goods in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, included in the aggregate turnover.

In the given case, Mahadev Enterprises is engaged in exclusive intra-State supply of goods from Himachal Pradesh and Uttarakhand and in supply of both goods and exempted services from Tripura, the threshold limit for registration will be Rs.40 lakh, Rs.20 lakh and Rs.10 lakh respectively.

Further, since Mahadev Enterprises also makes taxable supply of goods from one of the specified Special Category States (i.e. Tripura), the threshold limit for registration will be reduced to Rs.10 lakh.

- (1) Thus, in view of the above-mentioned provisions, Mahadev Enterprises is liable to be registered under GST law with the aggregate turnover amounting to Rs.57,50,000 (computed on all India basis). The applicable threshold limit of registration in this case is Rs.10 lakh.

(2)

- (a) If Mahadev Enterprises is dealing in supply of goods only from Himachal Pradesh, the applicable threshold limit of registration would be Rs.40 lakh. Thus, Mahadev Enterprises will not be liable for registration as its aggregate turnover would be Rs.22,50,000.
- (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh then higher threshold limit of Rs.40 lakh will not be applicable as the same applies only in case of exclusive supply of goods. Therefore, in this case, the applicable threshold limit will be 20 lakh and hence, Mahadev Enterprises will be liable to registration.
- (c) In case of inter-State supplies of taxable goods, section 24 of the CGST Act, 2017 requires compulsory registration irrespective of the quantum of aggregate turnover. Thus, Mahadev Enterprises will be liable to registration.

Question 13. Registration - Section 22: Barmer Oils, Rajasthan, is engaged in supplying machine

oil as well as petrol. The turnover of machine oil is Rs.24 lakhs and of petrol is 18 lakhs. Supply of petrol is not leviable to GST, but supply of machine oil is taxable. Barmer Oils contend that since turnover of machine oil does not exceed Rs.40 lakh, it is not liable for registration under GST. Decide.

Answer: The contention of Barmer Oils is not correct in law. In order to determine whether Barmer Oils is liable for registration, turnover of both the supplies - non-taxable as well as taxable would be taken into account and since the same exceeds Rs.40 lakh, Barmer Oils is liable for registration.

Question 14. Registration requirement: Rajesh Dynamics, having its head office in Chennai, carries on the following activities with respective turnovers in a Financial Year:

	Rs.
Supply of petrol at Chennai	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	9,00,000
Supply of transformer oil at Chennai	2,00,000
Value of branch transfer from Chennai to Bengaluru without payment of consideration	1,50,000
Value of taxable supplies at Manipur branch	11,50,000

It argues that it does not have taxable turnover crossing threshold limit of Rs.40,00,000 either at Chennai or Bengaluru and including turnover at Manipur branch It believes that the determination of aggregate turnover is not required for the purpose of obtaining registration but it is required for determining composition levy.

Decide based on the above facts:

(4 Marks, May 2018) (ICAI PQ.)

- (i) The aggregate turnover of Rajesh Dynamics.
- (ii) All conditions that fulfil the requirement for registration under CGST Act, 2017 in the given circumstances.

Answer: Registration Provisions: As per section 22 of the CGST Act, 2017 read with Notification No. 10/2019-CT dated 07-03-2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:

- (i) Rs.10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) Rs.20 lakh for the States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (iii) Rs.40 lakh for rest of India.

Meaning of Aggregate Turnover: As per Section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and

(iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Non Taxable supply included for determination of aggregate turnover: Section 9 of the CGST Act, 2017 provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47) of the G.ST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of petrol in Chennai, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

Since one of the branch is located in Mainpur and is making taxable supplies from that state, the turnover limit will be 10 lakhs for determination of registration requirements.

In the backdrop of the above-mentioned discussion, the aggregate turnover is computed as under-

(Amount in Rs.)

Supply of petrol at Chennai	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	-
Supply of transformer oil at Chennai	2,00,000
Value of branch transfer from Chennai to Bengaluru without payment of consideration	1,50,000
Value of taxable supplies at Manipur branch	11,50,000
Aggregate Turnover	33,00,000

Rajesh Dynamics' argument that it is not liable to registration since the threshold exemption of Rs.40 lakh is not being crossed either at Chennai, Bengaluru or Manipur is not correct as firstly, the aggregate turnover to be considered in its case is Rs.10 lakh and not Rs.40 lakh and secondly, the same is computed on all India basis and not State-wise. Further, Rajesh Dynamics is also wrong in believing that aggregate turnover is computed only for the purpose of determining the eligibility limit for composition levy since the aggregate turnover is required for determining the eligibility for both registration and composition levy.

However, Rajesh Dynamics is compulsorily required to register under section 24 of the GST Act, 2017 irrespective of the turnover limit as it is liable to pay tax on inward supplies under reverse charge and it also makes inter-State taxable supply.

Question 15. Registration requirement & ITC Eligibility: LMN Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'X' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'X' only within Tamil Nadu. The turnover of the company in the previous year was Rs.45 lakh. The company expects the sales to grow by 30% in the current year. The company purchased additional machinery for manufacturing 'X' on 01-07-2020. The purchase price of the capital goods was Rs.30 lakh exclusive of GST @ 18%.

However, effective from 01-11-2020, exemption available on 'X' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30-09-2020 was Rs.45 lakh.

- (i) Examine the above scenario and advise LMN Pvt. Ltd. whether it needs to get registered under GST.
- (ii) If the answer to the above question is in affirmative, advise LMN Pvt. Ltd. whether it can avail input tax credit on the additional machinery purchased exclusively for manufacturing "X"Rs.(RTP Nov. 2019) (Similar RTP May, 2018) (Similar 5 Marks, Nov. 2018-NS)

Solution:

- (i) **Registration requirements:** Section 22(1) of the CGST Act, 2017 read with Notification No. 10/2019-CT dated 07-03-2019 inter alia provides that every supplier who is engaged in intra-State exclusive supply of goods is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds Rs.40,00,000.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

Further, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a) of CGST Act, 2017.

In the given case, the turnover of the company for the half year ended on 30-09-2020 is Rs.45 lakh which is more than the applicable threshold limit of Rs.40 lakh Therefore, as per above mentioned provisions, the company should be liable to registration. However, since LMN Pvt. Ltd. supplied exempted goods till 31-10-2020, it was not required to be registered till that day; though voluntary registration was allowed u/s 25(3) of the CGST Act, 2017.

However, the position will change from 01-11-2020 as the supply of goods become taxable from that day and the turnover of company is above 40 lakh. It is important to note here that in terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of Rs.40 lakh includes exempt turnover also.

Therefore, turnover of 'X' will be considered for determining the limit of Rs.40 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 01-11-2020 (the date on which it becomes liable to registration) in terms of section 25(1) of the CGST Act, 2017.

- (ii) **Input tax credit eligibility:** Section 18(1)(a) of the CGST Act, 2017 provides that a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration 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.

Thus, LMN Pvt. Ltd. cannot avail credit for additional machinery purchased exclusively for manufacturing X as input tax credit of only inputs is allowed when a person gets registered for the first time.

Question 16. Registration requirement & ITC Eligibility: SNRs Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'Z' only within Tamil Nadu. The turnover of the company in the previous year was Rs.55 lakh. The company expects the sales to grow by 20% in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery for manufacturing 'Z' on 01-07-2021.

The purchase price of the capital goods was 20 lakh exclusive of (ST @ 18%.

However, effective from 01-11-2021, exemption available on 'Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30-09-2021 was Rs.50 lakh.

(a) The Board of Directors of SNP Pvt. Ltd. wants to know whether they have to register under GST?

(b) In case in the above question, SNRs. Pvt. Ltd. is already registered with respect to certain taxable supplies being made by it along with manufacture of exempt product 'Z', other facts remaining the same, can it take input tax credit on additional machinery purchased exclusively for manufacturing 'Z'? .If yes, then how much credit can be availed?

Advice SNP Pvt. Ltd. on the above issues with reference to the provisions of GST law.

(ICAI P.Q.)

Solution:

(a) Section 22(1) of the CGST Act, 2017 read with Notification No. 10/2019 CT' dated 07-03-2019 inter alia provides that every supplier who is exclusively engaged in intra-State supply of goods is liable to be registered under GST in the State! Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds Rs.40,00,000.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana. Tripura, Uttarakhand.

However, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a) of CGST Act, 2017.

In the given case, the turnover of the company for the half year ended on 30-09-2021 is Rs.50 lakh which is more than the applicable threshold limit of Rs.40 lakh. Therefore, as per section 22 of CGST Act 2017, the company will be liable to registration. However, since SNRs. Pvt. Ltd. supplied exempted goods till 31-10-2021, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3) of the CGST Act, 2017.

However, the position will change from 01-11-2021 as the supply of goods become taxable from that day and the turnover of company is above Rs.40 lakh. It is important to note here that in

terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of Rs.40 lakh includes exempt turnover also. Therefore, turnover of 'Z' will be considered for determining the threshold limit even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 01-11-2021 (the date on which it becomes liable to registration) in terms of section 25(1) of the CGST Act, 2017.

Further, the company cannot avail exemption of 40 lakh from 01-11-2021 as the GST law does not provide any threshold exemption from payment of tax but threshold exemption from obtaining registration (which in this case had been crossed).

- (b)** Rule 43(1)(a) of the CGST Rules, 2017 disallows input tax credit on capital goods used or intended to be used exclusively for effecting exempt supplies.

However, as per section 18(1)(d) of the CGST Act, 2017, where an exempt supply of goods and/or services by a registered person becomes a taxable supply, such person gets 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 relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

Rule 40(1)(a) of the CGST Rules, 2017 lays down that the credit on capital goods can be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice. Therefore, in the given case, SNP Pvt. Ltd. could not claim credit on machinery till the time the supply of product 'Z' for which said machinery was being used was exempt. However, it can claim credit from 31-10-2021 - the day immediately preceding the date from which the supply of product 'Z' became taxable (01-11-2021).

The credit will be available for the remaining useful life of the machinery and will be computed as follows:

Date of purchase of machinery	01-07-2021
Date on which credit becomes eligible	31-10-2021
Number of quarters for which credit is to be reduced 2 (including part of quarter)	3,60,000
GST paid on machinery [20,00,000 x 18%]	
Credit to be reduced R 3,60,000 x 5% x 2]	36,000
Amount of credit that can be taken [Rs.3,60,000 - Rs.36,000]	3,24,000

Question 17. Registration requirements: Rishabh Enterprises — a sole proprietorship firm — started an air-conditioned restaurant in Virar, Maharashtra in the month of February wherein the customers are served cooked food as well as cold drinks/non-alcoholic beverages. In March, the firm opened a liquor shop in Kohima, Nagaland for trading of alcoholic liquor for human consumption.

Determine whether Rishabh Enterprises is liable to be registered under GST law with the help of the following information:

Particulars	February (Rs.)*	March (Rs.)*
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Nagaland		5,00,000
Supply of wholly exempt services	1,00,000	1,00,000
Export of packed food items from restaurant in Maharashtra	1,50,000	2,00,000

* excluding GST

You are required to provide reasons for treatment of various items given above.

(RTP May, 2018) (ICAI P. Q.)

Solution: Registration provisions: As per Section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs.20 lakh.

However, if such taxable supplies are made from any of the specified special category States, namely, State of Manipar, Mizoram, Nagaland, and Tripura, he shall be liable to be registered if his aggregate turnover in a financial year exceeds Rs.10 lakh. In the given question, since Rishabh Enterprises is engaged in making taxable supplies of goods and services from Maharashtra which is not a specified Special Category State, the threshold limit for obtaining registration is Rs.20 lakh. It will not get the benefit of higher threshold limit of Rs.40 lakhs since it is not engaged in exclusive supply of goods as it is also providing exempt services.

The threshold limit is not reduced to Rs.10 lakh in this case, as sale of alcoholic liquor for human consumption from Nagaland (one of the specified Special Category States) are non-taxable supplies in terms of Section 9(1) of CGST Act, 2017.

As per Section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of —

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

In the light of the aforementioned provisions, the aggregate turnover of Rishabh Enterprises is computed as under:

Computation of aggregate turnover of Rishabh Enterprises (amount in :

Particulars	Turnover of February	Cumulative turnover of February & March
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [Rs.5,50,000 + Rs.6,50,000]

Add: Sale of alcoholic liquor for human consumption in Nagaland [WN-1]		5,00,000
Add: Supply of wholly exempt services [WN-2]	1,00,000	2,00,000 [Rs.1,00,000 + Rs.1,00,000]
Add: Export of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [Rs.1,50,000 + Rs.2,00,000]
Aggregate Turnover	8,00,000	22,50,000

Working Notes:

(1) As per Section 2(47) of the GST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of alcoholic liquor for human consumption in Nagaland, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

(2) Supply of wholly exempt services is includible while computing the aggregate turnover.

Conclusion: Rishabh Enterprises was not liable to be registered in the month of February since its aggregate turnover did not exceed Rs.20 lakh in that month. However, since its aggregate turnover exceeds Rs.20 lakh in the month of March, it should apply for registration within 30 days from the date on which it becomes liable to registration.

Question 18. Computation of aggregate turnover for Registration: With the help of the following information in the case of M/s Jayant Enterprises, Jaipur (Rajasthan) for the year 2020-21, determine the aggregate turnover for the purpose of registration under CGST Act, 2017.

Particulars	(Rs.)
(i) Sale of diesel on which Sale Tax (VAT) is levied by Rajasthan Government.	1,00,000
(ii) Supply of goods, after completion of job work, from the place of Jayant Enterprises directly by principal.	3,00,000
(iii) Export supply to England (U.K.)	5,00,000
(iv) Supply to its own additional place of business in Rajasthan.	5,00,000
(v) Outward supply on which GST is to be paid by recipient under reverse charge.	1,00,000

All the above amounts are excluding GST.

You are required to provide reasons for treatment of various items given above.

(5 Marks, May 2018-NS) (ICAI P.Q.)

Solution: Computation of aggregate turnover of M/s. Jayant Enterprises for the FY 2020-21

(amount in Rs.):

Supply of diesel (Being a non-taxable supply, it is an exempt supply and thus, includible in aggregate turnover)	1,00,000
Supply of goods, after completion of job work, from the place of Jayant Enterprises directly by principal (to from part of the aggregate turnover of principal)	Nil
Export supply to England (U.K.) (Specifically includible in the aggregate turnover)	5,00,000

Supply to its own additional place of business in Rajasthan (Supply made without consideration to units within the same State (under same registration.) is a not a supply and hence not includible in aggregate turnover] (However, if separate registration has been obtained for such additional place of business, then the value will be included for purpose of determination of aggregate turnover.)	Nil
Outward supply on which GST is to be paid by recipient under reverse charge	1,00,000
Aggregate turnover	7,00,000

Question 19. Registration requirements: AB Pvt. Ltd., Pune provides consultancy services. The company supplies its services exclusively through an e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the current financial year is Rs.18 lakh.

Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Ni-Tech Indya Pvt. Ltd.? (ICAI P.Q.)

Solution: As per section 22 of the GST Act every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds Rs.20 lakh [Rs.10 lakh in the States of Mizoram, Tripura, Manipur and Nagaland] in a financial year

As per Section 24, Persons who supply goods or services or both through such electronic commerce operator (ECO, who is required to collect tax at source under section 52, are mandatorily required to obtain registration. However, Persons making supplies of services, other than supplies specified under section 9(5) through an ECO who is required to collect tax at source under section 52, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of 20 lakh [10 lakh in the States of Mizoram, Tripura, Manipur and Nagaland] in a financial year, have been exempted from obtaining registration vide Notification No. 65/2017-CT dated 15-11-2017.

Thus, AB Pvt. Ltd. is not required to obtain registration since its turnover from consultancy services does not exceed Rs.20 lakhs.

In the second case, AB Pvt. Ltd. sells readymade garments through ECO. Exemption under Notification No. 65/2017 is granted only to supplier of services and not to supplier of goods. Therefore, in the second case, AB Pvt. Ltd. will not be entitled for threshold exemption and will have to compulsorily obtain registration in terms of section 24(ix).

Question 20. Effective date of registration: Determine the effective date of registration in following cases:

(1) The aggregate turnover of Balrampur Industries of Delhi has exceeded 20 lakh on 1st November. It submits the application for registration on 20th November. Registration certificate is granted to it on 25th November.

(2) Shyam Teleservices is an internet service provider in Manipur. Its aggregate turnover exceeds Rs.10 lakh on 15 January. It submits the application for registration on 27th February. Registration certificate is granted to it on 5th March. (ICAI P.Q.)

OR

Pari & Sons is an unregistered dealer. On 1 August, 2020 aggregate turnover of Pari & Sons exceeded 20,00,000. The firm applied for registration on 27th August, 2020 and was granted the registration certificate on 1 September, 2020.

Under CGST Rules, 2017, you are required to advise Pari & Sons 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.

(5 Marks, May 2018-NS)

Solution:

(1) As per provisions of Section 22 of CGST Act, 2017, every supplier becomes liable to registration if his turnover exceeds 20 lakh [in a State/UT other than Special Category States] in a financial year. Since in the given case, the turnover of Balrampur Industries exceeded Rs.20 lakh on 1 November, it becomes liable to registration on said date.

As per provisions of Section 25 read with Rule 10 of the Chapter III Registration of CGST Rules, 2017, if the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration. Since Balrampur Industries has made application — for registration within 30 days, therefore, the effective date of registration is 1 November.

(2) As per provisions of Section 22 of CGST Act, 2017, every supplier located in Manipur becomes liable to registration if his turnover exceeds Rs.10 lakh in a financial year. Since in the given case, the turnover of Shyam Teleservices exceeds Rs.10 lakh on 15th January, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th March.

Question 21. Time limit for obtaining registration: State the time-period within which registration needs to be obtained in each of the following independent cases:

a) Casual taxable person;

b) Person making inter-State taxable supply.

Answer: Section 25(1) of the CGST Act stipulates the time-period within which registration needs to be obtained in various cases. It provides the following time-limits:

In case of	Time limit for obtaining registration -
➤ a person who is liable to be registered under section 22 or section 24	within 30 days from the date on which he becomes liable to registration
➤ a casual taxable person or a non-resident taxable person	At least 5 days prior to the commencement of business

In view of the aforesaid provisions:

- (a) A casual taxable person must obtain registration at least 5 days prior to the commencement of its business.
- (b) As per Section 24 of the CGST Act, person making inter-State taxable supply is liable to get compulsorily registered. Therefore, such person must obtain registration within 30 days from the date on which he becomes liable to registration.

Question 22. Dharma Dutta has taken voluntary registration and has not opted for the composition scheme of levy. He is aggrieved by the cancellation of his registration under GST, although he is filing NIL returns, as he has not conducted any business for the past 8 months. He wants to know the circumstances under which the proper officer can cancel registration on his own. (4 Marks, Nov. 2019)

Answer: According to Section 29(2) read with Rule 21 of CGST Rules, 2017, 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 i.e. —
 - i) he does not conduct any business from the declared place of business; or
 - ii) he issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder.
 - iii) he violates the provisions of Section 171 of the Act or the rules made thereunder;
 - iv) violates the provision of rule 10A (i.e. Furnishing of Bank Account Details)

Note: Section 171 provides for Anti Profiteering Measure.

- (b) a person paying tax u/s 10 i.e. composition scheme has not furnished returns for 3 consecutive tax periods; or
- (c) any registered person, other than a person specified in Section 29(2)(b), has not furnished returns for a continuous period of 6 months; or
- (d) any person who has taken voluntary registration u/s 23(3) has not commenced business within 6 months from the date of registration; or
- (e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts.

Thus, in this case since Dharma Dutta has obtained voluntary registration and has not conducted any business for the past 8 months, hence the proper office may cancel his registration, but before cancellation Dharma Dutta must be given a reasonable opportunity of being heard.

THE END

8. TAX INVOICE CREDIT AND DEBIT NOTES

CHAPTER OVERVIEW:

Section 31:

- a) Tax Invoice
- b) Revised Tax Invoice.
- c) Consolidated revised tax Invoice
- d) Consolidated tax Invoice.
- e) Bill of supply.
- f) Receipt voucher.
- g) Refund voucher.
- h) Payment voucher.
- i) Delivery challan.
- j) Other document as may be notified.

Section 32: Prohibition of unauthorized collection of tax.


Section 33: Amount of tax to be indicated in tax Invoice and other documents

Section 34: Credit & Debit notes







Sec 31


a) TAX INVOICE


Introduction:

 An invoice is a commercial Instrument / Document issued by a supplier of goods / services (Taxable person) to a Recipient

 It identifies both the parties involved and describes:

-  The item sold.
-  Quantities of the items sold.
-  Date of shipment.
-  Mode of transport.
-  Prices & Discounts.
-  Delivery & Payment terms etc.

 In certain cases, an Invoice serves as demand for payment and becomes a document of title when paid in full (Total Amount).

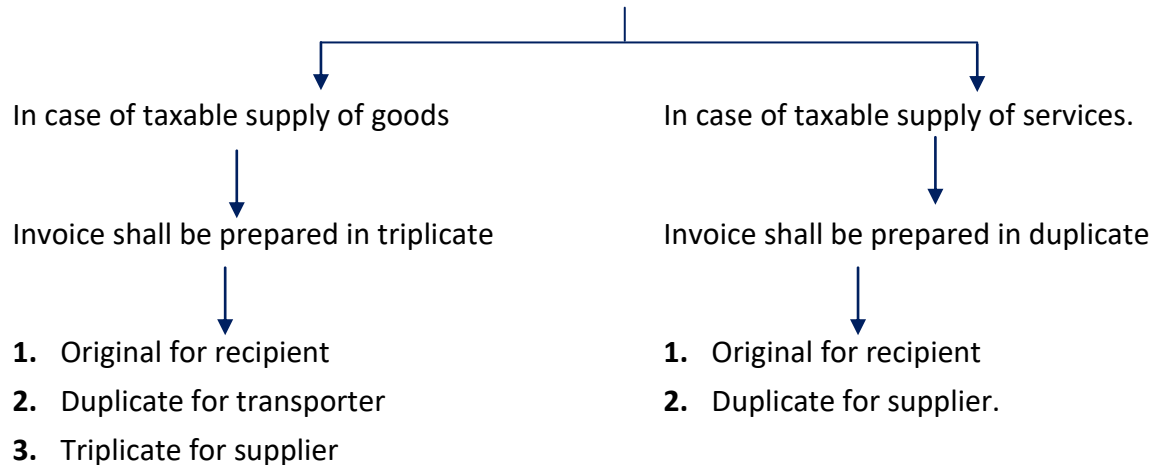
 For the purpose of claiming the input tax credit, the invoice matching needs to be done. The inwards supplies of the person claiming the credit (recipient) should match with the outward supplies of the supplier(s). Thus, a registered person cannot avail Input Tax Credit unless he is in possession of a tax invoice or a debit note.

1. **Time limit for issuance of invoice [Sections 31(1), (2), (4) & (5) read with rule 47]:** Refer the chapter-4 **Time of Supply**.
2. **No. of HSN digits required on tax invoice and class of registered persons not required to mention HSN:**

S.no	Annual turnover in previous FY	Number of digits of HSN code
1.	Turnover \leq 5 crore.	
	a) B2B Supplies	4
	b) B2C Supplies (optional)	4
2.	Turnover > 5 crore	6

Note: Above provisions are also applicable to bill of supply also.

3. manner of issue of Invoice



With effect from 01.04.2022, such limit has been further reduced to Rs.20 crore. Thus, e-invoicing has been made mandatory for all registered businesses with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than Rs.20 crore.

E-invoicing not applicable to a Government Department and a local authority

- ✎ Special Economic Zone units
- ✎ Insurer or banking company or financial institution including NBFC
- ✎ GTA supplying services in relation to transportation of goods by road in a goods carriage
- ✎ Supplier of passenger transportation service
- ✎ Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens [Notification No. 13/2020 CT dated 21.03.2020 as amended].

b) REVISED TAX INVOICE

- ✎ Every registered person who has been obtained registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoice.
- ✎ Such Invoice shall be issued against the Invoices already issued during said period.
- ✎ Simply we can say there will be a time gap in b/w date of liable for obtaining Registration to the date of obtaining certificate of Registration, Registered person liability starts from the date of liable for obtaining Registration even though he does not have GSTIN Number. Hence registered person first has to issue a normal invoice, after registration revised tax invoice has to be issued.
- ✎ Revised tax Invoice shall be issued within **1 month** from the date of issuance of certificate of Registration.
- ✎ This provision is necessary, as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the time period and registration is granted, the effective date of registration is the date on which the person became liable for registration.

Example:

XYZ Ltd engaged in manufacture of electrical goods, his turnover reached to 20 lakhs on 29th Jan 2022. Hence company made an application to the department & obtained the certificate of Registration on 24 Feb 2022.

- ✎ What is the effective date of Registration?
- ✎ What is the last date for issue of Revised Invoice
- ✎ if Registration obtained on 20th March, 2019? How your answer would be differ.

Solution:

Particulars	Reg 24 th Feb	Reg 20 th March
1) Date of registration		
2) When actual Registration has been obtained		
3) Effective date of Registration		
4) Last date for issue of Revised invoice		

c) Consolidated revised Tax Invoice:

- ✎ A Registered person may issue a consolidated revised tax Invoice in Respect of all taxable supplies made to an unregistered recipient during **such period**.
- ✎ However in case of interstate supplies, a consolidated revised tax invoice cannot be issued in respect of supply exceeds 2,50,000/-.

d) Consolidated Tax Invoice:

No Tax Invoice required to be issued if value < Rs. 200 A consolidated Tax Invoice can be issued [Section 31(3)(b) read with fourth proviso to rule 46]:

A registered person **other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens** may not issue a Tax Invoice if:

- (i) Value of the goods / services / both supplied < Rs.200,
- (ii) the recipient is unregistered; and
- (iii) the recipient does not require such invoice.

Instead such registered person shall issue a **Consolidated Tax Invoice** for such supplies at the close of each day in respect of all such supplies.

Thus, small taxpayers, like small retailers, doing a large number of small transactions for up to a value of Rs. 200 per transaction to unregistered customers need not issue invoice for every such transaction. They can issue one consolidated invoice at the end of each day for all transactions done during the day. However, they should also issue an invoice when the customer demands.

Above provisions are also applicable to Bill of Supply.

Example:

Raja Rao & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S. No	Recipient of supply	Amount (Rs.)
1.	Ramana Traders - a registered retail dealer	195

2.	Raja Enterprises – an unregistered trader	360
3.	Teja – a Painter [unregistered]	510
4.	Vishal1 Orphanage – an unregistered entity	190
5.	Naresh – a Student [unregistered]	160

None of the recipients require a tax invoice [Ramana Traders being a composition dealer].

Determine in respect of which of the above supplies, Raja Rao & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

e) Bill of supply:

- ✎ A registered person supplying
 - ⇒ Exempted goods / services / both
 - ⇒ Under composition levy
- ✎ A registered person opting for the composition levy does not collect tax from the recipient on outward supplies made by him.
- ✎ Similarly, in case of a registered person supplying exempted goods and/or services, no tax implications are there.
- ✎ Recipients should not expect Tax Invoice from such suppliers as they cannot issue tax invoice.

} Shall issue a Bill of supply instead of a tax invoice

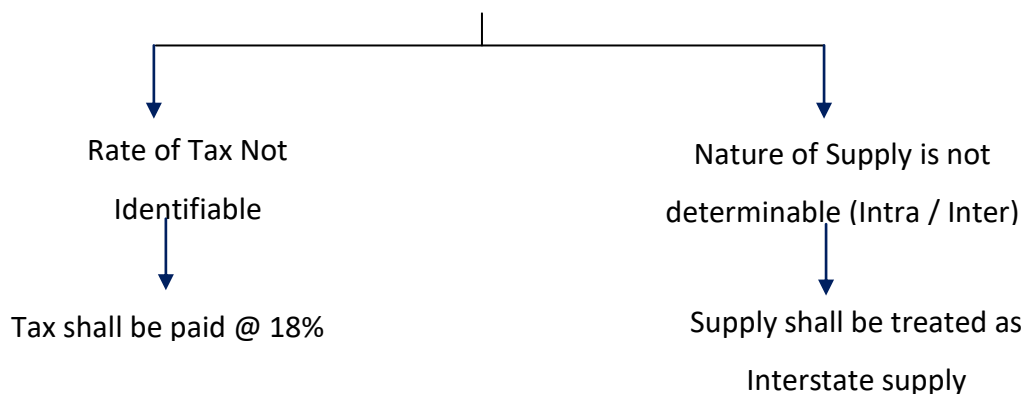
Single invoice-cum-bill of supply for taxable as well as exempted supplies made to an unregistered person:

A new rule 46A has been inserted in CGST Rules to provide that where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.

[Notification No. 45/2017 CT dated 13.10.2017]

f) Receipt Voucher:

- ✎ A registered person on receipt of advance payment with respect to any supply of goods / services / both shall issue a receipt voucher which evidence in receipt of such payment.
- ✎ Where at the time of receipt of advance, rate of tax / Nature of supply is not determinable



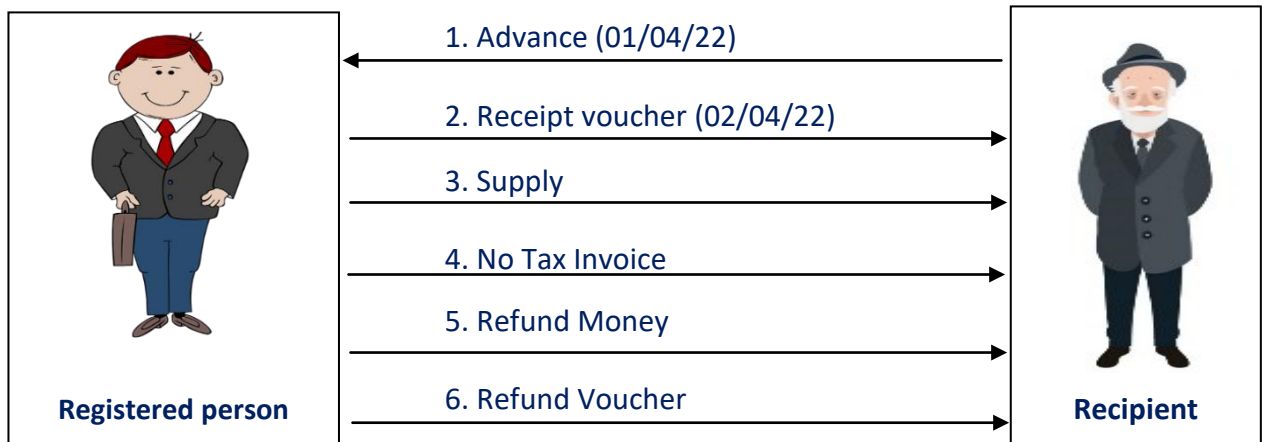
g) Refund Voucher:

On receipt of any advance payment with respect to

- ✎ Any supply of goods / services / both

- ✎ The registered shall issue Receipt voucher.
- ✎ Subsequently no supply is made and
- ✎ No tax invoice is issued in relating to such supply,
- ✎ The said registered person issue a Refund voucher along with refund money / such payment.

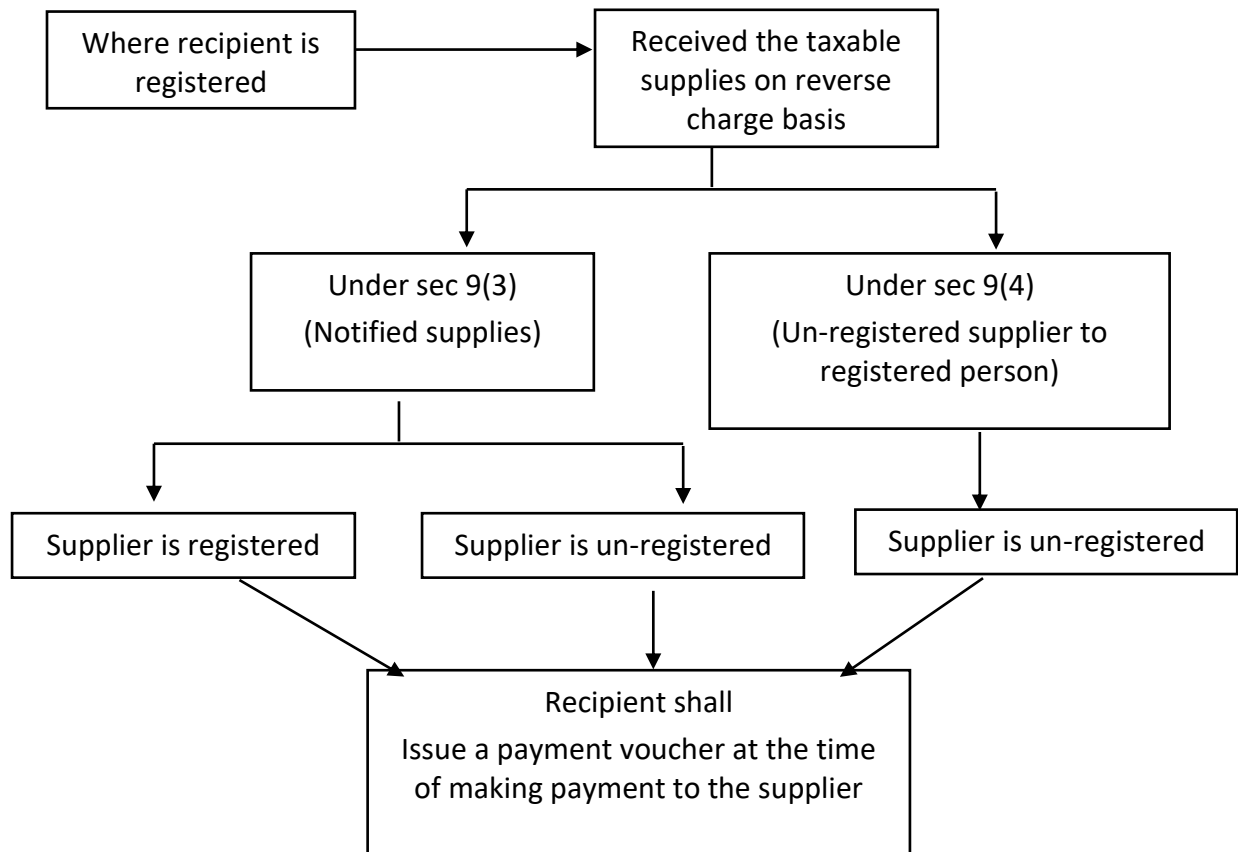
E.g.:



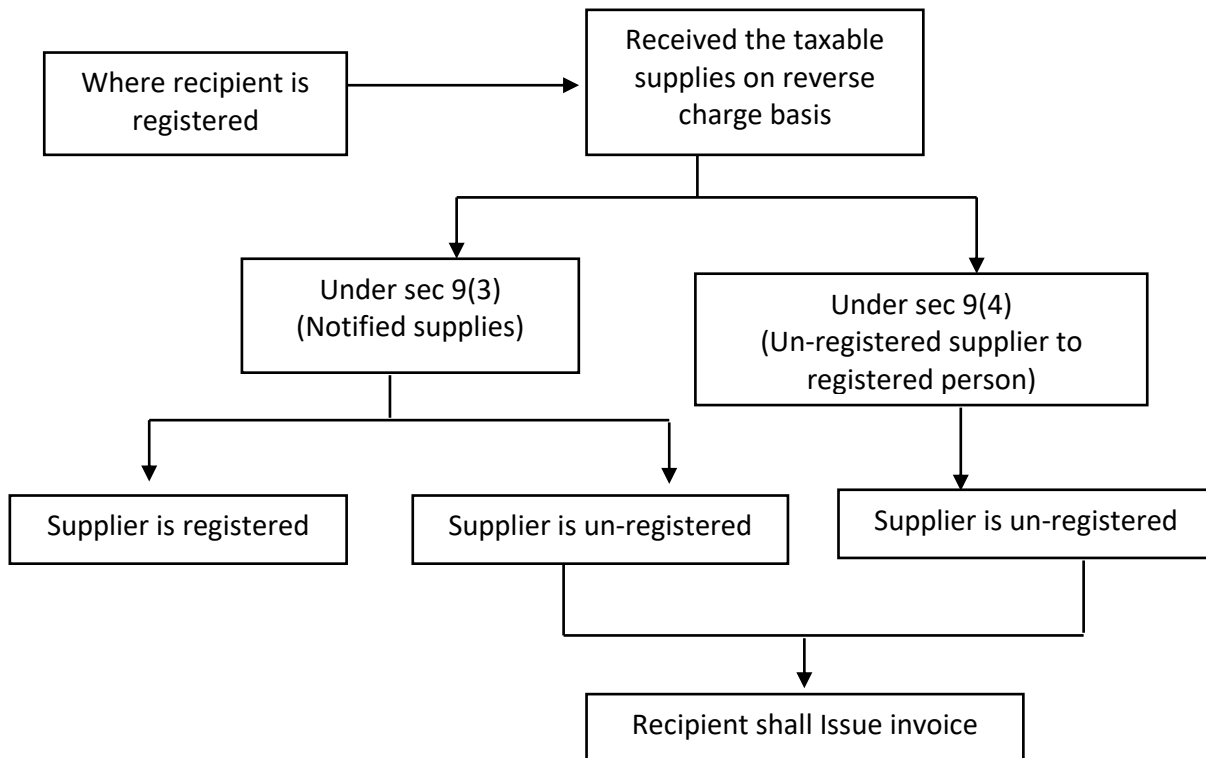
h) Invoice & payments vouchers to be issued by recipient of supply liable to pay tax under reverse charge:

- ✎ Recipient is liable to pay tax on reverse charge basis, where he receives supply of goods / services which are notified for reverse charge purpose (irrespective of the fact whether supplier is registered or unregistered Sec 9(3))
- ✎ Further, recipient (who is registered) is also liable to pay tax where taxable goods / services have been received from an unregistered supplier (subject to Rs. 5,000 Sec 9(4)).

1st) Payment voucher



2nd) Invoice



Note:

Payment voucher has to be issued by the recipient irrespective of the fact of whether supplier may be registered / un-registered.

Whereas invoice concern recipient is liable for issue of invoice only when supplier is un- registered.

i) **Delivery Challan:**

Rule 55 specifies the cases where at the time of removal of goods. Goods may be removed on delivery challan & invoice may be issued after delivery. These are provided in following chart.

Nature of supply	Delivery challan to be issued	Particular of Delivery challan
→ Supply of liquid gas where the quantity at the time of the removal from the Place of business of the Supplier is not known	→ serially numbered not exceeding 16 characters	→ Date and serial number of delivery challan
→ Transportation of goods for job work	→ In one are multiple series	
→ Transportation of goods for reasons other than by way of supply (sale or approval basis , free sample, one branch to another branch both are located in same state)	→ At the time of removal of goods for transportation	→ Name address and GSTIN of consignor
→ such other supplies as may be notified by the Board.	Common for four natures of supplies	→ Name address and GSTIN of consignee
		→ HSN code and description of goods
		→ taxable value
		→ Quantity details

→ Tax rate and tax amount central tax/state tax IGST, CGST etc.

Note:

1) Delivery challan in triplicate

- ⇒ Original for consignee
- ⇒ Duplicate for transporter
- ⇒ Triplicate for consignor

2) Invoice may be issued after delivery of the goods

3) Original copy of the invoice shall be sent along with the last consignment.

4) Declaration in E-way Bill

Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-Way Bill

5) Tax invoice to be issued after delivery of goods

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.

6) Goods transported in SKD / CKD condition or in batches or lots

Where the goods are being transported in a semi knocked down or completely knocked down condition **or in batches or lots.**

- (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) Copies of the corresponding delivery challan shall accompany each consignment 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

Goods moved within the State or from the State of registration to another State for supply on approval basis and Art works sent by artists to galleries for exhibition:

Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.

In view of relevant provisions of rule 55, it is clarified that the goods which are taken for supply on



approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified [Circular No. 10/10/2017 GST dated 18.10.2017]

Likewise, in case where artists supply art works in different States - other than the State in which they are registered as a taxable person and if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply, it is clarified that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work [Circular No. 22/22/2017 GST dated 21.12.2017]



j) Any other document other than tax invoice:

Government may notify any other situations where instead of tax invoice other documents can be issued or the tax invoice may not be issued.

Supplier of taxable service	Document in lieu of the tax invoice	
	Optional information	Mandatory information
Insurer / Banking company/Financial institution, including NBFC	<p>✍ Serial number</p> <p>✍ Address of the recipient of taxable service</p>	<p>✍ Other information as prescribed for a Tax Invoice, under rule 46</p> <p>✍ Such document may be issued / made available, physically / electronically</p>
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage		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 GTA
		Other information as prescribed for a tax invoice, under rule 46
Supplier of passenger	✍ Serial number	✍ Other information as prescribed

transportation service	 Address of the recipient of taxable service	for a tax invoice, under rule 46  Tax invoice shall include ticket in any form, by whatever name called
Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens	Details of recipient of service	Supplier is required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice Other information (other than details of recipient of service) as prescribed for a tax invoice, under rule 46.

Prohibition of unauthorized collection of tax (Sec.32)






-  A person who is not a registered person shall not collect in respect of any supply of goods /services / both any amount by way of tax under this act
-  No registered person shall collect tax except in accordance with the provisions of this tax or the rules made there under

Amount of tax to be indicated in tax invoice and other documents (Sec 33)

Every person who is liable to pay tax for supply shall prominently indicate in all documents in relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which supply is made. (i.e., even for MRP goods tax amount has to be shown separately in invoice).

Sec34: Issuance of Credit & Debit note

(i) Issuance of Credit Note: During the course of trade or commerce, after the invoice has been issued, there can be situations like:

-  The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
-  The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
-  The quantity received by the recipient is less than what has been declared in the tax invoice.
-  The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value
-  Any other similar reasons.





In order to regularize these kinds of situations, the supplier is allowed to issue a document called as credit note to the recipient. Once the credit note has been issued, the tax liability of the supplier will reduce.

The credit note is a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised. The issuance of the credit note easily allows the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.

Section 34(1) provides that where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that/those tax invoice(s) is found to exceed the 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 one or more credit notes for supplies made in a financial year containing the prescribed particulars.

It is important to note that credit note(s) are not permitted to be issued in case secondary discounts¹³ are allowed by the supplier since the tax liability of the supplier does not get reduced in such case. However, supplier can issue financial/ commercial credit note(s) to reduce the value of supply payable by the recipient to the supplier [Circular 92/11/2019 GST dated 07.03.2019].

(ii) Issuance of Debit Note: There can be situations when after the invoice has been issued:

-  The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
-  The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
-  The quantity received by the recipient is more than what has been declared in the tax invoice.
-  Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as debit note to the recipient.

Section 34(3) provides that where one or more tax invoices have 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 one or more debit notes for supplies made in a financial year containing the prescribed particulars.

The issuance of a debit note/supplementary invoice creates additional tax liability. The treatment of a debit note/supplementary invoice is identical to the treatment of a tax invoice as far as returns and payment are concerned.

The debit note/supplementary invoice is a convenient and legal method by which the value of the goods and/or services in the original tax invoice can be enhanced. The issuance of the debit note allows the supplier to pay his enhanced tax liability in his returns without requiring him to undertake any other tedious process.

(iii) Details of Debit Note/Credit Note to be declared in return

i. Credit Note:

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:

Particulars	Time limit
a. 30 th day of November following the end of financial year	
b. furnishing of the relevant annual return	
Time limit for issue of debit / credit note	

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.

ii. Debit Note:

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. The tax liability shall be adjusted in such manner as may be prescribed.

Kartik & Co., a registered supplier under GST, provides the following information regarding various tax invoices issued by it during the month of March:

- i) Value of supply charged in invoice no.1 was Rs.2,50,000 against the actual taxable value of 2,30,000.
- ii) Tax charged in invoice no. 4 was Rs.32,000 against the actual tax liability of Rs.68,000 due to wrong HSN code being chosen while issuing invoice.
- iii) Value charged in invoice no. 8 was Rs.3,20,000 as against the actual value of Rs.4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to answer the following:

1. Who shall issue a debit/credit note under CGST Act?
2. Whether debit note or credit note has to be issued in each of the above circumstances?
3. What is the maximum time-limit available for declaring the credit note in the GST Return?

E-WAY BILL SECTION 68 READ IT RELEVANT CGST RULES, 2017

Under GST regime, for quick and easy movement of goods across India without any hindrance, all the check posts across the country are abolished. However, in order to monitor the movement of goods for controlling any tax evasion, e-way bill system has been introduced - for inter-State movement of goods with effect from 01.04.2018 and for intra-State movement of goods in a phased manner. Under this system, a taxpayer - prior to movement of goods via a conveyance - would inform each transaction's details to the tax department, obtain an acknowledgement number for having thus informed, and then use this acknowledgement number as a valid document accompanying the conveyance carrying goods. The idea is that the taxpayer be made to upload the details of each transaction to a common portal through the Internet, and once uploaded, the common portal would automatically generate a document which can be tracked and verified easily by any stakeholder.

Statutory requirement

Section 68 of the CGST Act stipulates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified

to carry with him such documents and such devices as may be prescribed. Rule 138 of CGST Rules, 2017 prescribes e-way bill as the document to be carried for the consignment of goods in certain prescribed cases.

What is e-way bill?

A **waybill** is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, and the point of origin of the consignment, its destination, and route. Electronic Way Bill (E-Way Bill) is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. In other words, **E-way bill is an electronic document generated on the GST portal evidencing movement of goods**

What are the benefits of e-way bill?

Following benefits are expected from e-way bill mechanism:

- (i) Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts
- (ii) It will facilitate faster movement of goods
- (iii) It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.

E-way Bill is generated **electronically** in **Form GST EWB 01** on the common portal (www.ewaybillgst.gov.in). The facility of generation, cancellation, updation and assignment of e-way bill shall be made available through SMS to the supplier, recipient and the transporter, as the case may be. E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (Application Program Interface) based site to site integration etc.

The pre-requisite for generation of e-way bill is that the person who generates e-way bill should be a registered person on GST portal and he should register on the e-way bill portal. If the transporter is not registered person under GST it is mandatory for him to get enrolled on e-waybill portal (<https://ewaybillgst.gov.in>) before generation of the e-way bill.

E-way Bill provisions [as contained in rules 138, 138A, 138B, 138C and 138D – Chapter XVI of the CGST Rules, 2017] are elaborated as under:

1. When is e-way bill required to be generated? [Rule 138(1)]

Whenever there is a movement of goods of consignment value exceeding Rs. 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,

The registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB-01 before commencement of such movement.

It is important to note that “information is to be furnished prior to the commencement of movement of goods” and “is to be issued whether the movement is in relation to a supply or for reasons other than supply”.

In many cases, goods transit through another State while moving from one area in a State to another area in the same State. It is important to note that E-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated [Circular No. 47/21/2018 GST dated 08.06.2018].

Who causes movement of goods?

If supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier. If recipient arranges transport, movement is caused by him. If goods are supplied by an unregistered supplier to a registered known recipient, movement shall be caused by such recipient.

Meaning of consignment value of goods

Consignment value of goods shall be the value:

- ✓ determined in accordance with the provisions of section 15,
- ✓ declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
- ✓ also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
- ✓ shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods

Special situations where e-way bill needs to be issued even if the value of the consignment is less than Rs. 50,000:

(i) Inter-State transfer of goods by principal to job-worker

Where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment [Third proviso to rule 138(1)].

(ii) Inter-State transfer of handicraft goods by a person exempted from obtaining registration

Where handicraft goods* are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration [under clauses

(i) and (ii) of section 24], the e-way bill shall be generated by the said person irrespective of the value of the consignment [Fourth proviso to rule 138].

***Handicraft goods** are the goods specified in Notification No. 32/2017-C.T. dated 15.09.2017 which exempts the casual taxable persons making inter-State taxable supplies of such handicraft goods from obtaining registration [Refer Chapter 7 – Registration].

E-way Bill in case of 'Bill To Ship To' Model

In a "Bill to Ship To" model of supply, there are three persons involved in a transaction, namely:

'A' is the person who has ordered 'B' to send goods directly to 'C'. 'A'

B' is the person who is sending goods directly to 'C' on behalf of 'A'.

'C' is the recipient of goods

In this complete scenario. Two supplies are involved and accordingly two tax invoices are required to be issued:

Invoice -1: which would be issued by 'B' to 'A'?

Invoice -2: which would be issued by 'A' to 'C'.

It is clarified that as per the CGST Rules, 2017, either A or B can generate the e-Way Bill but it may be noted that **only one e-Way Bill** is required to be generated [Press Release dated 23.04.2018]

2. Information to be furnished in e-way bill:

An e-way bill Form GST EWB-01 contains two parts:


- (I) Part A** [comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation, etc.]: to be furnished by the **registered person** who is causing movement of goods** of consignment value exceeding Rs. 50,000/- and
- (II) Part B** (transport details) [Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number, in case of transport by road]: to be furnished by the **person who is transporting the goods**.

****However, information in Part-A may be furnished:**

- ✓ by the transporter, on an authorization received from such registered person [First proviso to rule 138(1)] or
- ✓ by the e-commerce operator or courier agency, where the goods to be transported are supplied through an such e-commerce operator or a courier agency, on an authorization received from the consignor [Second proviso to rule 138(1)].

3. Who is mandatorily required to generate e-way bill?





Where the goods are transported by a registered person - whether as consignor or recipient as the consignee (whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) [Rule 138(2)]

 **Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road**, the registered person shall furnish the information relating to the transporter in Part B on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].

 **Where the goods are transported by railways or by air or vessel**, the e-way bill shall be

generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, information in part B [viz transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number)] on the common portal [Rule 138(2A)].

Other important points:

-  **Where the goods are transported by railways:** there is no requirement to carry e-way bill along with the goods, but railways has to carry invoice or delivery challan or bill of supply as the case may be along with goods. Further, e-way bill generated for the movement is required to be produced at the time of delivery of the goods. Railways shall not deliver goods unless the e-way bill required under rules is produced at the time of delivery [Proviso to rule 138(2A)].
-  The registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than Rs. 50,000 [First proviso to rule 138(3)].
-  **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 [Second proviso to rule 138(3)].
-  **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 1 to rule 138(3)]

4. When is it not mandatory to furnish the details of conveyance in Part-B?

Explanation 2 to rule 138(3) stipulates that e-way bill is valid for movement of goods by road only when the information in Part-B is furnished. However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported **for a distance of upto 50 km** within the State/Union territory:

- ❖ From the place of business of the consignor to the place of business of the transporter for further transportation [Third proviso to rule 138(3)] or
- ❖ From the place of business of the transporter finally to the place of business of the consignee [Proviso to rule 138(5)].

5. Unique e-way bill number (EBN)

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 [Rule 138(4)].

6. Transfer of goods from one conveyance to another

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in **Part A**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in **Part B** of the e-way bill on the common portal [Rule 138(5)].

The consignor/recipient, who has furnished the information in **Part A**, or the transporter, may

assign the e-way bill number to another registered/enrolled transporter for updating the information in **Part B** for further movement of the consignment [Rule 138(5A)]. However, once the details of the conveyance have been updated by the transporter in **Part B**, the consignor or recipient, as the case may be, who has furnished the information in **Part A** shall not be allowed to assign the e-way bill number to another transporter [Proviso to rule 138(5A)]

7. Consolidated E-way bill

After e-way bill has been generated, 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 in **Form GST EWB-02** may be generated by him on the said common portal prior to the movement of goods [Rule 138(6)].

Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle). That is, the transporter carrying multiple consignments of various consignors and consignees in a single vehicle can generate and carry a single document - consolidated e-way bill instead of carrying separate document for each consignment in a conveyance.

Consolidated EWB is like a trip sheet and it contains details of different e-way bills in respect of various consignments being transported in one vehicle and these e-way bills will have different validity periods. Hence, Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB.

Further, where the consignor/consignee has not generated the e-way bill in Form GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than Rs. 50,000, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in Form GST EWB-01 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 in **Form GST EWB-02** on the common portal prior to the movement of goods [Rule 138(7)]. **Provisions of rule 138(7) have not yet been made effective**

However, where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of Form GST EWB-01 may be furnished by such e-commerce operator or courier agency [Proviso to rule 138(7)].

8. Information submitted for e-way bill can be used for filing GST Returns

The information furnished in **Part A** of the e-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in **Form GSTR-1** [Rule 138(8)].

However, when the information has been furnished by an unregistered supplier / unregistered

recipient, he shall be informed electronically, if the mobile number or the e-mail is available [Proviso to rule 138(8)].

9. Cancellation of e-way bill

Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within **24 hours** of generation of the e-way bill [Rule 138(9)].

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B [First proviso to rule 138(9)].

Further, unique EWB number generated is valid for a period of 15 days for updation of Part B [Second proviso to rule 138(9)].

10. Validity period of e-way bill/consolidated e-way bill [Rule 138(10)]

S. No.	Distance within country	Validity period from relevant date*
1.	Up to 100 km	One day in cases other than Over Dimensional Cargo** or multimodal shipment in which at least one leg involves transport by ship
2.	For every 100 km or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
3.	Up to 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
4.	For every 20 km or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

***Relevant date** means 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 the period expiring at midnight of the day immediately following the date of generation of e-way bill.

This can be explained by following examples –

- (i) Suppose an e-way bill is generated at 00:04 hrs. On 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.
- (ii) Suppose an e-way bill is generated at 23:58 hrs. On 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

The validity of the e-way bill starts when first entry is made in Part-B i.e. vehicle entry is made first time in case of road transportation or first transport document number entry in case of rail/air/ship transportation, whichever is the first entry. It may be noted that validity is not re-

calculated for subsequent entries in Part-B.

****Over dimensional cargo** means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

Extension of validity period

Extension by Commissioner for certain categories of goods:

Commissioner may, on the recommendations of the Council, by notification extend the validity period of an e-way bill for certain categories of goods as may be specified therein.

Extension by transporter in exceptional circumstances: Where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B, if required. Transporter can extend the validity of the e-way bill, if the consignment is not being reached the destination within the validity period due to exceptional circumstance like natural calamity, law and order issues, trans-shipment delay, accident of conveyance, etc. He needs to explain this reason in details while extending the validity period. This option is available for extension of e-way bill within 8 hours from the time of its expiry

11. Acceptance of e-way bill

The details of the e-way bill generated shall be made available to the -

- (a) supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or
- (b) recipient, if registered, where the information in Part A has been furnished by the supplier/transporter,

On the common portal, and the supplier / recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill [Rule 138(11)].

In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details. The time-limit specified for this purpose is:

- (i) 72 hours of the details being made available to him on the common portal
- or
- (ii) The time of delivery of goods, whichever is earlier

12. E-way bill generated in one State is valid in another State

The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory [Rule 138(13)].

13. Situations where E-way Bill is not required to be generated

Notwithstanding anything explained above, no e-way bill is required to be generated in the following cases:

- a) Where the goods being transported are the ones given below

S. No	Description of Goods
1.	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)]

- b) Where the goods are being transported by a non-motorised conveyance
- c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
- d) in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory
- e) where the goods [other than de-oiled cake], being transported, are exempt from tax vide Notification No. 2/2017 CT(R) dated 28.06.2017
- f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel
- g) where the supply of goods being transported is treated as no supply under Schedule III of the Act
- h) where the goods are being transported:
 - (i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 - (ii) under customs supervision or under customs seal
- i) where the goods being transported are transit cargo from or to Nepal or Bhutan
- j) where the goods being transported are exempt from tax under Notification No. 7/2017 CT (R) 28.06.2017 [Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers] and Notification No. 26/2017 CT (R) 21.09.2017 [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)]
- k) any movement of goods caused by defence formation under Ministry of defence as a

consignor or consignee

- l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
- m) where empty cargo containers are being transported
- n) where the goods are being transported upto a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.
- o) where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply

14. Documents and devices to be carried by a person-in-charge of a conveyance

The person-in-charge of a conveyance shall carry -

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a RFID** embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner [Rule 138A(1)].

**RFIDs are Radio Frequency Identification Device used for identification.

Invoice Reference Number in lieu of tax invoice

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 the 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 [Rule 138A(2)].

In such a case, the registered person will not have to upload the information in Part A of E-way bill for generation of e-way bill and the same shall be auto-populated by the common portal on the basis of the information furnished in the prescribed form [Rule 138A(3)]

Documents in lieu of e-way bill

Where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill:

- (a) tax invoice or bill of supply; or
- (b) A delivery challan, where the goods are transported for reasons other than by way of supply [Rule 138A(5)].

15. Verification of documents and conveyances [Rule 138B]

The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.

The Commissioner shall get RFID readers installed at places where the verification of movement

of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

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 other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

16. Inspection and verification of goods [Rule 138C]

A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of a prescribed form within 24 hours of inspection and the final report in Part B of said form shall be recorded within 3 days of such inspection.

However, where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of said form, for a further period not exceeding 3 days. The period of 24 hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.

Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently

17. Facility for uploading information regarding detention of vehicle [Rule 138D]

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in **specified form** on the common portal.

18. E-way bill generation facility to be blocked only in respect of outward movement of goods, by the defaulting registered person [Rule 138E]

- i) Rule 138E contains provisions pertaining to blocking of e-way bill generation facility, i.e. disabling the generation of e-way bill.
- ii) Earlier, a user was not able to generate e-way bill for a GSTIN if the said GSTIN became ineligible for e-way bill generation in terms of rule 138E. It implies that the GSTINs of such blocked taxpayers could not be used to generate the e-way bills either as supplier (consignor) or as recipient (consignee).
- iii) Said rule has been amended to relax such restriction. Henceforth, blocking of GSTIN for e-way bill generation facility is only in respect of any outward movement of goods of the registered person who is ineligible for e-way bill generation as per rule 138E. E-way bills can be generated in respect of inward supplies received by said registered person.

19. It may be noted that the expressions ‘transported by railways’, ‘transportation of goods by

railways', 'transport of goods by rail' and 'movement of goods by rail' used in the provisions discussed above does not include cases where leasing of parcel space by Railways takes place.

Tax invoice or bill of supply to accompany transport of goods [Rule 55A]

Person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

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.

Ans:

As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the invoice must be issued on or before 29th September.

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?

Ans:

Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations. Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment. In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment. Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

Illustration 3: The aggregate turnover of Sangri Services Ltd., Delhi, 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 advise 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.

Ans:

As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded Rs. 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August. As per section 31 read with CGST Rules, 2017, 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. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

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.

(Or)

Draupad 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.

(MTP – MAR 19)

Ans:

A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed [Section 31(3)(c) read with CGST Rules, 2017].

Therefore, in the given case, Shyam Fabrics cannot issue tax invoice. Instead, it shall issue a Bill of Supply.

Illustration 5: The aggregate turnover of Sangri Services Ltd., Delhi, 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 advise 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.

(RTP – NOV19)

Ans:

As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded Rs. 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31 read with CGST Rules, 2017, 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. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

Illustration 6: ABC Ltd., a registered supplier has made following taxable supplies to its customer Mr. P in the quarter ending 30th June, 20XX.

Date	Bill No.	Particulars	Invoice value (including GST) [Rs.]
5 th April, 20XX	102	Notebooks [10 in numbers]	1,200
10 th May, 20XX	197	Chart Paper [4 in number]	600
20 th May, 20XX	230	Crayon colors [2 packets]	500
2 nd June, 20XX	254	Poster colors [5 packets]	900
22 nd June, 20XX	304	Pencil box [4 sets]	700

Goods in respect of bill no. 102, 230 and 254 have been returned by Mr. P. You are required to advise ABC Ltd. whether it can issue consolidated credit note against all the three invoices?

(RTP – NOV19)

Ans:

Where **one or more** tax invoices have been issued for supply of any goods and/or services and

- (a)** the taxable value/tax charged in that tax invoice is found to exceed the taxable value/tax payable in respect of such supply, or
- (b)** where the goods supplied are returned by the recipient, or
- (c)** where goods and/or services supplied are found to be deficient, the registered person, who has supplied such goods and/or services, may issue to the recipient **one or more** credit notes for supplies made in a financial year containing prescribed particulars.

Thus, one (consolidated) or more credit notes can be issued in respect of multiple invoices

issued in a financial year without linking the same to individual invoices.

Hence, in view of the above-mentioned provisions, M/s ABC Ltd. can issue a consolidated credit note for the goods returned in respect of all the three invoices.

Illustration 7:

Discuss the correctness of the following statements:-

- (i) Once generated, an e-way bill cannot be cancelled.**
- (ii) E-way bill generated in one State is valid in another State. (RTP –MAY20)**

Ans:

- (i)** The said statement is partially correct. Where an e-way bill has been generated, but goods are either not transported at all or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.
However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.
- (ii)** The said statement is correct. The e-way bill generated under Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

Illustration 8: Royal Fashions, a registered supplier of designer outfits in Delhi, decides to exhibit its products in a Fashion Show being organised at Hotel Park Royal, Delhi on 4th January. For the occasion, it gets the service by way of makeover of its models from Aura Beauty Services Ltd., Ashok Vihar, for which a consideration is Rs.5,00,000 (excluding GST) has been charged. Aura Beauty Services Ltd. issued a duly signed tax invoice on 10th February showing the lumpsum amount of Rs.5,90,000 inclusive of CGST and SGST @ 9% each for the services provided. Answer the following questions:

- (i) Examine whether the tax invoice has been issued within the time limit prescribed under law.**
- (ii) Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd. contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by tax consultant of Royal Fashions.**

Ans:

- (i)** As per section 31 read with the CGST Rules, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/ banking company or financial institutions including NBFCs] from the date of supply of service.
In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. upto 3rd February. However, the invoice has been issued on 10th February.

(ii) Section 31 read with the CGST Rules, inter alia, provides that tax invoice in addition to other mandatory details shall also contain the amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess). Further, 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. The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply of makeover services should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law.

Illustration 9: Kidzee Toys Ltd., a wholesaler of toys registered in Chandigarh, is renowned in the local market for the variety of toys and their reasonable prices. Kidzee Toys Ltd. makes supply of 100 pieces of baby's learning laptops and chat learning phones to Nancy General Store on 25th September by issuing a tax invoice amounting to Rs.1,00,000.

However, the said toys were returned by Nancy General Store on 30th September.

Discuss which document Kidzee Toys Ltd. is required to issue in such a case?

Ans:

Kidzee Ltd. is required to issue a credit note in such a case.

As per section 34, where one or more tax invoices have been issued for supply of any goods or services or both and the goods supplied are returned by the recipient the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed. Therefore, Kidzee Ltd. is required to issue a credit note to Nancy General Store for the good returned.

Illustration 10: Chidanand Products Pvt. Ltd. is a registered supplier who has opted for composition levy in the current financial year. He wishes to know whether the issue of a bill of supply can be dispensed with under any circumstances.

You are required to advise him.

Ans:

Yes. Chidanand Products Pvt. Ltd. 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 the condition that:

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such bill of supply, and he shall issue a consolidated bill of supply for such supplies at the close of each day in respect of all such supplies.

Illustration 11: A registered person has to mandatorily issue separate invoices for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person. Examine the validity of the statement.

Ans:

The statement is not valid in law. As per the CGST Rules, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.

Illustration 12: A non-banking financial company can issue a consolidated tax invoice at the end of every month for the supply made during that month. Examine the validity of the statement.

Ans:

The said statement is valid in law. A customer may avail numerous services from a non-banking financial company in a given tax period. It may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called may be issued/ made available, physically/ electronically, for supply of services made during a month at the end of the month.

Illustration 13: Sakthi Enterprises, Kolkata entered into a contract with Suraj Enterprises, Surat for supply of goods and the delivery shall be made on or before 31st October. The goods were removed from the factory at Kolkata on 11th October. As per the agreement, the goods were to be delivered on or before 31st October. Suraj Enterprises has received the goods on 14th October. Determine the time of issue of invoice as per the provisions of CGST Act.

Ans:

A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Therefore, in the given case, invoice has to be issued on or before, 11th October (the time of removal of goods).

Illustration 14: Trust and Fun Ltd., an event management company, has provided its services for an event at Kapoor Film Agencies, Mumbai on 5th June. Payment for the event was made on 19th June. Determine the time of issue of invoice as per the provisions of CGST Act.

Ans:

A registered person [other than an insurer/banking company/financial institution, including an NBFC] supplying taxable services shall issue a tax invoice before or after the provision of service, but within a period of 30 days from the date of supply of service.

Thus, in the given case, invoice has to be issued within 30 days of 5th June (date of supply of service), i.e. on or before, 5th July.

Illustration 15: Udai Singh, a registered supplier, has received advance payment with respect to services to be supplied to Sujamal. His accountant asked him to issue the receipt voucher with respect to such services to be supplied. However, he is apprehensive as to what would happen in case a receipt voucher is issued, but subsequently no services are supplied. You are required to advise Udai Singh regarding the same.

Ans:

Udai Singh is required to issue a receipt voucher at the time of receipt of advance payment with respect to services to be supplied to Sujamal. A receipt voucher is a document evidencing receipt of advance money towards a supply of goods and/or services or both. A registered person, on receipt of advance payment with respect to any supply of goods or services or both, shall issue a receipt voucher or any other document, evidencing receipt of such payment.

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. Therefore, in case subsequently no services are supplied by Udai Singh, and no tax invoice is issued in pursuance thereof, Udai Singh may issue a refund voucher against such payment to Sujamal.

Illustration 16: Bhoj Raj, a registered person, has availed GTA services on which he is liable to pay tax under reverse charge. He wishes to know whether he is required to issue an invoice. Please advise him discussing the relevant provisions under CGST Act and rules thereunder.

Ans:

Bhoj Raj is required to issue an invoice with regard to the GTA services availed by him. A registered person who is liable to pay tax under subsection (3) or sub-section (4) of section 9 (i.e. where the recipient is liable to discharge GST on reverse charge basis) shall issue an invoice in respect of goods or services or both received by him from the supplier on the date of receipt of goods or services or both.

Illustration 17: Sitaram Textiles has to send cloth for dyeing to its job-worker. It wishes to know whether it needs to issue a tax invoice at the time of sending the goods to job-worker. Please advise him with reference to the provisions of the CGST Act.

Ans:

Sitaram Textiles has to issue a delivery challan and not the tax invoice at the time of sending the goods to job-worker. Rule 55, inter alia, stipulates that for the purposes of transportation of goods for job work, the consignor may issue a delivery challan, serially numbered, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:-

- i) date and number of the delivery challan;
- ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;
- iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;
- iv) Harmonised System of Nomenclature 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.

The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:-

- a) the original copy being marked as ORIGINAL FOR CONSIGNEE;
 - b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER;
- and
- c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER

TEST YOUR KNOWLEDGE

1. In case of taxable supply of services, invoice shall be issued within a period of _____ from the date of supply of service
a) 30 days b) 45 days c) 60 days d) 90 days
2. In case of taxable supply of services by an insurer, invoice shall be issued within a period of _____ from the date of supply of service.
a) 30 days b) 45 days c) 60 days d) 90 days
3. In case of continuous supply of services, where due date of payment is ascertainable from the contract, invoice shall be issued:
a) before or at the time when the supplier of service receives the payment
b) on or before the due date of payment
c) Either (a) or (b)
d) None of the above
4. In case of continuous supply of services, where due date of payment is not ascertainable from the contract, invoice shall be issued:
a) before or at the time when the supplier of service receives the payment
b) on or before the due date of payment
c) Either (a) or (b)
d) None of the above
5. 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:
a) before/at the time of supply
b) 6 months from the date of removal
c) Earlier of (a) or (b)
d) None of the above

HINTS:

1. (a) 2. (b) 3. (b) 4. (a) 5. (c)

THE END

9. PAYMENT OF TAX

Section 49: Payment of tax, interest, penalty & other amounts

- a) Electronic cash ledger
- b) Electronic credit ledger
- c) Electronic liability ledger

Section 50: Interest on delay payment of tax

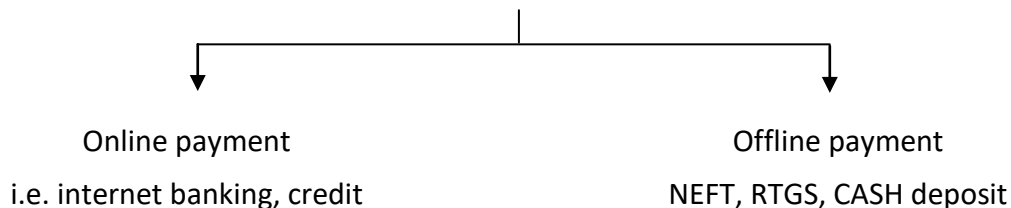
Introduction:

- Under the GST regime for any intra state supply taxes to be paid will go to central & state/ UT
- For any interstate supply, tax to be paid is IGST which will have components of CGST & SGST. SGST will go to the state where supply has been consumed as per place of supply provisions.
- Once a tax payer registered on GST common portal, electronic credit, cash ledger & an electronic liability register will automatically be opened & displayed on his dashboard.

Section – 49

Electronic cash ledger:

- The electronic cash ledger contains a summary of all deposits and payments made by a tax payer.
- Electronic cash ledger is maintained on the GST portal.
- Mode of deposit in electronic cash ledger.



NOTE:

- Online payment, NEFT, RTGS payment can be used for deposit of money in ECL (electronic cash ledger) without any limit.
- To deposit money over the counter has been restricted to per challan per tax period Rs. 10,000 (cheque or demand draft payments).

Payment by challan:

What are CPIN, CIN, BRN, and E-FPB?

- ♠ **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

GSTNBRN: Bank reference number is the transaction number given by the bank for the payment against a challan.

♠ **BRN** or Bank Reference Number is the transaction number given by the bank for a payment against a Challan

♠ **E-FPB** stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India transaction.

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

Are manual Challans applicable as allowed earlier under the VAT regimes?

♠ Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.

How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?

There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

Other Aspects relating to Challan?

- 1) E- challan validity is for 15 days. The commission for making payment through e- challan has to be borne by the person making the payment.
- 2) Any unregistered person has to make payment on the basis of temporary identification number generated through common portal.
- 3) The mandate form obtained after making NEFT / RTGS payment has to be submitted in the Bank. The validity of the mandate form is 15 days.
- 4) On successful credit of amount in the concerned (Central/State) Government Account maintained in the authorized bank, a Challan Identification Number (CIN) will be generated by the collecting bank which will be indicated in the challan.
- 5) The 'deposit' made by one of the modes and in the prescribed manner will be credited to the Electronic Cash Ledger of the taxable person.
- 6) On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the person on whose behalf the deposit is made, and the common portal will generate a receipt to this effect.
- 7) If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not reflected in the common portal, the person making the deposit or the person on whose behalf the deposit has been made, can make a representation in prescribed form through the common portal or e-gateway through which the payment has been made.
- 8) Date of credit into the treasury of the State Government/Central Government is deemed to be the date of deposit and not the actual date of debit to the amount of the taxable person.

9) In case any discrepancy is noticed in electronic cash ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form.

Manner of utilization of amount reflected in Electronic Cash Ledger

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

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

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

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

How can the cash available in the Electronic Cash Ledger be utilised? Can a taxpayer utilise the amount available in any minor head of a major head for any other minor head of the same major head?

The amount available in the Electronic Cash Ledger can be utilised for payment of any liability for the respective major and minor heads. For example, liability for the tax under SGST/UTGST can be settled only from the available amount of cash under SGST/UTGST Major head.

Example: An amount of Rs.1,000 is available under minor head 'tax' of major head 'SGST/UTGST' and the taxpayer has a liability of Rs.200 for minor head 'interest' under the same major head 'SGST / UTGST'. Since, there is no amount available under minor head 'interest' under major head "SGST / UTGST", therefore, interest payment cannot be made from the amount available under 'tax' of the same major head.

Is transfer of funds between the major heads permissible for discharging liabilities?

New sub-sections (10) and (11) inserted in section 49 of the CGST Act, 2017 w.e.f 01.01.2020 vide Finance (No. 2) Act, 2019

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

This Form can be used either for

- i) transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads or

- ii) transfer of any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger. For instance, a registered person has deposited a sum of Rs. 1,000 under the head of “Interest” column of CGST & Rs. 1,000 under the head of “Interest” column of SGST, instead of the head “Fee”. Such amount can be transferred using Form GST PMT-09 for making a transfer to the head “Fee”.
- iii) The said transfer is required using the above Form, because when the Registered person has to make the remittance of Tax/Interest/Penalty/ Fee/ Other amount at a stage “Offset Liabilities” in any of the GST Returns/ Forms for Tax payments through Electronic Cash Ledger, adequate amount should be available under the respective head of account.
- iv) Prior to the above amendment, the Registered person has to claim a refund of such erroneous deposit or unutilized amounts using the prescribed Form and make a fresh deposit of tax for utilization under the appropriate head. The new section 53A provides for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.

ELECTRONIC CREDIT LEDGER [SECTION 49(2),(4) & (5)]:

Sub-section (2) of section 49 of the CGST Act provides that the self- assessed **input tax credit (ITC)** by a registered person shall be credited to its Electronic Credit Ledger or **Electronic Input Tax Credit Ledger**. This is to be maintained in the prescribed form.

Manner of utilisation of ITC:

The electronic credit ledger can be debited only to the extent of the discharge of any liability in accordance with section 49.

- 1) The input tax credit available under the head IGST in the electronic credit ledger will first be utilized against IGST payment.
 - a) Remaining amount if any, will be utilized in the following manner:
 - i) as against CGST payment
 - ii) if any amount is remaining after adjustment against CGST payment, it can be utilized to make SGST/UTGST payment
 - 2) Available CGST Credit in the credit ledger shall first be utilized for payment of CGST:
 - a) Remaining amount if any, will be utilized for payment of IGST.
 - 3) Available SGST /UTGST credit in the credit ledger shall first be utilized for payment of SGST/UTGST:
 - a) Remaining amount if any, will be utilized for payment of IGST
- However, the input tax credit on account of SGST / UTGST shall be utilised towards payment of IGST only where the balance of the input tax credit on account of CGST is not available for the payment of integrated tax.

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

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

Transfer of input tax credit:

Section 53 of CGST Act provides simple but important modus operandi in respect of post CGST utilisation towards IGST liability. Under section 49(5)(b),(c) and (d) of the Act, CGST / SGST / UTGST credits can be utilised by a tax payer on priority basis to respective CGST / SGST / UTGST dues first. Then, in case of CGST, balance, if any, can be used to pay towards IGST. If used so, there shall be reduction in central tax caused by Central Government and equal credit shall be ensured to IGST in the prescribed manner.

In other words, if CGST is utilised to pay towards dues of IGST, there shall be reduction in CGST on such utilisation and the Central Government shall transfer equivalent amount to the credit of IGST account. Thus, in this manner the Central Government shall ensure due credit to IGST.

Such treatment shall be ensured by the Central Government for UTGST and SGST also in respective cases.

It may be noted that equivalent provision is there in Section 18 of IGST Act, 2017.

What happens if the taxable person files the return but does not make payment of tax?

In such cases, the return is not considered as a valid return. Section 2(117) defines a valid return to mean a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

Common Points for Electronic Cash & Credit Ledger:

Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger.

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

Provisions relating to Utilisation of ITC and Order of Utilisation of ITC.

The provisions relating to Utilisation of Input tax credit and its order of utilisation as **Inserted by the CGST (Amendment) Act, 2018, w.e.f. 1-2-2019** are as under —

- (1) Utilisation of input tax credit subject to certain conditions [Section 49A]:** Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.
- (2) Order of utilisation of input tax credit (Section 49B):** Notwithstanding anything contained in this Chapter and subject to Section 49(5)(e)&(f), the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax

credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.

For this purpose Rule 88A of the CGST Rules, 2017 has been inserted vide Notification No. 16/2019-CT dated 29-03-2019 which reads as under:

Order of utilization of input tax credit (Rule 88A): Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order

However, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.

Clarification in respect of utilization of ITC under GST

CBIC has clarified that after the insertion of new rule 88A in the CGST Rules, 2017, the order of utilization of ITC will be as per the order (of numerals) given below:

ITC of	Output IGST liability	Output CGST liability	Output SGST/ UTGST liability
IGST	(I)	(II) – <u>In any order and in any proportion</u>	
<i>(III) ITC of IGST to be completely exhausted mandatorily</i>			
CGST	(V)	(IV)	Not permitted
SGST/UTGST	(VII)*	Not permitted	(VI)

*ITC on account of SGST/UTGST should be utilized towards payment of IGST only after the ITC of CGST has been utilized fully

Illustration:

Amount of ITC available and output tax liability under different tax heads

Head	Output tax liability	ITC
IGST	1000	1300
CGST	300	200
SGST/UTGST	300	200
Total	1600	1700

Option 1:

ITC of		Discharge of output CGST liability	Discharge of output SGST/UTGST liability	Balance of ITC
IGST	1000	200	100	0
ITC of IGST has been completely exhausted				
CGST	0	100	-	100
SGST/UTGST	0	-	200	0
Total	1000	300	300	100

Option 2:

ITC of	Discharge of output IGST liability	Discharge of output CGST liability	Discharge of output SGST/UTGST liability	Balance of ITC
IGST	1000	100	200	0
ITC of IGST has been completely exhausted				
CGST	0	200	-	0
SGST/UTGST	0	-	100	100
Total	1000	300	300	100

ELECTRONIC LIABILITY REGISTER [SECTION 49(7), (8) & (9)]

Sub-section (7) of section 49 speaks about the third kind of ledger to be maintained by a taxable person viz. **Electronic Liability Register**. While the terms “Electronic Cash Ledger” and “Electronic Credit Ledger” are defined in the Act, the term “Electronic Liability Register” is not defined. The Section lays down that all liabilities of a taxable person will be maintained in a separate register.

Order of discharge of tax and other dues

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

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

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

Presumption that incidence of tax is passed on:

Sub-section (9) contains a deeming clause. This part of the section provides that when a taxable person has paid the GST under the corresponding Act, the taxable person is deemed to have passed on the incidence of such payment of tax to the recipient of such goods and / or services. Thus, if tax has been paid under the CGST Act, then the taxable person is deemed to have passed on the incidence of such payment of CGST to the recipient. This is subject to the contrary being proved.

Chapter IX of CGST Rules provide the following:**a) Debit to electronic liability register:**

- i) All amounts payable towards tax, interest, late fee and any other amount as per return filed;
- ii) All amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;
- iii) The amount of tax and interest as a result of mismatch.
- iv) Any interest amount that may accrue from time to time.

b) Debit to Electronic Credit/Cash ledger:

- a) Liability to be paid by debiting electronic cash/ credit ledger and corresponding credit in electronic liability register [Rule 85(3)]:** Subject to the provisions of Section 49, Section 49A and Section 49B, payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per Rule 86 or the electronic cash ledger maintained as per Rule 87 and the electronic liability register shall be credited accordingly.
- b) Payments from Electronic Cash Ledger [Rule 85(4)]:** The amount deducted under Section 51, or the amount collected under Section 52, or the amount payable on reverse charge basis, or the amount payable under Section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger maintained as per Rule 87 and the electronic liability register shall be credited accordingly.

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

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

INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]:

When interest is payable ?

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

Rate of interest

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

Computation of period for calculation of interest

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

Other relevant points relating to interest

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

TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SECTION 19 OF IGSTACT]:

Payment of tax based on erroneous determination of 'nature of supply' is not permitted to be adjusted because of the above appropriation of payments. Remedy lies in refund.

Taxable person who has paid tax in error is entitled to refund by first restoring the discharge of the correct tax due so that the incorrect tax paid reflects on the common portal as 'paid in excess' and **IGST paid in error will be refunded subject to conditions prescribed.**

ILLUSTRATIONS

Illustration 1: How many types of electronic ledger are there?

Ans: (a) Electronic cash ledger
(b) Electronic credit ledger
(c) Electronic liability register

Illustration 2: What are the main features of GST payment process?

Ans: (Answer at your own)

Illustration 3: Explain the following terms in brief:

(a) E-FPB (b) CPIN (c) CIN

Ans: (Answer at your own)

Illustration 4: Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Ans: No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.

As per Section 2 (82) of the CGST Act, 2017, output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

Illustration 5: Are principles of unjust enrichment applicable for payment made under GST?

Ans: Yes, as per Section 49 (9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Illustration 6: State the name of output tax under GST, where any of the input tax credit under GST can be availed?

Ans: IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.

Illustration 7: ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self-assessed tax of Rs.2,50,000 which was not paid. Explain what are the implications for ABC limited as per relevant provisions?

Ans: As per section 2(117) of CGST Act, "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

Illustration 8: Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September, 20XX and wishes to pay his IGST liability for the month. Since he's making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

(a) Are manual challans allowed under GST?

[RTP MAY 19]

(b) What is the validity period of the challan?

Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

Ans:

Section 49(1) of CGST Act, 2017 read with rule 87 of CGST Rules, 2017 provides that the deposit in electronic cash ledger can be made through any of the following modes, namely:-

- (i)** Internet Banking through authorised banks;
- (ii)** Credit card or Debit card through the authorised bank;
- (iii)** National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- (iv)** Over the Counter payment through authorised banks.

Thus, offline mode is also permitted under GST.

- (a)** Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.
- (b)** E-challan is valid for a period of 15 days.
- (c)** Amount entered under any Minor head (Tax, Interest, Penalty, etc.) and Major Head (CGST, IGST, SGST/UTGST) of the Electronic Cash Ledger can be utilized only for that liability. Cross-utilization among Major and Minor heads is not possible.

Illustration 9: Computation of GST liability - When purchase and supply made intra-State: The following are details of purchases, sales, etc. effected by M/s. TAB & Co. a registered manufacturer under CGST Act, 2017:

- (1)** Purchased Raw material 'A' from local dealer Rs. 86,100 (inclusive of GST @ 5%).
- (2)** Purchased Raw material 'B' from local dealer Rs. 1,12,000 (inclusive of GST @ 12%).
- (3)** Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 1,96,000 (inclusive of GST % 12%). Depreciation @ 15% to be charged.
- (4)** Other Direct and Indirect expenses Rs. 55,460.
- (5)** Earned 5% profit margin on total cost.

During the month of October 2018 only 70% production is sold within the state and applicable GST rate being 12%.

Calculate the amount of CGST and SGST payable after utilising input tax credit for the month of October 2018 assuming no opening balance of input tax credit is available.

Ans: Computation of Taxable value of supply (amount in Rs.):

Purchase Raw material 'A' from local dealer [Rs. 86,100 x 100 / 105] [WN]	82,000
Purchase Raw material 'B' from local dealer [Rs. 1,12,000 x 100 / 112] [WN]	1,00,000
Depreciation expense [(Rs. 1,96,000 - Rs. 1,96,000 x 12 / 112) x 15%]	26,250
Other direct and indirect expense	<u>55,460</u>
Total Cost of goods manufactured	<u>2,63,710</u>
Cost of goods sold (70% of goods produced were sold)	1,84,597
Add: Profit margin @ 5% of cost	9,230
Taxable value of supply	1,93,827

Working Note: Credit will be available for CGST and SGST charged by local suppliers. Hence, the same is not to be included in the cost.

Computation of CGST and SGST payable for the month of October 2018 after utilising the available input tax credit, [assuming no ITC opening balance]

Particulars	CGST (Rs.)	SGST (Rs.)
Output tax liability for the month of October 2018 @ 12% (being CGST 6% and SGST 6%) [Rs. 1,93,827 x 12%]	11,630	11,630
Less: Eligible input tax credit in respect of purchases of:		
Raw material 'A' [82,000 x 5%]	2,050	2,050
Raw material 'B' [1,00,000 x 12%]	6,000	6,000
Capital Goods [1,75,000 x 12%]	10,500	10,500
CGST/SGST credit to be carried forward	-6,920	-6,920

Illustration 10: M/s Salty & Spicy Limited reduced the amount of Rs.1,50,000 from the output tax liability in contravention of provisions of section 42(10) of the CGST Act, 2017 for the month of April 20XX, which is ineligible credit. A show cause notice was issued by the Tax Department to pay tax along with interest. M/s Salty & Spicy Limited paid the tax and interest on 31 st July, 20XX. Calculate Interest liability (Ignore Penalty). (MTP – MAR 19)

Ans:

A taxable person who makes an undue or excess claim of input tax credit shall pay interest@ 24% p.a. on such undue or excess claim in terms of section 50 of CGST Act, 2017. The period of interest will be from the date following the due date of payment to the actual date of payment of tax.

Due date of payment is 20th May, 20XX.

Period for which interest is due = 21st May, 20XX to 31st July, 20XX

=72 days

Thus, interest liability = Rs. 1,50,000 x 24% x 72/365 =Rs. 7,101 (approx.)

Illustration 11: Mr. X, a supplier of goods, pays GST under regular scheme. The amount of input tax credit (ITC) available and output tax liability under different tax heads is as under:-

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

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

(RTP – NOV19)

Ans:

Mr. X can use the ITC to pay his output tax liability. The order of utilisation of ITC is as under:-

- (i) IGST credit should first be utilized towards payment of IGST.
- (ii) Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion.
- (iii) Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
- (iv) ITC of CGST should be utilized for payment of CGST and IGST in that order.
- (v) ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.

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

Computation of minimum GST payable in cash

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
GST payable	800	2,500	2,000
Less: ITC	-	(2,000)-IGST	(2,000)-IGST
	<u>(800)</u> -CGST	<u>(500)</u> – SGST	
Net GST payable in cash	Nil	Nil	Nil

Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, it is beneficial to use ITC of IGST to pay SGST (after paying IGST liability) to minimize cash outflow.

Illustration 12: Mr. Ram Narayan, a registered supplier under GST, wants to first discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period. Examine briefly whether he can do so?

Ans:

As per section 49(8) of the CGST Act, 2017, the liability of a taxable person has to be discharged in a chronological order as under:-

- (a) self -assessed tax and other dues for the previous tax periods have to be discharged first;
- (b) the self -assessed tax and other dues for the current period have to be discharged next;
- (c) Once these two steps are exhausted, thereafter any other amount payable including demand determined under section 73 or section 74 of the CGST Act, 2017 to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last.

This sequence has to be mandatorily followed.

Thus, in view of the above-mentioned provisions, Mr. Ram Narayan cannot discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period.

PRACTICAL QUESTIONS

Question 1. Miss Nitya has following balances in her Electronic Cash Ledger as on 28th February as per GST portal.

Major Heads	Minor Heads	Amount (Rs.)
CGST	Tax	40,000
	Interest	1,000
	Penalty	800
SGST	Tax	80,000
	Interest	400
	Penalty	1,200
	Fee	2,000
IGST	Tax	45,000
	Interest	200
	Penalty	Nil

Her tax liability for the month of February for CGST and SGST was Rs. 75,000 each. She failed to pay the tax and contacted you as legal advisor on 12th April to advise her as to how much amount of tax or interest she is required to pay, if any, by utilizing the available balance to the maximum extent possible as per GST Laws. She wants to pay the tax on 20th April.

Other information:

- (i) Date of collection of GST was 18th February.
- (ii) No other transaction after this up to 20th April.
- (iii) Ignore penalty and late fee for this transaction.
- (iv) No other balance is available.

You are required to advise her with reference to legal provisions with brief notes on the legal provisions applicable.

Ans:

Due date for payment of tax collected on 18th February is 20th March. Interest @ 18% p.a. is payable for the period for which the tax remains unpaid in terms of section 50 of CGST Act, 2017. In the given case, since Miss Nitya wants to pay the tax on 20th April, interest payable on the amount of CGST and SGST each is as follows:

$$\text{Rs. } 75,000 \times 18\% \times 31/365 = \text{Rs. } 1,147 \text{ (rounded off)}$$

As per Section 49(10) of the CGST Act, 2017, any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act, 2017 can be transferred to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed. Thus, amount

entered under any Minor head (Tax, Interest, Penalty, etc.) and Major Head (CGST, IGST, SGST/UTGST) of the Electronic Cash Ledger can be transferred to any other major or minor head. Consequently, cross-utilization among Major and Minor heads is also possible. Thus, Miss Nitya is liable to pay the following amount of tax and interest asunder:

	CGST		SGST	
	Tax	Interest	Tax	Interest
Tax Liability	75,000	1,147	75,000	1,147
Balances in Electronic cash ledger in same major/minor head	40,000	1,000	80,000	400
Balance transferred from other major/minor head	35,000 (Note 1)	147 (Note 2)	Nil 747 (Note 3)	
Amount payable in cash	Nil	Nil	Nil	Nil

Note 1 –Rs. 35,000 shortfall amount has been transferred from cash ledger balance available in Major Head IGST.

Note 2 –Rs. 147 shortfall amount has been transferred from cash ledger balance in minor head penalty of major head CGST.

Note 3 –Rs. 747 shortfall amount has been transferred from cash ledger balance in minor head tax of major head SGST.

Since there is no restriction in intra-head or inter-head transfer of available balance in cash ledger as per the relevant provisions, it is upon the taxpayer to decide from which account the shortfall has to be made good.

Question 2. A makes intra-State supply of goods valued at Rs. 50,000 to B within State of Karnataka. There is no input tax credit balance available with A. B makes inter-State supply to X Ltd. (located in Telangana) after adding 10% as its margin on the value of goods excluding taxes. Thereafter, X Ltd. sells it to Y in Telangana (Intra-State sale) after adding 10% as his margin on the value of goods excluding taxes.

Assume that the rate of GST chargeable is 18% (CGST and SGST at 9% each and IGST chargeable at 18%). Calculate tax payable at each stage of the transactions detailed above. Wherever input tax credit is available and can be utilized, calculate the net tax payable in cash. At each stage of the transaction, indicate which Government will receive the tax paid and to what extent.

Ans:

I. Intra-State supply of goods by A to B

	Rs.
Value charged for supply of goods	50,000
Add: CGST @ 9%	4,500
Add: SGST @ 9%	4,500
Total price charged by A from B	59,000

A does not have credit of CGST, SGST or IGST. Thus, the entire CGST(Rs. 4,500) & SGST (Rs. 4,500) charged will be paid in cash by A to the Central Government and Karnataka Government respectively.

II. Inter-State supply of goods by B to X Ltd. – Margin @ 10%

	Rs.
Value charged for supply of goods (Rs. 50,000 x 110%)	55,000
Add: IGST @ 18%	9,900
Total price charged by B from X Ltd.	64,900

Computation of IGST payable by B to Central Government in cash

	Rs.
IGST payable	9,900
Less: Credit of CGST	4,500
Less: Credit of SGST	4,500
IGST payable to Central Government in cash	900

Credit of CGST and SGST can be used to pay IGST [Section 49(5) of the CGST Act, 2017]. Karnataka Government will transfer SGST credit of Rs. 4,500 utilised in the payment of IGST to the Central Government.

III. Intra-State supply of goods by X Ltd. to Y

	Rs.
Value charged for supply of goods (Rs. 55,000 x 110%)	60,500
Add: CGST @ 9%	5,445
Add: SGST @ 9%	5,445
Total price charged by X Ltd. from Y	71,390

Computation of CGST and SGST payable by X Ltd in cash

	Rs.
CGST payable	5,445
Less: Credit of IGST	5,445
CGST payable to Central Government in cash	Nil
SGST payable	5,445
Less: Available Credit of IGST [Rs. 9,900 – Rs. 5,445]	4,455
SGST payable to Telangana Government in cash	990

Credit of IGST can be used to pay IGST, CGST and SGST in any order and in any proportion. Central Government will transfer IGST of Rs. 4,455 utilised in the payment of SGST to Telangana Government.

Question 3. Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Ans:

No, as per section 49(4) the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.

As per section 2(82), output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

Question 4. ABC limited filed the return for GST under section 39(1) for the month of November on 20th December showing self-assessed tax of Rs. 2,50,000 which was not paid.

Explain what are the implications for ABC limited as per relevant provisions.

Ans:

As per section 2(117), “valid return” means a return furnished under subsection(1) of section 39 on which self-assessed tax has been paid in full.

Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

Question 5. Ms PPC & Co. have availed input tax credit of Rs. 42,500/- during September under IGST head, instead of availing Rs. 21,250 under CGST & SGST heads. Mr.X, accountant of the above entity would like to use Form GST PMT-09 for making a transfer from IGST head to respective CGST & SGST heads.

Examine the scenario and offer your comments.

Ans:

As per provisions of section 49(10) read with rule 87(13) of CGST Rules, 2017, “A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09”.

It is important to note that only amounts available under Electronic Cash Ledger can be transferred to the respective heads using Form GST PMT-09 and not otherwise.

Accordingly, contention of the Accountant Mr. X of M/s PPC & Co., is not valid for transfer of Rs.42,500 from head IGST to respective CGST & SGST in Electronic Credit Ledger.

Question 6. M/s ABC Ltd. have belatedly filed GST return (under section 39) for the month of January after 60 days from the due date for filing such return. Total tax paid in such return is as below:

Particulars	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Output tax payable	4,50,000	2,85,000	2,85,000
Tax payable under reverse charge	18,000	32,000	32,000
Input tax available for utilisation	2,50,000	55,000	55,000
Tax paid through Electronic Cash Ledger	2,18,000	2,62,000	2,62,000

Examine the interest payable as per the provisions of GST law.

What would be your answer, if entire tax for the month of January has to be paid through Electronic Credit Ledger except taxes to be paid on reverse charge basis?

Ans:

Proviso to section 50 lays down that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

In the given scenario, M/s ABC Ltd. have filed their return belatedly and as per the above provisions, interest is payable on the tax component paid through Electronic Cash Ledger only. A point relevant to note here is that tax payable on reverse charge basis also carries interest for the period of delay in remittance of tax and input tax credit cannot be used to pay the same (i.e. tax payable under reverse charge has to be paid in cash).

Accordingly, interest under section 50 payable for the tax paid through Electronic Cash Ledger is computed as below:

IGST: $218,000 \times 18\% \times 60/365 = 6,450$

CGST: $262,000 \times 18\% \times 60/365 = 7,752$

SGST: $262,000 \times 18\% \times 60/365 = 7,752$

Further, if entire tax payable for January is paid through Electronic Credit ledger, except for the taxes to be paid under reverse charge basis, then interest under section 50 is applicable only on the remittance of tax under reverse charge basis and not for tax payable on forward charge basis.

Interest payable is given as below:

IGST: $18,000 \times 18\% \times 60/365 = 532$

CGST: $32,000 \times 18\% \times 60/365 = 946$

SGST: $32,000 \times 18\% \times 60/365 = 946$

Question 7. Examine the taxes to be paid for the month of July on the basis of below information furnished by M/s Zinc & Co.:

Particulars	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Output tax payable	14,75,000	28,34,000	28,34,000
Tax payable under reverse charge	36,000	1,44,000	1,44,000
Balance in Electronic Credit Ledger	26,52,000	18,32,000	18,32,000

Output tax reported under IGST column pertains to the month of February, which was not paid for the said period. Also, note that input tax credit available in Electronic Credit Ledger pertains to input tax on purchases made during the month of July and no opening balance exists from previous tax period.

Ans:

Payment of taxes is governed as per the provisions laid in section 49 read with section 49A and 49B of CGST Act, 2017 along with rule 88A of CGST Rules, 2017. Also, section 49(8) of CGST Act, stipulates that every taxable person shall discharge his tax and other dues under this Act or the rules made there under in the following order, namely:

- (a) self-assessed tax, and other dues related to returns of previous tax periods;
 (b) self-assessed tax, and other dues related to the return of the current tax period;
 (c) any other amount payable under this Act or the rules made there under including the demand determined under section 73 or section 74;”

As per the above provisions, self-assessed tax of previous tax period i.e. February shall be paid first and later self-assessed tax of current tax period i.e. July shall be paid.

Payment of taxes under forward charge

Particulars	IGST	CGST	SGST
Balance in electronic credit ledger for utilization	26,52,000	18,32,000	18,32,000
Output tax payable for July	14,75,000	28,34,000	28,34,000
Less: Utilization of input tax credit:			
a. IGST [Refer Note1]	14,75,000	5,88,500	5,88,500
b. CGST	0	18,32,000	0
c. SGST	0	0	18,32,000
Amount payable through electronic cash ledger	Nil	4,13,500	4,13,500

Total amount payable through electronic cash ledger

Particulars	IGST	CGST	SGST
Amount payable through Electronic cash ledger under forward charge	Nil	4,13,500	4,13,500
Amount payable through electronic cash ledger under reverse charge [Refer Note-2]	36,000	1,44,000	1,44,000
Total amount payable through electronic cash ledger	36,000	5,57,500	5,57,500

Notes:-

- After utilization of IGST credit towards output IGST liability, balance has been utilized equally amongst CGST & SGST
- Input tax credit cannot be utilized for discharging tax liability under reverse charge basis, thus payable vide electronic cash ledger.

Since, M/s Zinc & Co., have defaulted in payment of taxes for the month of February and the same has been paid during July, interest is payable as per the provisions of section 50 of the CGST Act, 2017

Question 8. M/s Neptune & Co. is registered under GST in the state of Maharashtra. They have made zero-rated supply of goods worth Rs. 84,50,000/- on payment of IGST for Rs. 10,14,000/- during the month of May. The refund application under section 54 for the above supply has been rejected by the proper officer.

Mr. A, taxation manager of the firm, has sought for re-crediting the Electronic Credit Ledger as per the provisions of rule 86 for the above rejection. Examine the scenario and offer your comments.

Ans:

Rule 86 of CGST Rules provides that where a registered person has claimed refund of any unutilized amount (i.e. ITC) from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim shall be debited in the said ledger.

If the refund so filed is rejected, either fully or partly, the amount so debited to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer.

In the present case, M/s Neptune & Co., have made zero-rated supply with payment of IGST for Rs. 10,14,000/- and the refund for the same has been rejected by the proper officer. Therefore, contention of Mr. A is not sustainable as debit entry in the Electronic Credit Ledger has not been made as per sub-rule (3) of Rule 86 towards “refund of any unutilized amount”.

Supply made during May by M/s Neptune & Co. is on payment of IGST and therefore provisions laid out in sub-rule (4) of Rule 86 shall not be applicable.

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

Question 9. Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Ans:

No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards ‘output tax’. As per Section 2(82) of the CGST Act, 2017, output tax means, the CGST/ SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

Question 10. ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self assessed tax of 2,50,000 which was not paid. Explain what are the implications for ABC limited as per relevant provisions?

Ans:

As per Section 2(117) of CGST Act, “valid return” means a return furnished under section 39(1) on which self- assessed tax has been paid in full. Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

Question 11. Are principles of unjust enrichment applicable for payment made under GST?

Ans:

The principles of unjust enrichment are applicable for payment made under GST. As per Section 49(9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Question 12. Computation of GST liability: Mr. Georege, a registered supplier of goods at Kerala, who pays GST under regular scheme has made the following transactions (exclusive of tax) during April 2020:

Source	Purchases	Sales	Tax Rate
New Delhi	5,00,000	10,00,000	18%
Trivandrum	2,50,000	8,00,000	9% each SGST & CGST
Total	7,50,000	18,00,000	

Source	Taxes	Interest	Penalty
CGST	30,000	1,500	500
SGST	30,000	1500	500
IGST	1,00,000	2,000	500

Compute the net CGST, SGST and IGST payable by Mr. George during April 2020 in cash?

Ans:

Computation of GST liability (amount in :

Particulars	CGST	SGST	IGST
Inter-State Sale of goods in New Delhi [10,00,000 x 18%]			1,80,000
Intra-State Sale of goods in Trivandrum [8,00,000] (CGST/SGST @ 9% each)	72,000	72,000	
Less: Input tax credit [WN]			
Opening balance	30,000	30,000	1,00,000
Purchases during the month			
Intra-State purchases - 2,50,000 [CGST @ 9% and SGST @ 9%]	22,500	22,500	-
Inter-State purchases [5,00,000] [IGST @ 18%]	-	-	90,000
Total Input tax credit	52,500	52,500	1,90,000
Less: Extra credit of IGST to be used for payment of CGST	10,000	-	-10,000
Net amount of CGST/ SGST/ IGST payable	9,500	19,500	NIL

Working Note: Interest and penalty is not eligible for input tax credit. It is assumed that the details of credit of interest/penalty is actually balance in electronic cash ledger. Even then, the balance of electronic cash ledger in interest or penalty cannot be used for payment of output tax liability under GST. It can be used to pay only corresponding interest/penalty under the GST law.

He has complied all the conditions for availing the ITC and on 01-04-2020 has the following ITC credit

Question 13. GST liability at different stages : Manufacturer A of Rajasthan extracted raw produce 'X1 and raw produce 'Y' from mines at Rs.10,000 and Rs.15,000 respectively and sold the same at 100% margin to Manufacturer B of Rajasthan (GST rate is 5% on produce X and 12% on produce Y). Manufacturer 'W used X and Y as raw material and sold the resultant product for Rs.2,00,000 to wholesaler 'C of Rajasthan (GST rate is 12%). Wholesaler 'C sold the same to Retailer P of Rajasthan at 25% above cost (GST rate is 12%). The retailer 'D sold the same to a consumer at 20% above cost (GST rate is 12%). Compute the amount of GST payable in cash by each person.

Ans:

Particulars	CGST	SGST	IGST
(1) GST payable in cash by Manufacturer 'A'			
5% on produce 'X' i.e. 5% of 20,000 (10,000 + 100% of 10,000)	500	500	
12% on produce 'Y' i.e. 12% of 30,000 (15,000 + 100% of 15,000)	1,800	1,800	
GST to be paid in cash	2,300	2,300	4,600

(2) GST payable in cash by Manufacturer 'B'			
GST @ 12% on sale price of 2,00,000	12,000	12,000	
Less: ITC credit on raw produce 'X' & 'Y'	2,300	2,300	
GST to be deposited in cash	9,700	9,700	19,400
(3) GST payable in cash by Wholesaler 'C'			
GST @ 12% on sale price of 2,50,000 (2,00,000 + 25% of 2,00,000)	15,000	15,000	
Less: GST credit on purchases from Manufacturer 'B'	12,000	12,000	
GST to be deposited in cash	3,000	3,000	6,000
(4) GST payable in cash by Retailer 'D'			
GST @ 12% on sale price of 3,00,000 (2,50,000 + 20% of 2,50,000)	18,000	18,000	
Less: GST credit on purchases from Wholesaler 'C'	15,000	15,000	
GST to be deposited in cash	3,000	3,000	6,000
Total GST paid to the Government [Ij ++ 3J+4)]			36,000

The above illustration shows that:

- the GST paid to the Government at various stages (here, 36,000) is equal to;
- the GST collected from the ultimate consumer (here, 36,000 or 12% of 3,00,000).

Question 14. Computation of GST payable: A manufacturer has purchased raw material for Rs.1,05,000 (inclusive of 5% GST) and plant and machinery for Rs.2,24,000 (inclusive of 12% GST), The manufacturing and other expenses (excluding depreciation) are Rs.3,00,000. He sells the resultant products at 50% above cost (GST on sales is 12%). The plant and machinery is to be depreciated at 50% straight line. Compute the amount of GST payable in cash. All purchases and sales are made within the State of Rajasthan.

Ans:

Computation of Value of taxable supply and GST payable in cash (amount in Rs.)—

Raw material net of GST (1,05,000 x 100 ÷ 105)	1,00,000
Depreciation on plant (50% of price net of GST i.e. 50% of 2,24,000 x 100÷112)	1,00,000
Manufacturing and other expenses	3,00,000
Total cost	5,00,000
Add: 50% mark-up on cost	2,50,000
Value of taxable supply	7,50,000

(Amount in Rs.)

Particulars	CGST	SGST	Total
LGST on sales (12% of 7,50,000)	45,000	45,000	45,000
Less: Input tax credit as follows:			
ITC on raw materials and components (1,05,000 x 5 ÷ 105)	2,500	2,500	2,500
Input tax credit on plant (2,24,000 x 12+ 112	12,000	12,000	12,000
GST payable in cash	30,500	30,500	61,000

Question 15. Computation of GST payable: Nargis Agro Traders located at Jaipur and engaged in the business as retail traders provides the following details of its purchases and sales made during the month of July, 2020:

	Items	(Amount in Rs.)	
		Purchase	Sale
(i)	Sugar Candies	1,00,000	1,20,000
(ii)	Chocolate Bars	80,000	1,00,000
(iii)	Wafers Packets	75,000	60,000
(iv)	Biscuits	50,000	50,000

The rate of the under GST on the items are 5%, 12% 12% and 18% respectively. You are required to calculate the amount of GST payable and the date by which the due tax is to be paid by the trader for the month of July, 2020 after availing the Input Credit.

Ans:

Particulars	Sugar Candies	Chocolate Bars	Wafers Packets	Biscuits	Total GST
Sales	1,20,000	1,00,000	60,000	50,000	
GST rate	5%	12%	12%	18%	
Output tax	6,000	12,000	7,200	9,000	34,200

Less: Input tax credit on purchases	5,000	9,600	9,000	9,000	32,600
Output tax payable in cash					1,600
Due date for payment of GST of Month of July 2020 on or before 20th August, 2020 i.e. due date of filing GSTR-3B.					

Computation of ITC on purchases (amount in Rs.)—

Particulars	Sugar Candies	Chocolate Bars	Wafers Packets	Biscuits	Total ITC
Purchases	1,00,000	80,000	75,000	75,000	
GST rate	5%	12%	12%	12%	
Input tax credit on purchases	5,000	9,600	9,000	9,000	32,600

Question 16. Illustration 8- TOS - Reverse Charge basis, Due date of Payments and Interest Liability: Royal Sweet Co., Delhi, a registered supplier, has furnished the details of the following few transactions which took place in November, 2020:

S.No.	Date	Particulars	Date of invoice	Amount (Rs.)
1.	11.11.2020	Payment made to an advocate in Delhi	07.07.2020	07.07.2020
2.	20.11.2020	Paid sitting fee to Director from Haryana for meeting held in Delhi on 15-10-2020 [Inter-State supply]	15.10.2020	15.10.2020

Assume the rates of taxes to be as under:

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

You are required to compute GST [CGST & SGST/IGST, as the case may be] payable for the month of November, 2020 along with time of supply of the aforementioned activities,

Ans:

Computation of GST payable for the month of November, 2020:

S. No.	Particulars	Time of supply of services	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)	IGST (Rs.)
1.	Services from an advocate in Delhi (Taxed on reverse charge basis)	06-09-2020 [WN 1 & 2]	11,250	11,250	-	244 [WN4]
2.	Director's Sitting fee (Taxed on reverse charge basis)	20-11-2020 [WN2&3]	-	-	13,500	

Working Notes:

- Services supplied by an individual advocate to any business entity located in the taxable territory is a notified service on which tax is payable on reverse charge basis by the recipient of services.
- Services supplied by a director of a company to the said company is a notified service on which tax is payable on reverse charge basis by the recipient of services.
- As per Section 13 of the CGST Act, 2017, the time of supply of services in case of reverse charge is earliest of the following:
 - Date of payment as entered in the books of account of the recipient or the date on which the payment is debited to his bank account, whichever is earlier, or
 - Date immediately following 60 days since the date of issue of invoice.Provisions of time of supply as provided under section 13 of the CGST Act are also applicable for inter-State supply vide Section 20 of the IGST Act.
In view of the aforesaid provisions, the time of supply and due date for payment of tax in the given cases would be determined as under:
 - Time of supply of the services is the date immediately following 60 days since the date of issue of invoice, i.e. 06-09-2020. The due date for payment of tax is 20-10-2020 with return of September, 2020.
 - Time of supply of service is 20-11-2020 and due date for payment of tax is 20-12-2020 with return of December, 2020.
- The due date for payment of tax in case (i) is 20-10-2020 with return of September, 2020. However, the payment of tax is actually made on 11-11-2020. Thus, payment of tax is delayed by 22 days.

In case of delayed payment of tax, interest @ 18% pa. is payable for the period for which the tax remains unpaid starting from the day succeeding the day on which such tax was due to be paid [Section 50 of the CGST Act, 2017 read with Notification No. 13/2017 CT dated 28-06-2017]. In view of the same, in the given case, interest payable would be as follows:

Amount of interest payable = $22,500 \times 18\% \times 22/365$ 244.11 (rounded off)

THE END

10. RETURNS

The basic features of the return mechanism in GST includes electronic filing of returns, uploading of invoice level information, auto-population of information relating to input tax credit from returns of supplier to that of recipient, invoice level information matching and auto-reversal of input tax credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

A return is required to be filed for the following purposes :

- a. Mode for transfer of information to tax administration;
- b. Compliance verification program of tax administration;
- c. Finalization of the tax liabilities of the taxpayer within stipulated period of limitation; to declare tax liability for a given period;
- d. Providing necessary inputs for taking policy decision;
- e. Management of audit and anti-evasion programs of tax administration.

Under GST, a regular taxpayer needs to furnish monthly returns and one annual return. There are separate returns for a taxpayer registered under the composition scheme, non-resident taxpayer, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/TCS), a person granted Unique Identification Number. It is important to note that a taxpayer is not required to file all the types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake. The GST Council has however recommended to ease the compliance requirements for small tax payers by allowing taxpayers to file details of outward supplies in Form GSTR-1 on a quarterly basis. All the returns are to be filed online. Returns can be filed using any of the following methods :

1. GSTN portal (www.gst.gov.in)
2. Offline utilities provided by GSTN
3. GST Suvidha Providers (GSPs).

Returns under GST Laws

Form	Particulars	Due Date	Applicable to
GSTR-3B	Monthly/ Quarterly summary return As per sec. 2(92), "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;	To be filed as under : <ul style="list-style-type: none"> • Registered persons, who are not under QRMP Scheme – 20th of the next month. • Registered persons, who have opted for QRMP Scheme – <ol style="list-style-type: none"> a. Aggregate turnover up to Rs.5 Cr. in the previous financial year and registered in category 127 States – 22nd of the next month following the quarter. 	All registered persons other than : <ol style="list-style-type: none"> 1. Input service distributor (ISD), 2. Non-resident taxable person, 3. Person paying tax u/s: <ol style="list-style-type: none"> a. 10 – Composition levy

		<p>b. Aggregate turnover up to Rs.5 Cr. in the previous financial year and registered incategory 228 States – 24th of the next month following the quarter</p> <ul style="list-style-type: none"> pay the tax due in each of the first two months of the quarter by depositing the due amount in Form GST PMT-06, by 25th day of the month succeeding such month under the head “Monthly payment for quarterly taxpayer” 	<p>b. 51 – Tax deduction at source</p> <p>c. 52 – Collection of tax at source</p>
GSTR-1 / IFF	Statement for furnishing details of outward supplies	<p>To be filed by either of the following persons on or before the below given dates:</p> <ul style="list-style-type: none"> Registered person, who are not under QRMP Scheme - 11th of the next month Registered persons, who have opted for QRMP Scheme - 13th of the subsequent quarter <p>However, such persons can furnish details of outward supplies using IFF for the first 2 months of the quarter as under :</p> <ul style="list-style-type: none"> 1st month of the quarter – on or before 13th of the subsequent month (max value = Rs.50 Lakhs) 2nd month of the quarter - on or before 13th of the subsequent month (max value = Rs.50 Lakhs) $\frac{3}{4}$ Invoices furnished using the said facility in the first two months are not required to be furnished again in Form GSTR-1. 	Normal / regular taxpayer

GSTR-4	Return by composition tax payers	CMP-08 by 18th of the month succeeding the quarter. GSTR-4 Annually by 30th April following the end of a financial year.	Composition taxpayer
GSTR-5	Return by non-resident tax payers	13th of the next month or within 7 days after expiry of registration, whichever is earlier	Non-resident taxpayer
GSTR-5A	Monthly return by online information and database access or retrieval services (supply to a person other than a registered person i.e., online non-taxable recipient)	20th of the next month	Online information and database access or retrieval services
GSTR-6	Monthly return by input service distributors	13th of the next month	Input service distributors
GSTR-7	Monthly return for TDS	10th of the next month	Tax Deductor
GSTR-8	Monthly return (statement) for collection of tax at source	10th of the next month	E-commerce operator
GSTR-9/9A/9C	Annual return	31st December of the next financial year	Various person (Covered in Final)
GSTR-10	Final Return	Within 3 months of the date of cancellation or date of order of cancellation, whichever is later	Registered person whose registration has been cancelled
GSTR-11	Return to be filed by a person having UIN (Unique Identity Number) w.r.t inward supplies received by him to file refund of the taxes paid by him on inward supplies.		Person having UIN

Furnishing details of outward supply [Sec. 37]

Every registered person (including casual registered person) shall furnish electronically, subject to certain conditions and restrictions, in GSTR 1 the details of outward supplies of goods or services or both effected during a tax period on or before the **10th day**29 of the month succeeding the said tax period.

Taxpoint :

- E.g. details of outward supplies pertaining to the month of September is required to be furnished in GSTR-1 on or before 10th of October (presently extended to 11th).
- **"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.
- **Exceptions :** Sec. 37 is not applicable in case of the following :
 - a. Input Service Distributor,
 - b. Non-resident taxable person³⁰; and
 - c. Person paying tax under the provisions of sec. 10 (i.e., composition scheme) or sec. 51 (i.e., TDS) or sec. 52 (i.e., TCS)
- **Communication to the recipient of the supply :** Details furnished in the GSTR 1 shall, subject to such conditions and restrictions, be communicated (in auto drafted) to the recipient of the said supplies in GSTR 2A (if the recipient is the normal registered person), GSTR 4A (if the recipient is registered under composition scheme) and GSTR 6A (if the recipient is an input service distributor)
- **"Tax period"** means the period for which the return is required to be furnished – sec. 2(106)
- **Extension of due date :** 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.
- **Rectification of the return [Sec. 37(3)] :** Any registered person, who has furnished the details 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 shall be allowed after 30th November following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.
- **Restriction on furnishing return [Sec. 37(4)] :** A registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.

The Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies, even if he has not furnished the details of outward supplies for one or more previous tax periods.
- A Nil GSTR-1 can be filed through SMS using the registered mobile number of the taxpayer.

- Small taxpayers covered under Quarterly Return Monthly Payment Scheme (QRPM Scheme) may opt for quarterly filing of GSTR-1. QRPM Scheme shall be discussed in later in this chapter.

Form and manner of furnishing details of outward supplies [Rule 59]

Every registered person, other than a person referred to in section 14 of the IGST Act, 2017, required to furnish the details of outward supplies of goods or services or both u/s 37, shall furnish such details in Form GSTR-1 for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

IFF for small taxpayer covered under QRPM Scheme [Rule 59(2)]

The registered persons required to furnish return for every quarter under proviso to sec. 39(1) may furnish the details of such outward supplies of goods or services or both to a registered person, as he may consider necessary, for the first and second months of a quarter, up to a cumulative value of Rs.50 lakhs in each of the months,- using invoice furnishing facility (hereafter referred to as the "IFF") electronically on the common portal, duly authenticated in the manner prescribed under rule 26, from the 1st day of the month succeeding such month till the 13th day of the said month.

Taxpoint :

A small taxpayer covered under QRPM Scheme is required to file following in lieu of monthly GSTR-1:

Invoice Furnishing Facility (IFF)	In first two month of the quarter Time limit for filing: Within 13th day of the following month
GSTR-1	For the entire quarter within 13th day of the following quarter. However, the details of outward supplies furnished using the IFF, for the first & second months of a quarter, shall not be furnished again in FORM GSTR-1 for the said quarter.

Details to be given in GSTR-1 [Rule 59(4)]

The details of outward supplies of goods or services or both furnished in Form GSTR-1 shall include the :

- a. invoice wise details of all -
 - i. inter-State and intra-State supplies made to the registered persons; and
 - ii. inter-State supplies with invoice value more than Rs.2,50,000 made to the unregistered persons;
- b. consolidated details of all -
 - i. intra-State supplies made to unregistered persons for each rate of tax; and
 - ii. State wise inter-State supplies with invoice value upto Rs.2,50,000 made to unregistered persons for each rate of tax;
- c. debit and credit notes, if any, issued during the month for invoices issued previously.

Details to be given in IFF [Rule 59(5)]

The details of outward supplies of goods or services or both furnished using the IFF shall include the -

- a. invoice wise details of inter-State and intra-State supplies made to the registered persons;

- b. debit and credit notes, if any, issued during the month for such invoices issued previously.

Restriction on furnishing GSTR-1 or IFF [Rule 59(6)]

Notwithstanding anything contained in this rule, -

- a. a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both u/s 37 in Form GSTR-1, if he has not furnished the return in Form GSTR-3B for the preceding month
- b. a registered person, required to furnish return for every quarter under the proviso to sec. 39(1), shall not be allowed to furnish the details of outward supplies of goods or services or both u/s 37 in Form GSTR-1 or using the invoice furnishing facility (IFF), if he has not furnished the return in Form GSTR-3B for preceding tax period.

Manner of furnishing of return or details of outward supplies by short messaging service facility [Rule 67A]

Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return u/s 39 in Form GSTR-3B or a Nil details of outward supplies u/s 37 in Form GSTR-1 or a Nil statement in Form GST CMP-08 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies or statement through a short messaging service (SMS) using the registered mobile number and the said return or the details of outward supplies or statement shall be verified by a registered mobile number based One Time Password (OTP) facility.

A nil return or nil details of outward supplies or nil statement shall mean a return u/s 39 or details of outward supplies u/s 37 or statement under rule 62, for a tax period that has nil or no entry in all the Tables in Form GSTR-3B or Form GSTR-1 or Form GST CMP-08, as the case may be.

Communication of details of inward supplies and input tax credit [Sec. 38]

1. The details of outward supplies furnished by the registered persons u/s 37(1) and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.
2. The auto-generated statement shall consist of :
 - a. details of inward supplies in respect of which credit of input tax may be available to the recipient; and
 - b. details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished u/s 37(1) :
 - i. by any registered person within such period of taking registration as may be prescribed; or
 - ii. by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or

- iii. by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or
- iv. by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or
- v. by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sec. 49(12) subject to such conditions and restrictions as may be prescribed; or
- vi. by such other class of persons as may be prescribed.

Furnishing of returns [Sec. 39(1)]

Every registered person shall, for every calendar month or part thereof, furnish, 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, in such form and manner, and within such time, as may be prescribed.

Taxpoint :

Exceptions: Sec. 39(1) is not applicable in case of the following:

- a. Input Service Distributor as he is required to file return in GSTR-6,
- b. Non-resident taxable person as he is required to file return in GSTR-5; and
- c. Person paying tax under the provisions of sec. 10 (i.e., composition scheme as he is required to file return in GSTR-4) or sec. 51 (i.e., TDS as it is required to be filed in return in GSTR-7) or sec. 52 (i.e., TCS as it is required to be filed in return in GSTR-8)

The Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

Even Nil return is also required to be filed.

Form and manner of furnishing of return [Rule 61]

Every registered person (excluding above) shall furnish a return in Form GSTR-3B, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before following time limit :

For each month, or part thereof, on or before the 20th day of the month succeeding such month:\nFor each quarter, or part thereof, in terms of proviso to sec. 39(1), for the class of registered persons mentioned below :

Class of registered persons	Due Date
Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	22nd day of the month succeeding such quarter.

Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24th day of the month succeeding such quarter.
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------

Discharge of liability before filing return [Rule 61(2)]

Every registered person required to furnish return discharge his liability towards tax, interest, penalty, fees or any other amount payable by debiting the electronic cash ledger or electronic credit ledger and include the details in the return in Form GSTR-3B.

Monthly Payment for Quarterly Return filer [Rule 61(3)/(4)]

Every registered person required to furnish return, every quarter shall pay the tax due for each of the first 2 months of the quarter, by depositing the said amount in Form GST PMT-06, by the 25th day of the month succeeding such month.

However, the Commissioner may, on the recommendations of the Council, by notification, extend the due date for depositing the said amount.

Further, while making a deposit in Form GST PMT-06, such a registered person may -

- a. for the 1st month of the quarter, take into account the balance in the electronic cash ledger.
- b. for the 2nd month of the quarter, take into account the balance in the electronic cash ledger excluding the tax due for the first month.

The amount deposited by the registered persons in first two months of the quarter shall be debited while filing the return for the said quarter in Form GSTR-3B, and any claim of refund of such amount lying in balance in the electronic cash ledger, if any, out of the amount so deposited shall be permitted only after the return in Form GSTR-3B for the said quarter has been filed.

Furnishing of returns by person under Composition Scheme [Sec. 39(2)]

A registered person paying tax under the provisions of sec. 10 (i.e., under composition scheme), shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.

Form and manner of submission of statement and return [Rule 62]

- Every registered person paying tax u/s 10 shall:
 - a. furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in Form GST CMP-08, till the 18th day of the month succeeding such quarter; and
 - b. furnish a return for every financial year or, as the case may be, part thereof in Form GSTR-4, till the 30th day of April following the end of such financial year, electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- Every registered person furnishing the statement shall discharge his liability towards tax or interest payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger.

- The return shall include the :
 - a. invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and
 - b. consolidated details of outward supplies made.

Furnishing of returns by Input Service Distributor [Sec. 39(4)]

Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in Form GSTR-6 and manner as may be prescribed, a return, electronically, within 13th days after the end of such month.

Furnishing of returns by Non-Resident Taxable Person [Sec. 39(5)]

Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in Form GSTR-5 and manner as may be prescribed, a return, electronically, within 13th days after the end of a calendar month or within 7 days after the last day of the period of registration specified u/s 27(1), whichever is earlier.

The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns.

Rectification of mistake [Sec. 39(9)]

Where] any registered person after furnishing a return u/s 39 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 in such form and manner as may be prescribed, subject to payment of interest under this Act.

Time-limit : No such rectification of any omission or incorrect particulars shall be allowed

- a. after the 30th day of November following the end of the financial year to which such details pertain, or
- b. the actual date of furnishing of relevant annual return,
- whichever is earlier.

Restriction on Filing Return [Sec. 39(10)]

A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods or the details of outward supplies u/s 37(1) for the said tax period has not been furnished by him.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies u/s 37(1) for the said tax period.

First return [Sec. 40]

Every registered person who has made outward supplies in the period between the date 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.

Availment of input tax credit [Sec. 41]

Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

The credit of input tax availed by a registered person in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

However, where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

Final return [Sec. 45]

Every registered person who is required to furnish a return u/s 39(1) and whose registration has been cancelled shall furnish a final return within 3 months of the date of cancellation or date of order of cancellation, whichever is later, in Form GSTR-10 and manner as may be prescribed.

Quarterly Return, Monthly Payment of Taxes (QRMP) Scheme

Quarterly Return, Monthly Payment of Taxes (QRMP) Scheme is a scheme to simplify compliance for small taxpayers. Under this scheme, taxpayers having an aggregate turnover at PAN level up to Rs.5 crore in the preceding financial year can opt for quarterly GSTR-1 (however, for first two months he can file IFF by 13th of the next month) and GSTR-3B filing. Payment can be made in the first 2 months by a simple challan in Form GST PMT-06. For the ease of taxpayers, system has assigned quarterly frequency to small taxpayers automatically.

Taxpoint :

- In case the aggregate turnover exceeds Rs.5 crores during any quarter in the current financial year, the registered person shall not be eligible for the Scheme from the next quarter.
- The option to avail the QRMP Scheme is GSTIN wise. Therefore, some GSTINs for a PAN might be eligible for the QRMP Scheme, and the remaining GSTINs might not be able to opt for the Scheme.

Eligibility of QRMP Scheme

In Case of New Registration :

A newly registered taxpayer whose aggregate turnover is up to Rs.5 crores can opt for the QRMP scheme based on the following conditions :

- If the registration is granted on any date during the first month of a quarter, the registered person will be able to opt for the QRMP scheme from the beginning itself.
- If the registration is granted on any of the dates during the latter two months of a quarter, then the registered person will be able to opt for the QRMP scheme only from the next quarter onwards.

In Case of Other :

A registered person can opt-in for any quarter from the first day of the second month of the preceding quarter to the last day of the first month of the quarter. However, there is no requirement to opt for the Scheme each quarter separately. Once the Scheme is exercised, it would be valid for future tax periods also.

Details of Outward Supply to be furnished through Invoice Furnishing Facility (IFF)

- The registered persons opting for the Scheme would be required to furnish the details of an outward supply in Form GSTR-1 every quarter. However, the supplier has been given an option to furnish the details monthly. For this, the Invoice furnishing facility ('IFF'), which is optional in nature, has been introduced for furnishing the details of invoices of supply made to registered persons for the first two months of the quarter.
- It is to be noted that the taxpayer can upload a maximum of Rs.50 lakhs invoices in each of the two months of the quarter. The invoices may be uploaded at once or continuously in IFF from the 1st day of the month till the 13th day of the succeeding month.
- The details uploaded in the IFF shall be duly reflected in the Form GSTR-2A and Form GSTR-2B of the concerned recipient.

Quarterly Filing of Form GSTR-3B

The registered persons opting for the QRMP Scheme would be required to furnish Form GSTR-3B, for each quarter, on or before the 22nd or 24th day of the month succeeding such a quarter for the category 1 States and the category 2 States respectively or such notified date. Any excess payment may either be claimed as a refund after filing Form GSTR-3B of that quarter or may be used for any other purpose in subsequent quarters.

Monthly Payment of Tax

The registered person under the QRMP Scheme would be required to pay the tax due in each of the first 2 months of the quarter by depositing the due amount in Form GST PMT-06. The amount shall be deposited by the 25th day of next month.

The amount deposited by the registered person in the first two months shall be utilized for offsetting the liability furnished in that quarter's Form GSTR-3B.

Discharge of liability in first two months of the quarter

In first two months of the quarter, payment of liability can be made by either of the following two methods :

- a. Fixed Sum Method: Portal will generate a pre-filled challan in Form GST PMT-06. The system generated pre-filled challan in this case is commonly also known as 35% challan.
- b. Self-Assessment Method: The actual tax due is to be paid through challan, in Form GST PMT-06, by considering the tax liability on inward and outward supplies and the input tax credit available for the period as per law.

FAQ BY CBIC ON 15-12-2018

Q 1. What type of outward supply details are to be filed in the return? [FAQ 3]

Ans: A normal registered taxpayer has to file the outward supply details in GSTR-1 in relation to various types of supplies made in a month, namely outward supplies to registered persons, outward supplies to unregistered persons (consumers), details of Credit/Debit Notes, zero rated, exempted and non-GST supplies, exports, and advances received in relation to future supply.

Q 2. Is the scanned copy of invoices to be uploaded along with GSTR-1? [FAQ 5]

Ans: No scanned copy of invoices is to be uploaded. Only certain prescribed fields of information from invoices need to be uploaded.

Q 3. Whether all invoices have to be uploaded in the returns? [FAQ 6]

Ans: No. It depends on whether the invoice is B2B or B2C plus whether Intra-state or Inter-state supplies.

For B2B supplies, all invoices, whether Intra-state or Inter-state supplies, will have to be uploaded. Why So? Because ITC will be taken by the recipients.

In B2C supplies, uploading in general may not be required as the buyer will not be taking ITC. However still in order to implement the destination based principle, invoices of value more than Rs.2.5 lacs in inter-state B2C supplies will have to be uploaded. For inter-state invoices below Rs. 2.5 lacs and all intra-state invoices, state wise summary will be sufficient.

Q 4. Whether description of each item in the invoice will have to be uploaded? [FAQ 7]

Ans: No. In fact, description will not have to be uploaded. Only HSN code in respect of supply of goods and classification code in respect of supply of services will have to be fed. The minimum number of digits that the filer will have to upload would depend on his turnover in the previous year.

Q 5. Whether value for each transaction has to be fed in GSTR-1? What if no consideration? [FAQ 8]

Ans: Yes. Not only value but taxable value has to be fed. In some cases, both may be different.

In case there is no consideration, but it is supply by virtue of schedule 1, the taxable value will have to be worked out as prescribed and uploaded.

Q 6. What is the consequence of not filing the return within the prescribed date? [FAQ 15]

Ans: A registered person who files return beyond the prescribed date will have to pay late fees of rupees one hundred for every day of delay subject to a maximum of rupees five thousand.

Q 7. What is GSTR-3B? [FAQ 17]

Ans: GSTR-3B is a simplified monthly return that all taxpayers need to file on monthly basis. It is a summarized return form which every taxpayer is required to file on self-declaration basis. The same needs to be filed by 20th day of subsequent month.

Q 8. Is there any late fees for late filing of GSTR-3B? [FAQ 18]

Ans: The amount of late fee payable by a taxpayer whose tax liability for that month was 'NIL' will be Rs.20/- per day (Rs.10/- per day each under CGST & SGST Acts) and will be Rs.50/- per day (Rs.25/- per day each under CGST & SGST Acts) for all other taxpayers.

Q 9. What is final return? What is the need for it? [FAQ 23]

Ans: Every registered person whose registration is cancelled needs to file a final return in GSTR-10 within 3 months of the date of cancellation or date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer discharges any liability that he/she may have incurred u/s 29(5) of the CGST Act.

As per sec. 29(5) of the CGST Act, read with rule 20 of the CGST Rules a taxpayer seeking cancellation of registration has to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. This requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in Form GSTR-10.

The cancellation of registration does not, in any way, affect the liability of the taxpayer to pay any dues under the GST law, irrespective of whether such dues have been determined before or after the date of cancellation (Section 45 read with rule 81)

Q 10. What if the final return is not filed within 90 days of cancellation of registration? [FAQ 24]

Ans: In case the final return in FORM GSTR-10 is not filed within the stipulated date, then notice in Form GSTR-3A has to be issued to the taxpayer. If the taxpayer still fails to file the final return within 15 days of the receipt of notice in Form GSTR-3A, then an assessment order (Best Judgment Basis) in Form GST ASMT-13 u/s 62 of the CGST Act read with rule 100 of the CGST Rules shall have to be issued to determine the liability of the taxpayer u/s 29(5) on the basis of information available with the proper officer. If the taxpayer files the final return within 30 days of the date of service of the order in Form GST ASMT-13, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.

THE END

11. EXEMPTIONS FROM GST

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST.

However, for determining the liability to pay the tax, one needs to further check whether such supply of goods and/or services are exempt from tax (sec.11 of CGST OR Sec.6 of SGST Act)

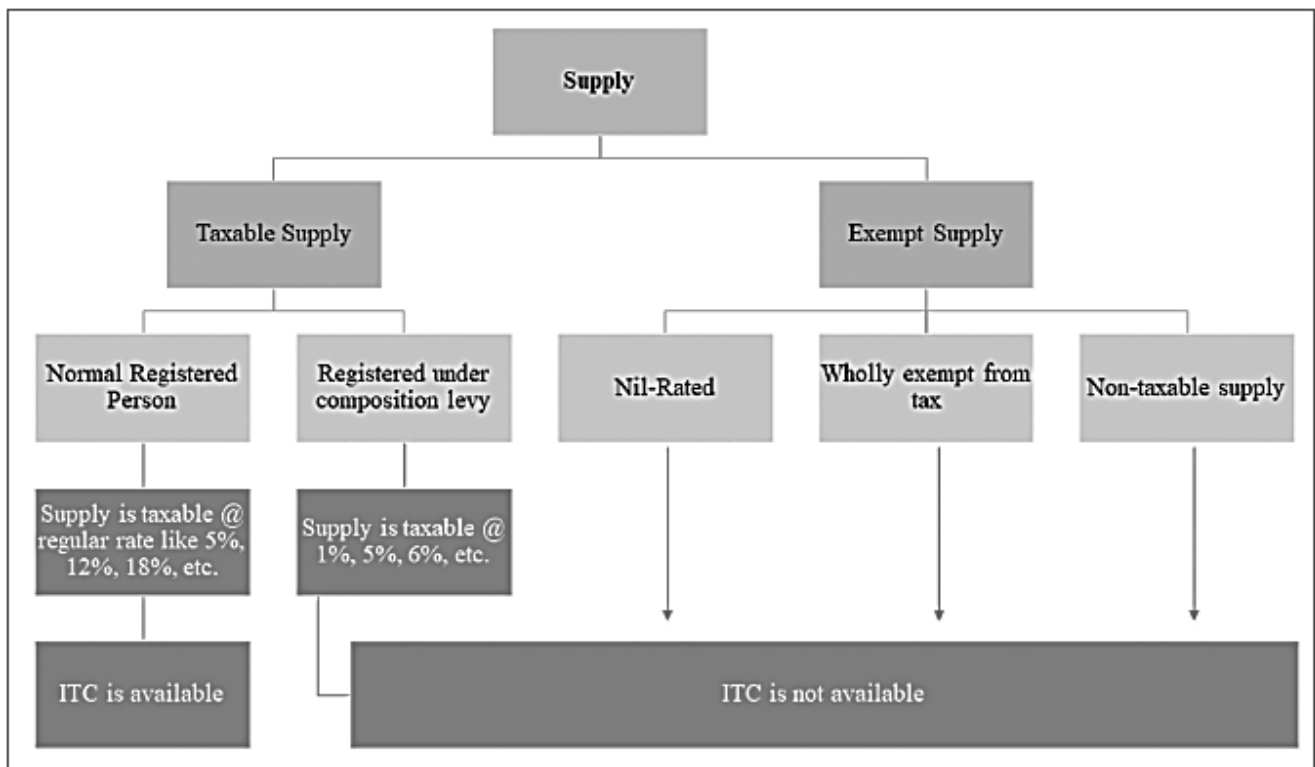
Exemption from Tax

As per sec. 2(47), “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 u/s 11, or u/s 6 of the IGST Act,
- and includes non-taxable supply.

Further, as per sec. 2(78), “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the IGST Act.

Supply can be categorized as under :



Power to grant Exemption [Sec. 11 and Sec. 6 of the IGST Act]

1. The Government may, on the recommendations of the Council, by notification, exempt generally, either:
 - i) absolutely; or
 - ii) 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. The Government 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. For the purpose of clarifying the scope or applicability of such notification or order, the Government may insert an explanation in such notification or order, as the case may be, by notification at any time within 1 year of issue of the earlier notification or order.









Further, such explanation shall have effect as if it had always been the part of the such notification or order.


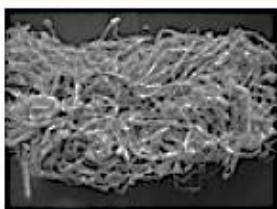
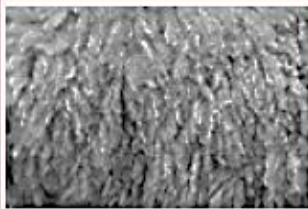













Taxpoint :

- Unconditional exemption is mandatory whereas conditional exemption is optional in nature.
- Where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.
- Exemption may be granted on any of the following basis
 - a. Exemption based on activities
 - b. Exemption based on suppliers
 - c. Exemption based on recipients
 - d. Exemption based on specified suppliers and specified recipients

Goods Exempt from Tax

Vide Notification No. 02/2017-CT (Rates) dated 28/06/2017 (as amended from time to time) has provided a list of almost 150 items which are exempt from GST. Few of the most common goods which are as under

			
Cereals	Fish (not frozen or processed)	Fresh fruits and vegetables (Other than frozen or processed)	Edible vegetables roots and tubers
			
Meat (other than in frozen state and put up in unit containers)	Cane Jaggery (Gur)	Tender Coconut Water	Raw Silk

			
Silkworm laying cocoon	Silk Waste	Wool (not carded or combed)	Puja Samagri
			
Coconut coir fibre	Coffee beans (not roasted)	Green Tea Leaves (Unprocessed)	Human Blood and its components
			
Printed books, newspaper & maps	Earthen pot and clay lamps	Agricultural implements (manually operated or animal driven)	Judicial, Non-judicial stamp papers, Court fee stamps when sold by the Government Treasuries or Vendors authorized by the Government
			
Betel Leaves	Firewood or fuel wood	Non-branded organic manure	Wood charcoal

S. No.	Exempted goods (Notification No.2/2017-Central Tax (Rate) Dt. 28-06-2017)
1.	Live animals other than live horses.
2.	Meat and edible meat offal.
3.	Fish, crustaceans, molluscs & other aquatic invertebrates.
4.	Dairy produce; bird's eggs; natural honey; edible products of animal origin, not elsewhere specified.
5.	Human hair, unworked, whether or not washed or scoured, waste of human hair.
6.	Cut flowers and ornamental foliage

7.	Edible vegetables, roots and tubers i) Potatoes, fresh or chilled. ii) Tomatoes, fresh or chilled. iii) Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled. iv) Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled etc.,
8.	Coconuts, fresh or dried, whether or not shelled or peeled Bananas, including plantains, fresh or dried, Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh, other fruits, etc.,
9.	Coffee, beans, not roasted. Unprocessed green leaves of tea.
10.	Cereals All goods [other than those put up in unit container and bearing a registered brand name]. Fresh ginger, other than in processed form etc.,
11.	Products of milling industry; malt; starches; insulin; wheat gluten.
12.	Lac and Shellac,
13.	Betel leaves.
14.	Cane jaggery.
15.	1. Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki 2. Pappad, by whatever name it is known, except when served for consumption 3. Bread (branded or otherwise), except when served for consumption and pizza bread.
16.	Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.
17.	Electrical energy.
18.	Salt.
19.	Human Blood and its components.
20.	Organic manure, other than put up in unit containers and bearing a brand name.
21.	Kumkum, Bindi, Sindur, Alta.
22.	Municipal waste, sewage sludge, clinical waste.
23.	Contraceptives
24.	wood charcoal Firewood or fuel wood
25.	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans.
26.	Raw Silk
27.	Wool, fine or coarse animal hair; horse hair yarn and woven fabric
28.	Gandhi Topi,

29.	Khadi yarn
30.	Jute fibres, raw or processed but not spun
31.	Coconut, coir fibre
32.	Indian National Flag
33.	Bangles (except those made from precious metals)
34.	Agricultural implements manually operated or animal driven
35.	Handloom [weaving machinery]
36.	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles
37.	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof
38.	Indigenous handmade musical instruments
39.	Slates, Slate pencils and chalk sticks
40.	Project imports, laboratory chemicals, passengers' baggage, personal importation, ship stores Passenger baggage

Services exempt from tax

Services exempted through various provisions are as under :

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017
1.	<p>Services by an entity registered u/s 12AA or 12AB of the Income-tax Act, 1961 by way of charitable activities.</p> <p>Taxpoint : Charitable activities means activities relating to –</p> <p>As per sec. 2(47), “exempt supply” means supply of any goods or services or both</p> <p>i) public health by way of, -</p> <p style="padding-left: 20px;">A care or counseling of</p> <p style="padding-left: 40px;">i) terminally ill persons or persons with severe physical or mental disability;</p> <p style="padding-left: 40px;">ii) persons afflicted with HIV or AIDS;</p> <p style="padding-left: 40px;">iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;</p> <p style="padding-left: 40px;">or</p> <p style="padding-left: 20px;">B public awareness of preventive health, family planning or prevention of HIV infection;</p> <p>ii) advancement of religion , spirituality or yoga;</p> <p>iii) advancement of educational programmes or skill development relating to,-</p> <p style="padding-left: 20px;">A abandoned, orphaned or homeless children;</p> <p style="padding-left: 20px;">B physically or mentally abused and traumatized persons;</p> <p style="padding-left: 20px;">C prisoners; or</p> <p style="padding-left: 20px;">D persons over the age of 65 years residing in a rural area;</p>







	<p>iv) preservation of environment including watershed, forests and wildlife.</p> <ul style="list-style-type: none"> ❖ Rural area means the area comprised in a village as defined in land revenue records, excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government ❖ Where charitable or religious trust merely provide accommodation or serve food and drink against some consideration in any form like donation etc., such activity will be taxable. Further activities such as holding of fitness camps or classes such as those in aerobics, dance, music, etc will be taxable [Circular No. 66/40/2018 dated 26-09-2018]. Further see entry 80 ❖ College, school, etc. run by a trust is not covered by entry 1 but covered in entry 66 ❖ Hostel accommodation service is covered by entry 14. ❖ Subject to entry 60, religious yatra service is not exempt. ❖ Medical facility is covered in entry 74. ❖ Service provided to charitable or religious trust are taxable unless and until specifically exempted.
2.	Services by way of transfer of a going concern, as a whole or an independent part thereof.
3.	<p>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 :</p> <ul style="list-style-type: none"> • by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or • by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution. <p>Taxpoint :</p> <p>Government Entity means an authority or a board or any other body including a society, trust, corporation,—</p> <p>(i) set up by an Act of Parliament or State Legislature; or</p> <p>(ii) established by any Government,</p> <p>with 90% or more participation by way of equity or control, to carry out a function entrusted by the</p> <p>Central Government, State Government, Union Territory or a local authority.</p>
3A.	<p>Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority :</p> <p>(i) by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or</p> <p>(ii) by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.</p>



4.	Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution.
5.	<p>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 Panchayat under article 243G of the Constitution.</p> <p>Taxpoint :</p> <p>Governmental Authority means an authority or a board or any other body,—</p> <p>(i) set up by an Act of Parliament or a State Legislature; or</p> <p>(ii) established by any Government,</p> <p>with 90% or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution .</p>
6.	<p>Services by the Central Government, State Government, Union territory or local authority excluding the following services :</p> <p>(a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>(b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(c) transport of goods or passengers; or</p> <p>(d) any service, other than services covered under entries (a) to (c) above, provided to business entities.</p>
7.	<p>Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of upto such amount in the preceding financial year as makes it eligible for exemption from registration.</p> <p>However, the provisions of this entry shall not be applicable to:</p> <p>(a) services,—</p> <p>i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>iii) of transport of goods or passengers; and</p> <p>(b) services by way of renting of immovable property.</p>



	<p>Taxpoint :</p> <ul style="list-style-type: none"> • Business entity means any person carrying out business • Renting in relation to immovable property means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.
8.	<p>Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.</p> <p>However, nothing contained in this entry shall apply to services—</p> <ol style="list-style-type: none"> 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; in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; of transport of goods or passengers
9.	<p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed Rs.5,000:</p> <p>However, nothing contained in this entry shall apply to—</p> <ol style="list-style-type: none"> 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. <p>However, 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 Rs.5,000 in a financial year.</p>
9A.	<p>Services provided by and to Federation 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</p>  <p>Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2017.</p>

9AA.	<p>Services provided by and to Federation International de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the event under FIFA U-17 Women's World Cup 2020 to be hosted in India whenever rescheduled</p> <p>Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2020.</p>
9AB.	<p>Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India.</p> <p>Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women's Asia Cup 2022."</p> 
9B.	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).
9C.	Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.
9D.	Services by an old age home run by Central Government, State Government or entity u/s 12AA of the Income Tax Act, 1961, to residents for consideration upto Rs.25,000 per month per member provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance
10.	<p>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.</p> <p>Taxpoint :</p> <p>Original works means-all new constructions:</p> <ul style="list-style-type: none"> i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable; ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise. 
10A.	<p>Services supplied by electricity distribution utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.</p> 

11.	<p>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.</p> <p>Taxpoint :</p> <ul style="list-style-type: none"> ❖ Residential complex means any complex comprising of a building or buildings, having more than one single residential unit ❖ Single residential unit means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.
11A.	<p>Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.</p>
12.	<p>Services by way of renting of residential dwelling for use as residence.</p>
13.	<p>Services by a person by way of :</p> <ol style="list-style-type: none"> i) conduct of any religious ceremony; ii) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust u/s 12AA of the Income-tax Act, 1961 or a trust or an institution registered u/s 10(23C)(v) or a body or an authority covered u/s 10(23BBA) of said Act. <p>However, nothing contained in entry (b) of this exemption shall apply to,—</p> <ul style="list-style-type: none"> • renting of rooms where charges are Rs.1,000 or more per day; • renting of premises, community halls, kalyanmandapam or open area, and the like where charges are Rs.10,000 or more per day; • renting of shops or other spaces for business or commerce where charges are Rs.10,000 or more per month. <p>Taxpoint :</p> <ul style="list-style-type: none"> ❖ General public means the body of people at large sufficiently defined by some common quality of public or impersonal nature ❖ Religious place means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality;
14.	<p>Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to Rs.1,000 per day or equivalent.</p>
15	<p>Transport of passengers, with or without accompanied belongings, by:</p> <ol style="list-style-type: none"> a) air, embarking from or terminating in an airport located in the state of— <ol style="list-style-type: none"> i Arunachal Pradesh, ii Assam,



- iii Manipur,
- iv Meghalaya,
- v Mizoram,
- vi Nagaland,
- vii Sikkim,
- viii Tripura; or
- ix at Bagdogra located in West Bengal;



- b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or
- c) stage carriage other than airconditioned stage carriage.

However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified u/s 9(5) the Act

Taxpoint :



- ❖ Radio taxi means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service
- ❖ Stage carriage means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or just reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey
- ❖ “Contract carriage” means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum:-
 - a) on a time basis, whether or not with reference to any route or distance; or
 - b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes--
 - i. a maxicab; and
 - ii. a motor cab notwithstanding that separate fares are charged for its passengers;



- 16.** Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding. However, nothing contained in this entry shall apply on or after the expiry of a period of 3 year from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.





17.	<p>Service of transportation of passengers, with or without accompanied belongings, by—</p> <ol style="list-style-type: none"> railways in a class other than— <ol style="list-style-type: none"> 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). <p>However, nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified u/s 9(5) the Act.</p> <p>Taxpoint :</p> <ul style="list-style-type: none"> ❖ Metered cab means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder (but does not include radio taxi) ❖ e-Rickshaw means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.
18.	<p>Services by way of transportation of goods:</p> <ol style="list-style-type: none"> by road except the services of: <ol style="list-style-type: none"> a goods transportation agency; a courier agency; by inland waterways. <p>Taxpoint :</p> <ul style="list-style-type: none"> ❖ Goods transport agency means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called ❖ Courier agency means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.
19.	<p>Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.</p>







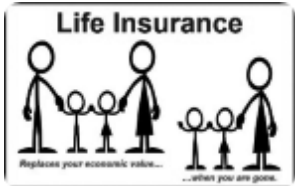


19A.	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India (available upto September 2022).
19B.	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India. (available upto September 2022).
19C.	Satellite services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.
20.	<p>Services by way of transportation by rail or a vessel from one place in India to another of the following goods:</p> <ul style="list-style-type: none"> a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; b) defense or military equipment's; c) newspaper or magazines registered with the Registrar of Newspapers; d) railway equipment's or materials; e) agricultural produce; f) milk, salt and food grain including flours, pulses and rice; and g) organic manure. 
21	<p>Services provided by a goods transport agency, by way of transport in a goods carriage of:</p> <ul style="list-style-type: none"> a) agricultural produce; b) goods, where consideration charged for the transportation of goods on a consignment transported c) in a single carriage does not exceed Rs.1,500; d) goods, where consideration charged for transportation of all such goods for a single consignee e) does not exceed Rs.750; f) milk, salt and food grain including flour, pulses and rice; g) organic manure; h) newspaper or magazines registered with the Registrar of Newspapers; i) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; j) defense or military equipment's. <p>Taxpoint :</p> <p>Goods carriage means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.</p> 

21A.	<p>Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients:</p> <ul style="list-style-type: none"> a) any factory registered under or governed by the Factories Act, 1948; or b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or c) any Co-operative Society established by or under any law for the time being in force; or d) any body corporate established, by or under any law for the time being in force; or e) any partnership firm whether registered or not under any law including association of persons; f) any casual taxable person registered under the Act or the IGST Act or the SGST Act or the UTGST.
21B.	<p>Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to:</p> <ul style="list-style-type: none"> a) a Department or Establishment of the Central Government or State Government or Union territory; or b) local authority; or c) Governmental agencies, <p>which has taken registration under the CGST, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.</p>
22.	<p>Services by way of giving on hire:</p> <ul style="list-style-type: none"> a) to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers; or b) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers; c) to a goods transport agency, a means of transportation of goods. d) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent. <p>Taxpoint :</p> <ul style="list-style-type: none"> ❖ Educational institution means an institution providing services by way of: <ul style="list-style-type: none"> i) pre-school education and education up to higher secondary school or equivalent; ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; iii) education as a part of an approved vocational education course.
23.	Service by way of access to a road or a bridge on payment of toll charges.



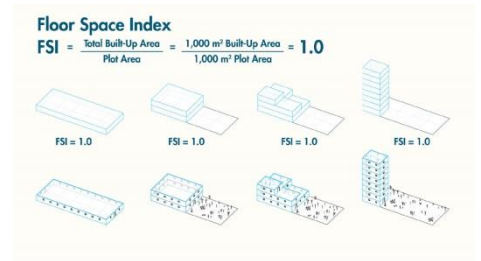
23A.	Service by way of access to a road or a bridge on payment of annuity.	
24.	Services by way of loading, unloading, packing, storage or warehousing of rice.	
24A.	Service by way of Services by way of warehousing of minor forest produce.	
24B.	Services provided by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres, jute etc. indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.	
25.	Transmission or distribution of electricity by an electricity transmission or distribution utility.	
26.	Services by the Reserve Bank of India.	
27.	<p>Services by way of—</p> <p>a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);</p> <p>b) sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.</p> <p>Taxpoint :</p> <p>Interest means interest payable in any manner in respect of any moneys borrowed or 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.</p>	
27A.	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).	
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.	
29A.	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.	

29B.	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.	
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.	
31A.	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.	
31B.	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.	
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 (SEBI) 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 Rs.2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. "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.	
34A.	Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the financial institutions.	
35.	Services of general insurance business provided under following schemes: a) Hut Insurance Scheme; b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); c) Scheme for Insurance of Tribals; d) Janata Personal Accident Policy and Gramin Accident Policy; e) Group Personal Accident Policy for Self-Employed Women; f) Agricultural Pumpset and Failed Well Insurance; g) Premia collected on export credit insurance;	

	<p>h) Restructured Weather Based Crop Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;</p> <p>i) Jan Arogya Bima Policy;</p> <p>j) Pradhan Mantri Fasal Bima Yojana);</p> <p>k) Pilot Scheme on Seed Crop Insurance;</p> <p>l) Central Sector Scheme on Cattle Insurance;</p> <p>m) Universal Health Insurance Scheme;</p> <p>n) Rashtriya Swasthya Bima Yojana;</p> <p>o) Coconut Palm Insurance Scheme;</p> <p>p) Pradhan Mantri Suraksha Bima Yojana;</p> <p>q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999</p> <p>r) Bangla Shasya Bima.</p>	
36.	<p>Services of life insurance business provided under following schemes:</p> <p>i. Janashree Bima Yojana;</p> <p>ii. Aam Aadmi Bima Yojana;</p> <p>iii. Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of Rs.2,00,000;</p> <p>iv. Varishtha Pension BimaYojana;</p> <p>v. Pradhan Mantri Jeevan Jyoti BimaYojana;</p> <p>vi. Pradhan Mantri Jan DhanYojana;</p> <p>vii. Pradhan Mantri Vaya Vandana Yojana.</p>	
36A.	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40.	
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.	<p>Services by the following persons in respective capacities—</p> <p>a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;</p> <p>b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or</p>	

	<p>c) business facilitator or a business correspondent to an insurance company in a rural area.</p> <p>Taxpoint :</p> <p>Business facilitator or business correspondent means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India.</p>
39A.	<p>Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).</p> <p>Taxpoint :</p> <p>The intermediary of financial services in IFSC is a person:</p> <ul style="list-style-type: none"> i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.
40.	<p>Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.</p>
41.	<p>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.</p> <p>Taxpoint:</p> <p>The Central Government, State Government or Union territory shall have 20% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.</p> <p>Conditions:</p> <ul style="list-style-type: none"> (1) The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area. (2) The State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard. (3) In case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or

	<p>buyer or owner shall be jointly and severally liable to pay such amount of integrated tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty</p> <p>(4) The lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the integrated tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same..</p>
41A.	<p>Service by way of transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of residential apartments by a promoter in a project, 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.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>[GST payable on TDR or FSI (including additional FSI) or both for construction of the project] x (carpet area of the residential apartments in the project + Total carpet area of the residential and commercial apartments in the project)</p> <p>Conditions:</p> <p>The promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner –</p> <p>[GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation + Total carpet area of the residential apartments in the project)</p> <p>Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5% of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation</p>



	<p>The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.</p>
41B.	<p>Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more, for construction of residential apartments by a promoter in a project, 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.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] x (carpet area of the residential apartments in the project + Total carpet area of the residential and commercial apartments in the project).</p> <p>Conditions</p> <p>The promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain un- booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation</p> <p>+ Total carpet area of the residential apartments in the project);</p> <p>Provided further that the tax payable in terms of the first proviso shall not exceed 0.5% of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.</p> <p>The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project, as the case may be.</p>
42.	<p>Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.</p>

43.	Omitted.
44.	<p>Services provided by an incubatee upto a total turnover of Rs.50 lakh in a financial year subject to the following conditions, namely :</p> <p>(a) the total turnover had not exceeded Rs.50 lakh during the preceding financial year; and</p> <p>(b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee.</p> <p>Taxpoint :</p> <p>Incubatee means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech and innovative products.</p>
45.	<p>Services provided by—</p> <p>(a) an arbitral tribunal to—</p> <ul style="list-style-type: none"> i) any person other than a business entity; or ii) a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Act, 2017; iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity; <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to—</p> <ul style="list-style-type: none"> i) an advocate or partnership firm of advocates providing legal services; ii) any person other than a business entity; or iii) a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Act, 2017; iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity; <p>(c) a senior advocate by way of legal services to—</p> <ul style="list-style-type: none"> i) any person other than a business entity; or ii) a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Act, 2017; iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.



	<p>Taxpoint :</p> <p>Legal service means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.</p>
46.	Services by a veterinary clinic in relation to health care of animals or birds.
47.	<p>Services provided by the Central Government, State Government, Union territory or local authority by way of—</p> <p>a) registration required under any law for the time being in force;</p> <p>b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.</p>
47A.	<p>Services by way of licensing, registration and analysis or testing of food samples supplied by the</p> <p>Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.</p>
48.	<p>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.</p>
49.	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.
50.	<p>Services of public libraries by way of lending of books, publications or any other knowledge- enhancing content or material.</p> <p>Books but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes.</p>
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.	<p>Services by way of sponsorship of sporting events organised—</p> <p>a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;</p> <p>b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;</p>





	<p>c) by the Central Civil Services Cultural and Sports Board;</p> <p>d) as part of national games, by the Indian Olympic Association; or</p> <p>e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.</p>
53A.	Services by way of fumigation in a warehouse of agricultural produce.
54.	<p>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:</p> <p>a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>b) supply of farm labour;</p> <p>c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>e) loading, unloading, packing, storage or warehousing of agricultural produce ;</p> <p>Taxpoint :</p> <p>Aforesaid services for processed product is not exempt. E.g. storage services of green tea leave is exempt but that of black tea is not exempt here¹⁵.</p> <p>f) agricultural extension services;</p> <p>Taxpoint :</p> <p>Agricultural extension means application of scientific research and knowledge to agricultural practices through farmer education or training</p> <p>g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p> <p>Taxpoint :</p> <p>❖ Agricultural produce means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.</p> <p>❖ Agricultural Produce Marketing Committee or Board means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce</p> <p>h) services by way of fumigation in a warehouse of agricultural produce</p>



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 Taxpoint : Milling of paddy into rice is not eligible for exemption here.
55A.	Services by way of artificial insemination of livestock (other than horses).
56.	Services by way of slaughtering of animals
57.	Services by way of pre-conditioning, precooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
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 Government of India, under bilateral arrangement [Haj Yatra].
61.	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
61A.	Services by way of granting National Permit to a goods carriage to operate through-out India / contiguous States.
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: Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in instalments, for assignment of right to use such natural resource.



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.
65A.	Services by way of providing information under the Right to Information Act, 2005
65B.	<p>Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.</p> <p>Taxpoint :</p> <p>Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government u/s 15(1) of the Mines and Minerals (Development and Regulation) Act, 1957.</p> <p>Condition :</p> <p>At the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.</p>
66.	<p>Services provided :</p> <ul style="list-style-type: none"> a) by an educational institution to its students, faculty and staff; b) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; c) to an educational institution, by way of, <ul style="list-style-type: none"> i) transportation of students, faculty and staff; ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; iii) security or cleaning or housekeeping services performed in such educational institution; iv) services relating to admission to, or conduct of examination by, such institution; v) supply of online educational journals or periodicals ;

	<p>However, nothing contained in sub-items (i), (ii) and (iii) of item (c) shall apply to an educational institution other than an institution providing services by way of pre-school education and education upto higher secondary school or equivalent.</p> <p>Further nothing contained in sub-item (v) of item (c) shall apply to an institution providing services by way of,—</p> <p>i) pre-school education and education upto higher secondary school or equivalent; or</p> <p>ii) education as a part of an approved vocational education course</p> <p>Taxpoint :</p> <p>❖ Approved vocational education course means,</p> <p>i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or</p> <p>ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship</p> <p>❖ To exempt subscription of online educational journals/periodicals by educational institutions who provide degree recognized by any law</p> <p>❖ Educational institution means an institution providing services by way of,—</p> <p>i) pre-school education and education up to higher secondary school or equivalent;</p> <p>ii) education as a part of a curriculum for obtaining a qualification recognised by any law (in India) for the time being in force;</p> <p>iii) education as a part of an approved vocational education course</p> <p>Taxpoint :</p> <p>Training provided by private coaching institute is not exempt</p>	
67.	Omitted.	
68.	<p>Services provided to a recognised sports body by:</p> <p>a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;</p> <p>b) another recognised sports body.</p>	
69.	<p>Any services provided by,:</p> <p>a. the National Skill Development Corporation set up by the Government of India;</p> <p>b. a Sector Skill Council approved by the National Skill Development Corporation;</p> <p>c. an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;</p> <p>d. a training partner approved by the National Skill Development Corporation or the</p>	

	<p>Sector Skill Council, in relation to—</p> <p>i) the National Skill Development Programme implemented by the National Skill Development Corporation; or</p> <p>ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</p> <p>iii) any other Scheme implemented by the National Skill Development Corporation.</p>	
70.	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.	
71.	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.	
72.	Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration.	
73.	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.	
74.	<p>Services by way of :</p> <p>a) health care services by a clinical establishment, an authorised medical practitioner or para- medics;</p> <p>b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.</p> <p>Taxpoint :</p> <p>❖ Health care services means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines¹⁷ in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.</p> <p>❖ Clinical establishment means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases</p>	

	<ul style="list-style-type: none"> ❖ Authorised medical practitioner means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force ❖ Supply of services other than healthcare services such as renting of shops, auditorium, display of advertisement, etc. will be subject to GST.
74A.	Services provided by rehabilitation professionals recognized under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income tax Act, 1961.
75.	Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.
76.	Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.
77.	<p>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:</p> <ul style="list-style-type: none"> a) as a trade union; b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or c) upto an amount of Rs.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.
77A.	<p>Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in:</p> <ul style="list-style-type: none"> i) activities relating to the welfare of industrial or agricultural labour or farmers; or ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee upto an amount of Rs.1,000/- per member per year.
78.	<p>Services by an artist by way of a performance in folk or classical art forms of—</p> <ul style="list-style-type: none"> a) music, or b) dance, or c) theatre,



	<p>if the consideration charged for such performance is not more than Rs.1,50,000.</p> <p>However, the exemption shall not apply to service provided by such artist as a brand ambassador.</p> <p>Taxpoint: Brand ambassador means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.</p>
79.	<p>Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.</p> 
80.	<p>Services by way of training or coaching in recreational activities relating to—</p> <ol style="list-style-type: none"> arts or culture, or sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.
81.	<p>Services by way of right to admission to—</p> <ol style="list-style-type: none"> 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, planetarium, <p>where the consideration for right to admission to the events or places as referred above is not more than Rs.500 per person.</p> <p>Taxpoint :</p> <ul style="list-style-type: none"> ❖ Recognised sporting event” means any sporting event,- <ol style="list-style-type: none"> organised by a recognised sports body where the participating team or individual represent any district, state, zone or country; organised – <ol style="list-style-type: none"> by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone; 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 Central Civil Services Cultural and Sports Board; as part of national games, by Indian Olympic Association; or under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme; ❖ “Recognised sports body” means <ol style="list-style-type: none"> the Indian Olympic Association; 

	<ul style="list-style-type: none"> ii) Sports Authority of India; iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations; iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government; v) the International Olympic Association or a federation recognised by the International Olympic Association; or vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India
82.	Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017.
82A.	Services by way right to admission to the events organised under FIFA U-17 Women's World Cup 2020.
82B.	Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022 exempted from GST.

Following services are exempted under the IGST Act [Notification No. 9/2017-IT (Rate) Dated 28-06-2017]

10.	<p>Services received from a provider of service located in a non-taxable territory by –</p> <ul style="list-style-type: none"> 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 u/s 12AA of the Income-tax Act, 1961 for the purposes of providing charitable activities; or c) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of: <ul style="list-style-type: none"> i. Pre-school education and education upto higher secondary school or equivalent; or ii. Education as a part of an approved vocational education course d. d) a person located in a non-taxable territory <p>However, the exemption shall not apply to</p> <ul style="list-style-type: none"> i. online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or ii. services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.
10F.	Services supplied by an establishment of a person in India to any establishment of that any person outside India, which are treated as establishments of distinct persons in accordance with explanation 1 in sec. 8 of the IGST Act, 2017, subject to the condition that the place of supply of the service is outside India.

10G.	Import of services by United Nations or a specified international organization for official use of the United nations or the specified international organization.
10H.	Import of services by foreign diplomatic mission or consular post in India or diplomatic agents or career consular officers posted therein.
12AA.	Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory.
42.	Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves.
54.	Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.

Other Exemptions :

Description of Service
Services imported by unit/developer in SEZ.
Exemption to Central Government's share of profit - petroleum
Services supplied by Asian Development Bank (ADB) and International Finance Corporation (IFC)
Exemption to royalty and licence fee to the extent it is paid on the consideration attributable to royalty and license fee re-included in transaction value on which the appropriate duties of customs have been paid.

Difference between zero-rated supply and exempted supply

Particulars	Zero-Rated Supplies	Nil-Rated Supply	Non-GST Supply	Exempt Supply
Meaning	Supply which is meant for Export or supply of goods or services or both for authorized operations to Special Economic Zone developer or a Special Economic Zone unit.	Supply which attracts 0% GST rate.	Supply which is outside the purview of GST Act.	Supply which attracts nil rate of tax or which are specifically exempt from GST through government notification and includes non-taxable supply.
GST Applicability	i) Supply of good or services without payment GST using LUT and claim a refund of unutilised ITC. ii) Supply of good or services by paying IGST and claim a refund of such IGST paid.	GST is not applicable on supply.	GST is not applicable on supply.	GST is not applicable on supply.

Input Tax Credit Availability	Input tax credit can be claimed.	No input tax credit is available.	No input tax credit is available.	No input tax credit is available.
Cover under GST Ambit	Yes	Yes	Yes	Yes (for nil rated and exempt supply) No (for non-taxable supply).

ILLUSTRATIONS

Illustration 1: State whether following services are exempted or not :

Services	Remarks
Shri Jagdish Ji, a priest, charged Rs.21,000/- from Mr. X for carrying out the rituals of his marriage ceremony.	Exempt as per Entry 13
Rent of Rs.19,000 charged for letting out community hall in a temple premises for marriage ceremony.	Not Exempt
Temple provides room (in the precincts of the temple) on rent of Rs.750 per day to the pilgrims.	Exempt as per Entry 13

Illustration 2: Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons :

Particulars	Rs.
Fees charged for yoga camp conducted by a charitable trust.	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts.	1,00,000
Amount charged by cord blood bank for preservation of stem cells.	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

Solution:

Computation of value of taxable supply :

Particulars	Entry	Rs.
Fees charged for yoga camp conducted by a charitable trust	1	Exempt
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts.	39	Exempt
Amount charged by cord blood bank for preservation of stem cells.	73	Exempt
Amount charged for service provided by commentator to a recognized sports body.		5,20,000

Illustration 3: Mr. Ijas, a performing artist, provides the following information relating to October, 2022 :

Receipts from	Amount (Rs.)
Performing classical dance	1,40,000

Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts	2,10,000
Activities in sculpture making	3,10,000
Performing western dance	90,000

What will be value of taxable supply?

Solution:

Computation of value of taxable supply :

Particulars	Amount (Rs.)
Performing classical dance [Exempt as per entry 78]	Exempt
Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts [Exempt as per entry 80]	Exempt
Activities in sculpture making	3,10,000
Performing western dance	90,000
Value of taxable supply	18,80,000

Illustration 4: On the basis of following information, you are requested to compute value of taxable supply and GST :

	Particulars	Rs.
a)	Advertisement through hoardings	1,00,000
b)	Performances as folk-dance artist	80,000
c)	Hotel room @ Rs.2,500/- per room	1,50,000
d)	Rent received for residential dwelling use as residence per month	20,000
e)	Received from outdoor catering service	1,50,000
f)	Received by a professional training centre	1,80,000
g)	Received from service by way of transportation of passengers by inland waterways	50,000

Assuming GST @ 18% i.e. CGST - 9% & SGST - 9%

Solution:

Computation of value of taxable supply and tax liability :

	Particulars	Rs.
a)	Advertisement through hoardings	1,00,000
b)	Performances as folk-dance artist [Exempt as per entry 78]	Exempt
c)	Hotel room @ Rs.2,500/- per room	1,50,000
d)	Rent received for residential dwelling use as residence per month	Exempt
e)	Received from outdoor catering service [Exempt as per entry 12]	1,50,000
f)	Received by a professional training centre	1,80,000

g)	Received from service by way of transportation of passengers by inland waterways [Exempt as per entry 17]	Exempt
	Value of taxable supply	5,80,000
	Tax on above	
	- CGST [Rs.5,80,000 x 9%]	52,200
	- SGST [Rs.5,80,000 x 9%]	52,200

Illustration 5: Compute the taxable value of supply of service of A Ltd. for the month of June 2022 from the following information:

S.N.	Particulars	Rs.
(1)	Entry fees received for cultural programme organised in open theatre where the ticket price is Rs.200	5,00,000
(2)	Receipts on account of stand alone ride in a mall	2,00,000
(3)	Receipts of video parlours for exhibiting movies	2,00,000
(4)	Auxiliary services provided in capacity of an event manager for organising an event	15,00,000
(5)	Receipts from running Natraj Circus	8,00,000
(6)	Receipts on account of admission to award function where the consideration for admission is Rs.400 per person	5,00,000
(7)	Receipts on account of admission to musical performance where the consideration for admission is Rs.1,000 per person	10,00,000
(8)	Receipts on account of admission to recognised sporting event where the consideration for admission is Rs.1,000 per person	10,00,000
(9)	Receipts on account of admission to non recognised sporting event where the consideration for admission is Rs.1,000 per person	10,00,000
(10)	Receipts of amusement park	15,00,000

Solution:

Computation of value of taxable supply :

S.N.	Particulars	Rs.
(1)	Entry fees received for cultural programme organised in open theatre [Entry 81]	Exempt
(2)	Receipts on account of stand alone ride in a mall	2,00,000
(3)	Receipts of video parlours for exhibiting movies	2,00,000
(4)	Auxiliary services provided in capacity of an event manager for organising an event	15,00,000
(5)	Receipts from running Natraj Circus	Exempt
(6)	Receipts on account of admission to award function where the consideration for admission is Rs.400 per person	Exempt
(7)	Receipts on account of admission to musical performance where the	10,00,000

	consideration for admission is Rs.1,000 per person	
(8)	Receipts on account of admission to recognised sporting event where the consideration for admission is Rs.1,000 per person	10,00,000
(9)	Receipts on account of admission to non recognised sporting event where the consideration for admission is Rs.1,000 per person	10,00,000
(10)	Receipts of amusement park	15,00,000
	Value of taxable supply	64,00,000

Illustration 6: Agro Farm Limited registered under GST furnishes the following details with respect to the activities undertaken by them in the month of May, 2022 :

S.N.	Particulars	Rs.
(1)	Receipts from Supply of farm labour	85,000
(2)	Charges for seed testing	65,000
(3)	Charges for soil testing of farm land	35,000
(4)	Charges for warehousing of potato chips	85,000
(5)	Commission received on sale of wheat	75,000
(6)	Charges for training of farmers on use of new pesticides and fertilizers developed through scientific research	10,000
(7)	Renting of vacant land to a stud farm	1,85,000
(8)	Leasing of vacant land to a cattle farm	83,500
(9)	Charges for warehousing of rice	1,50,000
(10)	Charges for warehousing of cotton fabrics	2,00,000
(11)	Retail packing and labelling of fruits and vegetables	5,00,000

Compute the value of taxable supply of Agro Farm Limited for the month of May, 2022 if all the above amounts are exclusive of GST.

Solution:

Computation of value of taxable supply :

S.N.	Particulars	Rs.
(1)	Receipts from Supply of farm labour [Entry 54]	Exempt
(2)	Charges for seed testing [Entry 54]	Exempt
(3)	Charges for soil testing of farm land [Entry 54]	Exempt
(4)	Charges for warehousing of potato chips	85,000
(5)	Commission received on sale of wheat [Entry 54]	Exempt
(6)	Charges for training of farmers on use of new pesticides and fertilizers developed through scientific research [Entry 54]	Exempt
(7)	Renting of vacant land to a stud farm	1,85,000
(8)	Leasing of vacant land to a cattle farm [Entry 54]	Exempt
(9)	Charges for warehousing of rice [Entry 24]	Exempt

(10)	Charges for warehousing of cotton fabrics	2,00,000
(11)	Retail packing and labelling of fruits and vegetables [Entry 57]	Exempt
	Value of taxable Supply	4,70,000

Illustration 7: Mr. Dev a famous cricketer furnishes you with the following information of the various receipts for the month ended 30-09-2022. You are required to compute value of taxable supply :

S.N.	Particulars	Rs.
(1)	Receipts from Sports Authority of India for participation in recognised sport	50 lakh
(2)	Receipts from franchisee of Indian Premier league (not a recognised sports body)	75 lakh
(3)	Receipts from acting as brand ambassador for corporate client	22 lakh
(4)	Receipts of sports training academy to coach young players	15 lakh

Solution:

Computation of value of taxable supply :

S.N.	Particulars	Rs.
(1)	Receipts from Sports Authority of India for participation in recognised sport [Entry 68]	Exempt
(2)	Receipts from franchisee of Indian Premier league (not a recognised sports body)	75 lakh
(3)	Receipts from acting as brand ambassador for corporate client	22 lakh
(4)	Receipts of sports training academy to coach young players [Entry 80]	Exempt
	Value of taxable supply	97 lakh

Illustration 8: M/s. D Bank Limited, a Scheduled Commercial Bank has furnished the following details for the month of August, 2022 :

Particulars	Rs.in Crores (Excluding GST)
Extended Housing Loan to its customers	200
Processing fees collected from its customers on sanction of loan	40
Commission collected from its customers on bank guarantee	60
Interest income on credit card issued by the bank	80
Interest received on housing loan extended by the bank	50
Minimum balance charges collected from current account & saving account holder	02

Compute the value of taxable supply.

Solution:

Computation of value of taxable supply :

Particulars	Rs.in Crores
Extended Housing Loan to its customers [Money is not considered as goods hence, extending loan is not a supply]	-
Processing fees collected from its customers on sanction of loan	40
Commission collected from its customers on bank guarantee	60

Interest income on credit card issued by the bank	80
Interest received on housing loan extended by the bank [Interest on loan is exempt]	-
Minimum balance charges collected from current account & saving account holder	02
Value of taxable supply	182

FAQ by CBIC on 15-12-2018

Q 1. Does the GST Law empower the Government to exempt supplies from the levy of GST? [FAQ 9]

Ans. Yes. In the public interest, the Central or the State Government can exempt either wholly or partly, on the

recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions. Further the Government can exempt, under circumstances of an exceptional nature, by special order any goods or services or both. It has also been provided in the SGST Act and UTGST Act that any exemption granted under CGST Act shall be deemed to be exemption under the said Act.

Q 2. When exemption from whole of tax on goods or services or both has been granted absolutely, can a person pay tax? [FAQ 10]

Ans. No. Furthermore, if the goods are partly exempted, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

Composition Levy

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to prescribed limit. The objective of composition scheme is to bring simplicity, ease compliance burden and reduce cost of compliance for the small taxpayers. The scheme is optional. It essentially provides for a turnover tax regime for such tax-payers, with facility of less compliance.

An eligible person opting to pay tax under the composition scheme shall, instead of paying tax on every invoice at the specified rate, pay tax at a prescribed percentage of his turnover.

Advantages of Composition Scheme :

The following are the advantages of registering under composition scheme:

- Lesser compliance (returns, maintaining books of record, issuance of invoices)
- Limited tax liability
- High liquidity as taxes are levied at a lower rate

Disadvantages of Composition Scheme :

The disadvantages of registering under GST composition scheme are as under:

- A limited territory of business. The dealer is barred from carrying out inter-state transactions
- No Input Tax Credit available to composition dealers
- The taxpayer will not be eligible to supply non-taxable goods under GST such as alcohol and goods through an e-commerce portal.
- No ITC to the buyer of goods from the supplier under composition scheme, which will lead to increase in cost.

Composition Levy under GST [Sec. 10]

A registered person, whose aggregate turnover in the preceding financial year did not exceed threshold limit, may opt to pay, in lieu of the tax payable by him u/s 9(1), an amount of tax calculated at such rate as may be prescribed.

Threshold limit [Notification No. 14/2019-CT dated 07-03-2019]

The limit are as under :

Case	Limit	
	Location	Threshold Limit
Supply of goods and restaurant service (restaurant, mandap keeper, and outdoor caterer who made supplies, by way of or as a part of any service of goods, being food or any other article for human consumption or any drink other than alcoholic liquor for human consumption)	1. Arunachal Pradesh, 2. Manipur, 3. Meghalaya, 4. Mizoram, 5. Nagaland, 6. Sikkim, 7. Tripura, 8. Uttarakhand	Rs.75 lakh
	Other States / UT	Rs.1.5 crore
Taxpoint: The person is allowed to opt for consumption scheme in the current financial year if his turnover of the preceding financial year did not exceed aforesaid limit.		
Manufacturers and Traders are allowed to supply of services with supply of goods and/or restaurant service	Higher of the following is allowed: a. 10% of turnover in a State or UT in the preceding financial year b. Rs.5,00,000	
Supplier of service other than restaurant services	Rs.50 lakh	

Taxpoint :

- ❖ Manufacturer of
 - (a) ice cream and other edible ice, whether or not containing cocoa; or
 - (b) Pan masala; or
 - (c) Tobacco and manufactured tobacco substitutes; or
 - (d) aerated water; or
 - (e) fly ash bricks, fly ash aggregate with 90% or more fly ash content; Fly ash blocks; or
 - (f) Bricks of fossil meals or similar siliceous earths; or
 - (g) Building bricks; or
 - (h) Earthen or roofing tiles,
 are not eligible for composition scheme.
- ❖ The value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory

Rates of GST for the supplier under composition scheme [Read with Rule 7]

The rate are as under :

Case	Rate of GST
Manufacturers other than manufacturer of ice cream, pan masala, tobacco or aerated water, etc.	1% (i.e. 0.5% CGST + 0.5% SGST) of the turnover in State or turnover in Union territory.
Traders	1% (i.e. 0.5% CGST + 0.5% SGST) of the turnover of taxable supplies of goods and services in the State or Union territory
Restaurant Services	5% (i.e. 2.5% CGST + 2.5% SGST) of the turnover ¹ in State or turnover in Union territory
Services other than restaurant services	6% (i.e. 3% CGST + 3% SGST) of the turnover of supplies of goods and services in the State or Union territory.

The composition supplier shall be liable to make payment at the rate applicable on the supply in respect of every inward supply liable to tax under the reverse charge mechanism, regardless of the rate of tax that is applicable on him on the outward supplies effected by him. It may be noted that the value of such inward supplies would not be included in the aggregate turnover of the composition taxpayer although the liability is discharged by him on such inward supplies.

Restriction on the supplier of goods and restaurant services opting for composition scheme [Sec. 10(2)]

The registered person shall be eligible to opt for composition scheme, if:

- (a) he is not engaged in the supply of services (however, upto certain limit as mentioned above, supply of service is allowed);
- (b) he is not engaged in making any supply of goods or services which are not leviable to tax under this Act (however, he may deal in exempt supply);
- (c) he is not engaged in making any inter-State outward supplies of goods or services;
- (d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source u/s 52;
- (e) he is not a manufacturer of notified goods i.e., ice cream and other edible ice, whether or not containing cocoa, or Pan masala or Tobacco and manufactured tobacco substitutes or aerated water, etc.
- (f) he is neither a casual taxable person nor a non-resident taxable person

Taxpoint :

Where more than one registered persons are having the same PAN, the registered person shall not be eligible to opt for the scheme unless all such registered persons opt to pay tax under the scheme. i.e., all registered person having same PAN must opt for composition scheme.

Example:

A company has the following businesses separately registered:

- Sale of mobile devices (registered in Kerala)
- Franchisee of branded restaurant (registered in Goa)

The scheme would be applicable for the said two units. The company cannot opt for composition scheme for the

registration in Kerala and opt to pay taxes under the regular scheme for the registration in Goa.

Restriction on the supplier of services opting for composition scheme [Sec. 10(2A)]

The registered person, being supplier of services, are eligible to composition scheme if:

- a) he is not engaged in making any supply of goods or services which are not leviable to tax under this Act;
- b) he is not engaged in making any inter-State outward supplies of goods or services;
- c) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source u/s 52;
- d) he is not a manufacturer of notified goods¹⁹ or supplier of notified services; and
- e) he is not a casual taxable person or a non-resident taxable person:

Taxpoint :

Where more than one registered persons are having the same PAN, the registered person shall not be eligible to opt for the scheme unless all such registered persons opt to pay tax under the scheme. i.e., all registered person having same PAN must opt for composition scheme.

Aggregate Turnover and turnover for the purpose of computing tax

❖ As per sec. 2(6), aggregate turnover means the aggregate value of:

- a) all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
- b) exempt supplies (excluding exempted services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount),
- c) exports of goods or services or both; and
- d) inter-State supplies of persons having the same PAN (i.e., stock transfer between branches, etc.)

to be computed on all India basis but excludes

- central tax, State tax, Union territory tax, integrated tax and cess.
- the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount

❖ For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is

represented by way of interest or discount.

- ❖ Further, for the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” shall not include the value of following supplies:
 - i. supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
 - ii. exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Lapse of options [Sec. 10(3)]

The option availed of by a registered person for composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit.

Person not eligible to collect tax [Sec. 10(4)]

A taxable person, who opts for composition levy, shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

Taxpoint :

The composition supplier is required to pay tax from his own pocket.

Penalty in case of wrongfully availing the scheme [Sec. 10(5)]

If the proper officer has reasons to believe that a taxable person has paid tax under composition levy, 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 sec. 73 or 74 shall, mutatis mutandis, apply for determination of tax and penalty.

Other Rules

Intimation for composition levy [Rule 3]

1. Any person who applies for registration under rule 8(1) may give an option to pay tax u/s 10 in Part B of Form GST REG-01, which shall be considered as an intimation to pay tax under the said section.
2. Any registered person who opts to pay tax u/s 10 shall electronically file an intimation in Form GST CMP- 02, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised.
3. He shall also furnish the statement in Form GST ITC-03 in accordance with the provisions of rule 44(4) within a period of 60 days from the commencement of the relevant financial year.
4. Any intimation 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.

Effective date for composition levy [Rule 4]

The intimation shall be considered only after the grant of registration to the applicant and his option to pay tax u/s 10 shall be effective from the following date :

Where the application for registration has been submitted within a period of 30 days from the date of his becoming liable to registration.	The registration shall be effective from the date on which the person becomes liable to registration.
Where an application for registration has been submitted by the applicant after the expiry of 30 days from the date of his becoming liable to registration.	The date of grant of registration

Conditions and restrictions for composition levy [Rule 5]

The person exercising the option to pay tax u/s 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 have not been purchased from an unregistered supplier and where purchased, he pays the tax under sec. 9(4) i.e., reverse charge;
- c) he shall pay tax u/s 9(3) or (4) on inward supply of goods or services or both;
- d) he was not engaged in the manufacture of notified goods during the preceding financial year;
- e) he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
- f) 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.

Taxpoint :

The registered person paying tax u/s 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.

Validity of composition levy [Rule 6]

1. The option exercised by a registered person to pay tax u/s 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and under these rules.
2. Such person shall be liable to pay tax u/s 9(1) from the day he ceases to satisfy any of the conditions mentioned in sec. 10 or the provisions of this Chapter 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 the occurrence of such event.
3. 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 or verified through electronic verification code, electronically on the common portal.
4. Where the proper officer has reasons to believe that the registered person was not eligible to pay tax u/s 10 or has contravened the provisions of the Act or provisions of this Chapter, he may issue a notice to such person in Form GSTCMP-05 to show cause within 15 days of the receipt of such notice as to why the option to pay tax under section 10 shall not be denied.

5. Upon receipt of the reply to the show-cause notice from the registered person in Form GST CMP-06, the proper officer shall issue an order in Form GST CMP-07 within a period of 30 days of the receipt of such reply, either accepting the reply, or denying the option to pay tax u/s 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.
6. Every person who has furnished an intimation or filed an application for withdrawal or a person in respect of whom an order of withdrawal of option has been passed in Form GST CMP-07, may electronically furnish at the common portal, either directly or through a Facilitation Centre, a statement in Form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of 30 days from the date from which the option is withdrawn or from the date of the order passed in FORM GST CMP-07, as the case may be.
7. Any intimation or application for withdrawal or denial of the option to pay tax u/s 10 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.

Illustration 9: Mr. Ritesh of Assam, provides the following information for the preceding financial year 2021-22. You are required to find out the aggregate turnover for the purpose of eligibility of composition levy scheme and determine whether he is eligible for composition levy scheme or not, for the F.Y. 2022-23.

Particulars	Rs.in lakh
Value of taxable outward supplies (out of above, Rs.10 lakh was in course of inter-state transactions)	75.00
Value of exempt supplies (which include Rs.30 lakh received as interest on loans & advances)	70.00
Value of inward supplies on which he is liable to pay tax under reverse charge	15.00
Value of exports	7.00

All the amounts are exclusive of GST. Further, he assured that in F.Y. 2022-23, no inter-State supply will be executed by him.

Solution:

Computation of aggregate turnover of Mr. Ritesh for F.Y. 2021-22 for the purpose of eligibility of composition levy scheme :

Particulars	Rs.in lakh
Value of taxable outward supplies [All taxable supplies including inter-State supplies]	75
Value of exempt supplies [excluding value of supply of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount]	40
Value of inward supplies on which Mr. Ritesh is liable to pay tax under reverse	Nil

charge	
Value of exports	7
Aggregate turnover for determining eligibility for composition scheme	122

A registered person of Assam is eligible to opt for composition levy if his aggregate turnover does not exceed Rs.1.5 crore in the preceding financial year. Therefore, in the given case, Mr. Ritesh is eligible to opt for composition levy for F.Y. 2022-23.

FAQ BY CBIC ON 15-12-2018

Q.1 A person availing composition scheme during a financial year crosses the turnover of Rs.150 Lakhs/Rs.75 Lakhs during the course of the year i.e. say he crosses the turnover of Rs.150 Lakhs / Rs.75 Lakhs in December? Will he be allowed to pay tax under composition scheme for the remainder of the year i.e. till 31st March? [FAQ 23 (amended)]

Ans. No. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds threshold limit. Once he crosses the threshold, he shall file an intimation for withdrawal from the scheme in Form GST CMP-04 within 7 days of the occurrence of such event. Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in Form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

Q.2 How will aggregate turnover be computed for the purpose of composition scheme? [FAQ 24]

Ans. It will be computed on the basis of turnover on all India basis. "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 PAN, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

However, a person supplying any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, not be ineligible for the composition scheme. In computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of the exempt services including services by way of extending deposits, loans or advances shall not be taken into account.

Q.3 Can a person who has opted to pay tax under the composition scheme avail Input Tax Credit on his inward supplies? [FAQ 25]

Ans. No. A taxable person opting to pay tax under the composition scheme is out of the credit chain. He cannot take credit on his input supplies.

Q 4. Can a registered person, who purchases goods from a taxable person paying tax under the composition scheme, take credit on purchases made from the composition dealer? [FAQ 26]

Ans. No.

Q 5. Can a person paying tax under the composition scheme issue a tax invoice under GST? [FAQ 27]

Ans. No.

Q 6. Is monthly return required to be filed by the person opting to pay tax under the composition scheme? [FAQ 28 (amended)]

Ans. No. Such persons need to file annual returns in Form GSTR-4 by 30th April of the following year. Further, he is required to file CMP-08 by 18th of the month succeeding the quarter.

Q 7. Can a person who has already obtained registration, opt for payment under composition levy? If so, how? [FAQ 39]

Ans. Yes. Such persons need to give intimation electronically in Form GST CMP-02. But the same must be done prior to commencement of financial year.

Q 8. In case a person has registration in multiple states? Can he opt for payment of tax under composition levy only in one state and not in other state? [FAQ 41]

Ans. No. Any intimation under rule 3(3)(1) 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 Permanent Account Number.

Q 9. Can a person paying tax under composition levy, withdraw voluntarily from the scheme? If so, how? [FAQ 45]

Ans. Yes. 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 or verified through electronic verification code, electronically on the common portal.

Every person who has filed an application for, may electronically furnish at the common portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in Form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

OTHERS

Q1. Can the Composition scheme be availed if the taxable person has inter -State inward supplies?

Ans. Yes. The Composition scheme is applicable subject to the condition that the taxable person does not engage in making inter-State outward supplies (subject to Notification No. 2/2019-Central Tax (Rate) dated 07th March, 2019), while there is no restriction on making any inter-State inward supplies.

Q2. What does the term “person having the same PAN” mean?

Ans. “Person having the same PAN” means all the units across India having the same PAN as is issued under the Income Tax Law.

Q3. What happens if a taxable person who has opted to pay taxes under the composition scheme crosses the threshold limit of Rs.1.50 crores during the year?

Ans. In such case, from the day, the taxable person crosses the threshold, the permission granted earlier is deemed to be withdrawn and he shall be liable to pay taxes under the regular scheme i.e., section 9, from such day.

THE END