



SUPPLEMENTARY

PAPER-11

INDIRECT TAXATION

(Syllabus - 2016)

(Applicable for June 2021 Examination)

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory body under an Act of Parliament)

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Section A

Goods and Services Tax [GST]



Study Note - 1

INTRODUCTION



1.1 FUNDAMENTALS OF GST

Union Territory Goods and Services Tax (UTGST):

UTGST levied and collected by Union Territories without State Legislatures, on intra-state supplies of taxable goods or services or both.

Note: India is a Union of States. The territory of India comprises of the territories of the States and the Union Territories. Currently, there are 28 States and 8 Union Territories; of which, three (Delhi, Pondicherry & Jammu and Kashmir) are having Legislature.

GST – in Union Territories without Legislature:

Supplies within such Union territory, Central GST will apply to whole of India and hence, it would be applicable to all Union Territories, with or without Legislature.

To replicate the law similar to State GST to Union Territories without Legislature, the Parliament has the powers under Article 246(4) to make such laws. Alternatively, the President of India may use his general powers to formulate such laws.

Hence, law same as similar to State GST can be formulated for Union Territory without Legislature, by the Parliament.

The following are Union Territories without Legislature:

1. Lakshadweep
2. Daman and Diu and Dadra and Nagar Haveli
3. Andaman and Nicobar Islands
4. Ladakh
5. Chandigarh



Definition of Union Territory has been amended w.e.f. 30.6.2020 (Section 2(114) of CGST Act, 2017):

Union Territory of Dadra Nagar Haveli and Union Territory of Daman and Diu have been merged in one single Union Territory w.e.f. 26-1-2020. Ladakh has been made Union Territory w.e.f. 31.10.2019.

Study Note - 2

LEVY AND COLLECTION OF TAX



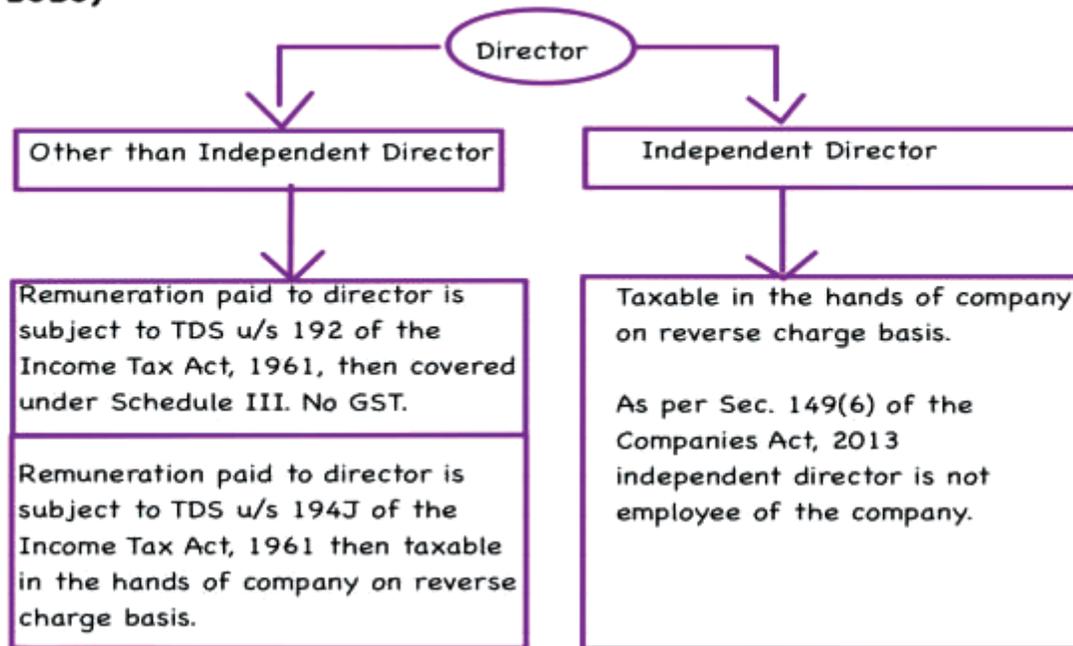
Director Remuneration (CBIC Circular No. 140/10/2020 – GST, dated 10-6-2020):

As per Section 149(6) of the Companies Act, 2013 independent director is not employee of the company. As a result, remuneration paid to Independent Director/Nominee Director is taxable in the hands of company on reverse charge basis.

Remuneration paid to other than Independent Director/Nominee Director (i.e. Managing Director, Whole-time Director etc.) is subject to TDS under section 192 of the Income Tax Act, 1961, then covered under Schedule III of CGST Act, 2017 and hence excluded from supply.

On the other hand, remuneration paid to other than Independent Director/Nominee Director (i.e. Managing Director, Whole-time Director etc.) is subject to TDS under section 194J of the Income Tax Act, 1961 then taxable in the hands of company on reverse charge basis.

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



Schedule II of the CGST Act, 2017

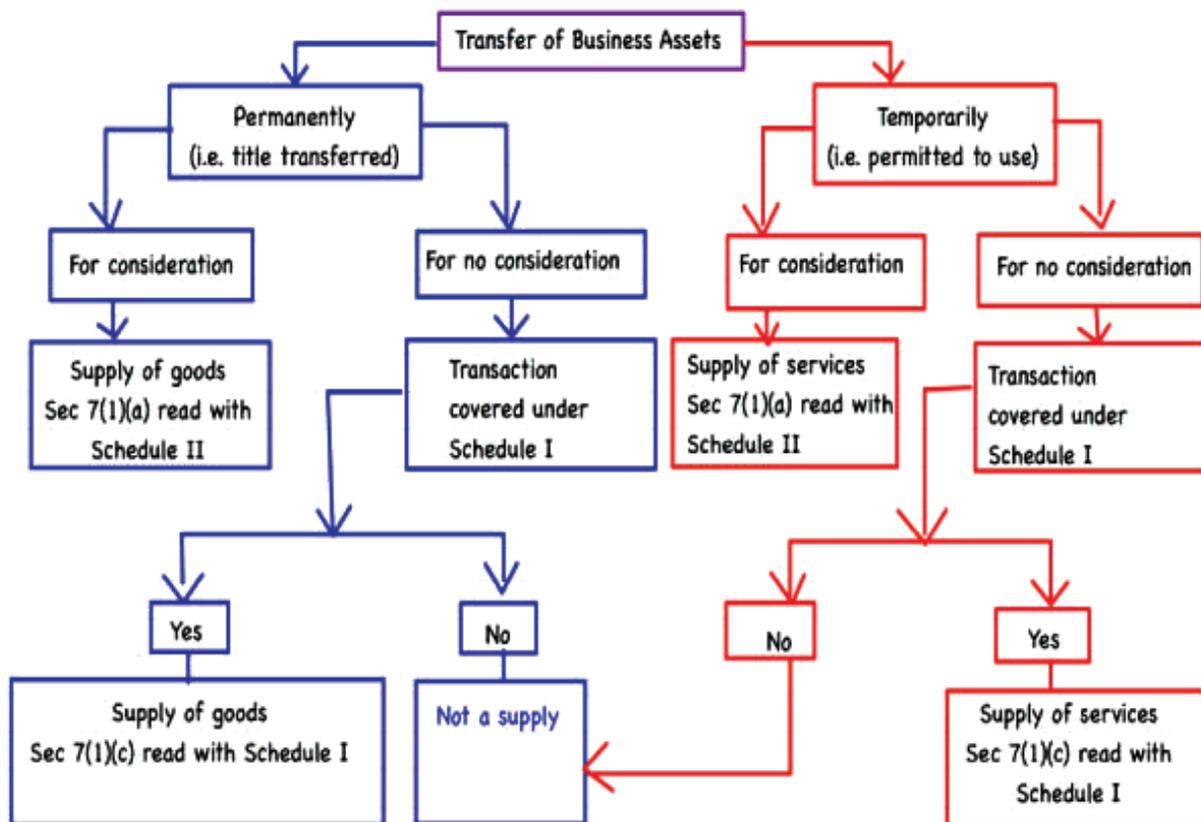
Schedule II of the CGST Act, 2017 has certain activities clearly classified as goods or services under GST to avoid any such confusion.

Section 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 supply of services as referred to in Schedule II.

S.No.	Transaction	Supply of Goods	Supply of Service
4	Transfer of business assets		
	<p>(a) Goods forming part of business are transferred or disposed off by the owner whether or not for a consideration.</p> <p>These words “whether or not for a consideration” have been omitted retrospectively effect from 1-7-2017 (as per Finance Act, 2020). Example: M/s Ram & Co taxable person has availed ITC of furniture. After 2 years, he donated same to a Trust. This activity amounts to supply (ITC availed business asset disposed of (without consideration) Sec 7(1)(c) + Schedule I (Para 1))</p>	Yes	No
	<p>(b) The owner (person carrying on business) uses or allows to use business assets for personal use whether or not for a consideration..</p> <p>These words “whether or not for a consideration” have been omitted retrospectively effect from 1-7-2017 (as per Finance Act, 2020).</p> <p>This covers use of property or taxable person like motor vehicles, residence premises, guest house, telephone, laptops etc. for private use of partners/directors/executives/employees.</p>	No	Yes

As per the Finance Act, 2020

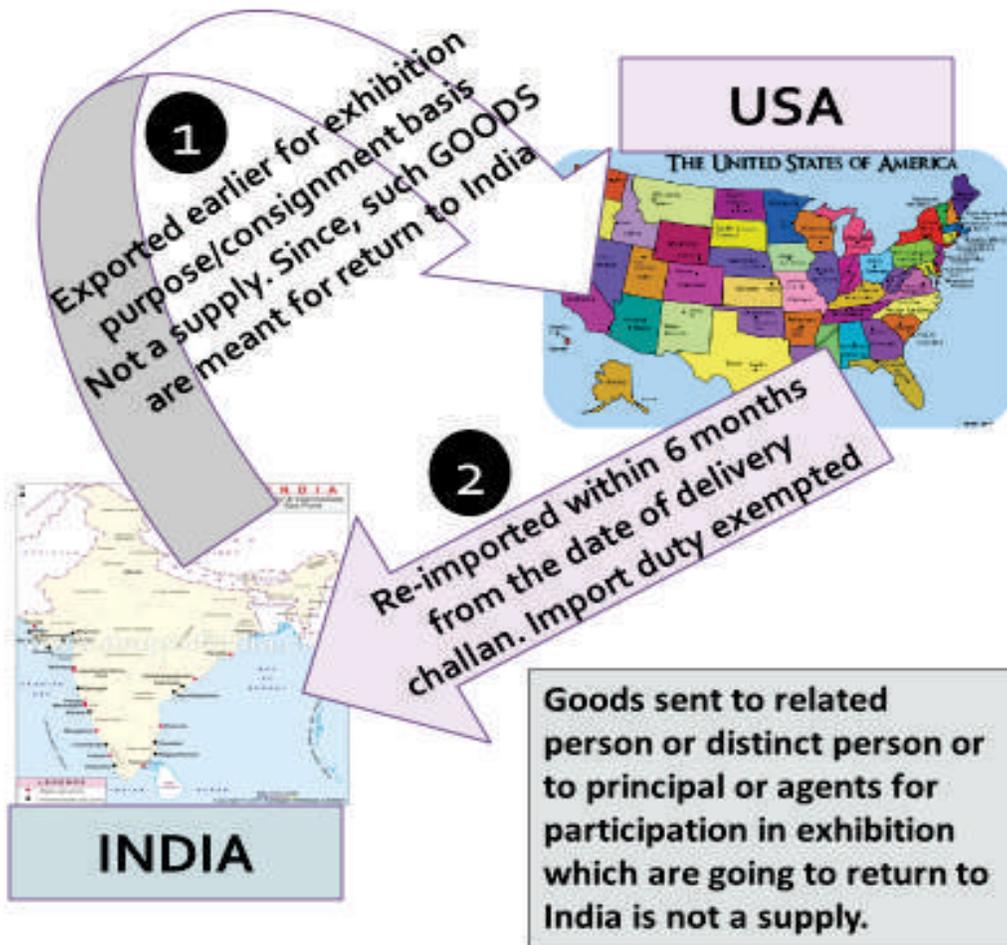
Schedule II Point 4 (a) & (b): whether or not for consideration Omitted with effect from 1-7-2020 retrospectively:



Goods sent on Sale or Approval Basis:

Goods sent for Exhibition:

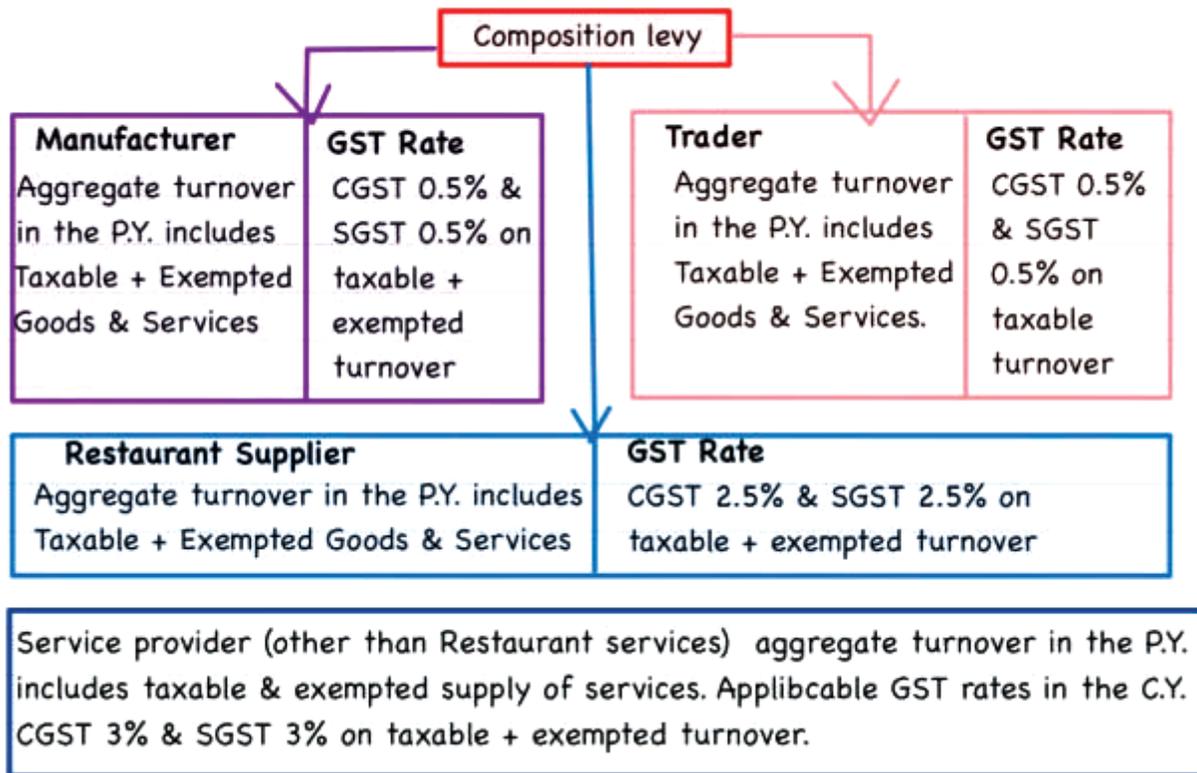
Goods which are exported earlier for exhibition purpose/consignment basis
[CBIC Circular 21/2019Cus. Dt. 24.10.2019]



Composition Levy:

Notification No. 50/2020 C.T., dated 24-6-2020 read with corrigendum to Notification No. 50/2020 C.T. (M.F. (D.R.) Corrigendum F. No. CBEC-20/06/09/2019-GST, dated 25-6-2020)

GST rates for composition scheme tax payers:



Intimation for composition levy:

Persons already registered under Pre-GST regime who opts to pay tax under section 10 (i.e. composition scheme)	Any registered person who opts to pay tax under section 10 of CGST Act, 2017 (i.e. composition scheme)	Any Persons who applied for registration
Shall electronically file an intimation in FORM GST CMP-01 , prior to the appointed day, but not later than 30 days after the said day, or such further period as may be extended by the Commissioner in this behalf:	Switches from Normal Scheme to Composition Scheme: shall electronically file an intimation in FORM GST CMP-02 , prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of subrule (4) of rule 44 within a period of 60 days from the commencement of the relevant financial year.	Option to pay tax under section 10 in Part B of FORM GST REG-01, which shall be considered as an intimation to pay tax under the said section.



<p>where the intimation in FORM GST CMP-01 is filed after the appointed day, the registered person</p> <ul style="list-style-type: none"> shall not collect any tax from the appointed day shall issue bill of supply for supplies made after the said day 	<p>NT. No. 30/2020-CT, dated 03.04.2020 w.e.f. 31.03.2020:</p> <p>[Provided that any registered person who opts to pay tax under section 10 for the financial year 2020-21 shall electronically file an intimation in FORM GST CMP-02, on or before 30th day of June, 2020 and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of rule 44 upto the 31st day of July, 2020.]</p>	
<p>shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in FORM GST CMP-03 within a period of 90 days from the date on which the option for composition levy is exercised</p>		

Section 10(3)	Lapse of Option availed by Composition dealers	Option availed u/s 10(1)/(2A) by a composition dealer wrt composition levy shall stand lapsed wef date on which his aggregate turnover exceeds the specified limits. If such date falls between 20.3.20 to 30.06.2020, there shall be no extension for such person for switching to regular person.
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Exemptions:

The following services are exempted from GST:

S. No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
19A	<p>w.e.f. 25.1.2018, Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.</p> <p>This exemption granted only till 30th September 2018. Now extended upto 30th September 2019. w.e.f. 1-10-2019 this exemption further extended upto September 2020 w.e.f. 1-10-2020 this exemption further extended upto September 2021</p>
19B	<p>w.e.f. 25.1.2018, Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.</p> <p>This exemption granted only till 30th September 2018</p> <p>Now extended upto 30th September 2019.</p> <p>w.e.f. 1-10-2019 this exemption further extended upto September 2020 w.e.f. 1-10-2020 this exemption further extended upto September 2021.</p>

19C	Satellite services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited is exempted from GST (vide Notification No. 5/2020CT (Rate), dated 16-10-2020).
22	<p>Services by way of giving on hire:—</p> <p>(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or</p> <p>(b) to a goods transport agency, a means of transportation of goods. w.e.f. 25.1.2018,</p> <p>(c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.</p> <p>Entry 22 (aa): w.e.f 1-10-2019: Services by way of giving on hire to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;</p> 
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> <p>Services of Re-insurance of the insurance schemes provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory (i.e. insurance scheme exempted under Entry 40) [vide Notification No. 14/2018-Central Tax (Rate) dated 27th July 2018].</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 (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.</p> <p>w.e.f.20th September 2018:</p> <p>"Explanation.—For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50 per cent. or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory." [Notification No. 23/2018-Central Tax (Rate)].</p> <p>W.E.F 1-10-2019:</p> <p><i>Explanation.—For the purpose of this exemption, the Central Government, State Government or Union territory shall have 20 per cent. or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory."</i></p> <p><i>Provided that 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:</i></p> <p><i>Provided also that the State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard:</i></p>

Provided further that 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 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:

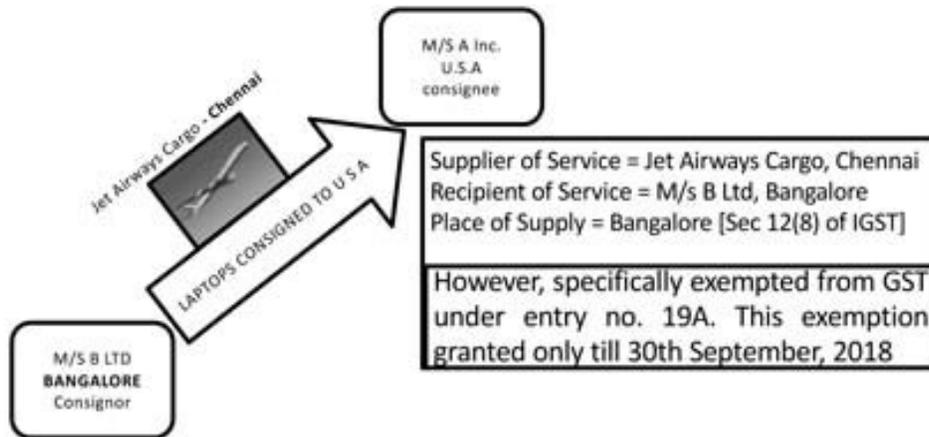
Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, 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.

19A. Transportation of goods by an aircraft from customs station of clearance in India to a place outside India:
 w.e.f. 25.1.2018, Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.

This exemption granted only till 30th September 2018. Now extended upto 30th September 2019.

w.e.f. 1-10-2019 this exemption further extended upto September 2020.

w.e.f. 1-10-2020 this exemption further extended upto September 2021.



19B. Transportation of goods by a vessel from customs station of clearance in India to a place outside India:

w.e.f. 25.1.2018, Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.

This exemption granted only till 30th September 2018. Now extended upto 30th September 2019.

w.e.f. 1-10-2019 this exemption further extended upto September 2020.

w.e.f. 1-10-2020 this exemption further extended upto September 2021.

Supplier of Service	= Win Logistics Pvt. Ltd – Chennai
Recipient of Service	= M/s C Ltd, Chennai
Place of Supply	= Chennai [Sec 12(8) of IGST]

However, specifically exempted from GST under entry no. 19B. This exemption granted only till 30th September, 2018



Entry No. 19C: Satellite services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited is exempted from GST (vide Notification No. 5/2020CT (Rate), dated 16-10-2020).

◆ **Satellite launch services** supplied by Indian Space Research Organisation, Antrix Corporation Limited, or New Space India Limited exempted from GST.

Exempted service
(Notification No. 5/2020C.T.(Rate) dated 16-10-2020).



Entry no. 22: Services by way of giving on hire:

Entry 22(aa): w.e.f 1-10-2019:

Services by way of giving on hire to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers exempted supply of service;

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

Entry No. 41

Upfront Fee in Long Term Lease exempted from GST:

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 (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.

w.e.f. 20th September 2018:

“Explanation.—For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50 per cent. or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.” [Notification No. 23/2018-Central Tax (Rate)].

W.E.F 1-10-2019:

Explanation.—For the purpose of this exemption, the Central Government, State Government or Union territory shall have **20 per cent.** or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.”

Provided that 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:

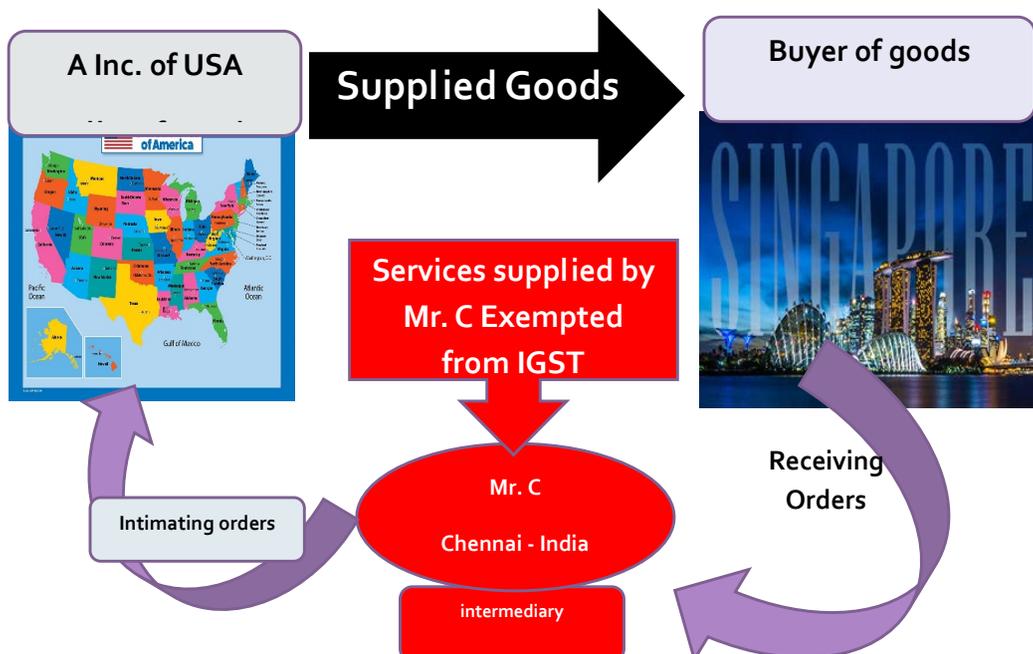
Provided also that the State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard:

Provided further that 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 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:

Provided also that 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.

w.e.f. 1-10-2019, Notification No. 20/2019- (IT Rate) dated September 30, 2019 :

“Services provided by an **intermediary** when location of both supplier and recipient of goods is outside the taxable territory”.





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

w.e.f. 1st July 2017: As per Notification No. 13/2017 Central Tax (Rate) Dt. 28th June 2017 and Notification No. 10/2017- Integrated Tax (Rate) Dt. 28th June 2017 the following 9 services (are identical under CGST & IGST) on which GST shall be levied under Reverse Charge have been notified.

S. No	Description of supply of service	Supplier of service	Recipient of service	Person liable to pay GST
17	w.e.f. 1-10-2019: services provide by way of renting of a motor vehicle provided to a body corporate where cost of fuel is included in the consideration	Any person other than a body corporate, and does not issue an invoice charging CGST @6% and SGST @6%.	Any body corporate located in the taxable territory.	Recipient

Notified services taken from unregistered person liable to tax on reverse charge basis w.e.f 1st April, 2019 (i.e. section 9(4) of the CGST Act, 2017 or section 5(4) of IGST Act, 2017)

The Central Government vide Notification No. 07/2019-Central Tax (R), dated 29th March 2019 has notified that the registered person specified below shall in respect of supply of specified goods or services or both received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services

Sl. No.	Category of supply of goods and services	Recipient of goods and services
1.	Supply of such goods and services or both other than services by way of grant of development rights, long term lease of land or FSI which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year.	Promoter
2.	Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier)	Promoter
3.	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project	Promoter

w.e.f. 1-10-2019: The CBIC vide Notification No. 23/2019- (CT Rate) dated September 30, 2019 has put a retrospective sunset clause on applicability of Notification No. 04/2018- (CT Rate) dated January 25, 2018 w.r.t. development rights supplied on or after April 01, 2019. The later Notification provided special procedure to be followed while determining time of supply in case of construction services against transfer of development rights.

The date on which builder shall be liable to pay tax on TDR, FSI, long term lease (premium) of land under RCM in respect of flats sold after completion certificate is being shifted to date of issue of completion certificate or first occupation of the project, whichever is earlier.

The liability of builder to pay tax on construction of houses given to land owner in a JDA is also being shifted to the date of completion or first occupation of the project, whichever is earlier.

Study Note - 3

TIME, VALUE AND PLACE OF SUPPLY UNDER GST



3.2 PLACE OF SUPPLY

Clarification on supply of satellite launch services by ANTRIX Corporation Ltd

Example : 83

How is the taxability of satellite launch services provided to both international and domestic customers by ANTRIX Corporation Limited, which is a wholly owned Government of India Company under the administrative control of Department of Space (DOS), determined?



In view of the above, place of supply of satellite launch services supplied by ANTRIX Corporation Limited to international customers would be outside India in terms of section 13(9) of IGST Act, 2017 and such supply which meets the requirements of section 2(6) of IGST Act, thus constitutes export of service and shall be zero rated in accordance with section 16 of the IGST Act. Where satellite launch service is provided by ANTRIX Corporation Limited to a person located in India, the place of supply of satellite launch service would be governed by section 12(8) of the IGST Act and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

ANTRIX Corporation Limited to international customers: Place of supply u/s 13(9) = outside India

Note: Export of service and hence, no GST.

ANTRIX Corporation Limited to a person located in India: Place of supply u/s 12(8) = India

w.e.f. 1-2-2019 Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

ANTRIX Corporation Limited to a person located in India: Place of supply u/s 12(8) = Outside India

However, Antrix Corporation Limited is not liable to pay IGST.

Note: Satellite services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited is exempted from GST (vide Notification No. 6/2020 I.T. dated 15-10-2020).

Clarification in respect of determination of place of supply in following cases: -

Vide CBIC Circular No. 103/22/2019 GST dated 28.06.2019:

Various services are being provided by the port authorities to its clients in relation to cargo handling:

Place of supply: As per Section 12(2) or Section 13(2) of IGST Act, 2017

Clarification in respect of determination of place of supply in following cases: -

Vide CBIC Circular No. 103/22/2019 GST dated 28.06.2019

1. Supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India
2. Exported after such repairs or treatment or process without being put to any use in India

Place of supply = As per Section 13(2) of IGST Act.

Notification No. 2/2020 IT dated 26.03.2020

W.E.F 01.04.2020, B2B maintenance, repair and overhaul services have been notified as the services for which the place of supply shall be the place of effective use and enjoyment of a service as given under:

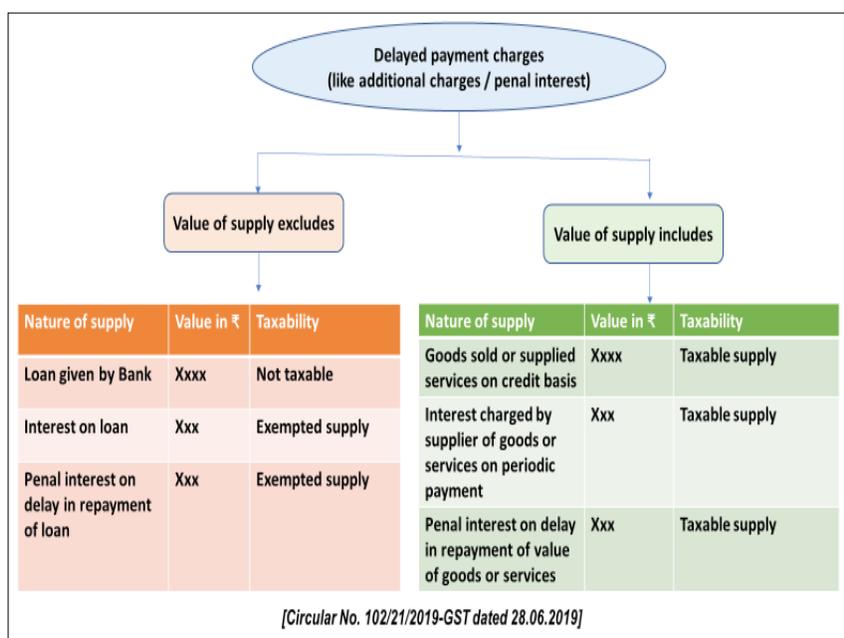
Description of services or circumstances	Place of supply
Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business	The place of supply of services shall be the location of the recipient of service

3.3 VALUE OF SUPPLY

w.e.f. 1-3-2020 Value of supply in case of lottery run by the State or authorised by the State as per **Rule 31A** of the CGST Rules, 2017 is as follows:

Supply	Value
W.E.F. 1.3.2020 Supply of lottery run by State Govt. (OR) Supply of lottery authorised by State Govt.	Higher of the two amounts to be deemed as value: 100/128 of the face value of ticket OR 100/128 of the price as notified in the official Gazette by the organising State.

GST on delayed payment charges in case of late payment of Equated Monthly Instalments:



Study Note - 4

INPUT TAX CREDIT (ITC)



Time limit to avail the input tax credit [Section 16(4) of the CGST Act, 2017]:

(a) Filing of return under section 39 for the month of September following end of financial year to which such invoice pertains

or

(b) Filing of annual return

Whichever is earlier.

ITC on invoices pertaining to a financial year or debit notes relating to invoices pertaining to a financial year can be availed any time till the due date of filing of the return for the month of September of the succeeding financial year or the date of filing of the relevant annual return, whichever is earlier.

As per Finance Act, 2020, the words were "invoice relating to such" has been omitted.

The effect of the amendment is that date of debit note, and date of underlying invoice have been delinked. Thus, debit note in respect of an invoice can be raised even after 30th September following end of financial year to which the invoice pertains.

It means the recipient can avail ITC of GST paid through debit note, even if the supply pertains to previous financial years.

Example 13:

M/s X Ltd. delivered a machine to M/s Y Ltd. in January 20XX under Invoice No. 180 dated 21st January for ₹ 5,00,000 plus GST, and undertook trial runs and calibration of the same machine as per the requirements of M/s Y Ltd. The amount chargeable for the past delivery activities were covered in a debit note raised in May 20XX (net year) for ₹ 1,25,000 plus GST. M/s Y Ltd did not file its annual return till October 20XX(net year).

Find the time limit u/s 16(4) of the CGST Act, 2017 within which input tax credit can be availed by M/s Y Ltd.

Answer:

Time limit to avail the ITC on machine (vide Invoice No. 180 dt. 21.01.20XX) is 30th September 20XX.

Time limit to avail the ITC on debit note:

As per Finance Act, 2020, the words were "invoice relating to such" has been omitted.

The effect of the amendment is that date of debit note, and date of underlying invoice have been delinked. Thus, debit note in respect of an invoice can be raised even after 30th September following end of financial year to which the invoice pertains.

It means the recipient can avail ITC of GST paid through debit note, even if the supply pertains to previous financial years.



With effect from 01.01.2020, Notification No. 75/2019 CT dated 26.12.2019 has amended the said sub-rule to reduce the percentage of ITC that can be availed on invoices not uploaded by the suppliers in their GSTR-1s from **20% to 10%**.

Invoice/debit note has not been uploaded by the supplier in his GSTR-1:

W.e.f. 1-1-2020 @10% (from 9th Oct 2019 to 31st Dec 2019 @20%) of the eligible ITC available in respect of the uploaded invoices/debit notes.

However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.

Example 1:

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of October 20XX.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX in the following independent cases assuming that GST of Rs. 10 lakh is otherwise eligible for ITC:

Case I

Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II

Out of 100 invoices, 75 invoices involving GST of Rs. 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case III

Out of 100 invoices, 95 invoices involving GST of Rs. 9.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer:

Case I:

ITC on invoices (uploaded in GSTR-1) = ₹6,00,000/-

Add: 10% on ₹6 lac = ₹60,000

Or

ITC on invoices not uploaded in

GSTR-1 is ₹4,00,000/-

Whichever is less = ₹60,000/-

Total ITC allowed = ₹6,60,000/-

Case II:

ITC on invoices (uploaded in GSTR-1) = ₹8,50,000/-

Add: 10% on ₹8.5 lac = ₹85,000

Or

ITC on invoices not uploaded in

GSTR-1 is ₹1,50,000/-	
Whichever is less	= ₹ 85,000/-
Total ITC allowed	= ₹ 9,35,000/-

Case III:

ITC on invoices (uploaded in GSTR-1)	= ₹ 9,50,000/-
Add: 10% on ₹9.50 lac = ₹95,000	

Or

ITC on invoices not uploaded in GSTR-1 is ₹50,000/-	
Whichever is less	= ₹50,000/-
Total ITC allowed	= ₹10,00,000/-

Note: 10% restriction (earlier 20%) is not applicable cases:

- IGST paid on import of goods
- IGST paid on import of services (under Reverse Charge)
- Input Service Distributor distributes ITC
- Inward supplies received from Non-resident Taxable Person.

Example 2: In the above **Example 1 (case I)**, when can Mr. Vijay avail the balance ITC?

Answer: A taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent eligible ITC/ 1.1.

Therefore, Mr. Vijay may avail full ITC of ₹ 10 lakh in respect of the month of October 20XX, as and when the invoices are uploaded by the suppliers to the extent of ₹ 9.091 lakh (10 lakh/1.1). Hence, balance ITC of ₹ 3.4 lakh can be availed by Mr. Vijay if suppliers upload details of some of the invoices for the month of October 20XX involving ITC of ₹ 3.091 lakh out of outstanding invoices involving ITC of ₹ 4 lakh details of which had not been uploaded by the suppliers [₹ 6 lakh + ₹ 3.091 lakh = ₹ 9.091 lakh].

Suppose suppliers of Mr. Vijay upload 15 more invoices involving ITC of ₹ 3.091 lakh in the month of December 20XX. In such a scenario, ITC that can be claimed by Mr. Vijay for the month of December 20XX (in respect of such 15 invoices) will be as under –

100% ITC of ₹ 3.091 + ₹ 0.309 [10% of ₹3.091 lakh] = ₹3.4 lakh

Therefore, Mr. Vijay will be able to claim balance ITC of ₹3.4 lakh in the month of December 20XX.

Circular No. 123/ 42/ 2019 GST dated 11.11.2019 has clarified the following issues in relation to restriction in availment of ITC in terms of rule 36(4) as under:

- The restriction is not imposed through the common portal and it is the responsibility of the taxpayer claiming credit to avail ITC on self-assessment basis.
- The restriction shall be applied only on the invoices/ debit note, details of which are required by supplier to be uploaded under section 37(1) of the CGST Act. Therefore, taxpayer may avail full ITC in respect of IGST paid on imports, documents issued under RCM, credit received from ISD etc. which are outside the ambit of section 37(1).
- ITC under rule 36(4) shall be calculated on total eligible ITC from all suppliers against all supplies whose details have been uploaded by the supplier. Therefore, the restriction is not on supplier basis.



- (4) The calculation would be based only on those invoices on which ITC is available and therefore, invoices on which ITC is not available [say under section 17(5) of the CGST Act] would not be considered for calculation of 20% **[amended to 10% subsequently]** of the eligible ITC available.
- (5) The amount of ITC in respect of the invoice/ debit note whose details have not been uploaded shall not exceed 20% **[amended to 10% subsequently]** of the eligible ITC in respect of invoice/ debit note which have been uploaded by supplier under section 37(1) **as on due date of filing Form GSTR-1** by the supplier for the said tax period. **The same can be ascertained as per GSTR 2A showing ITC on the due date of filing GSTR-1.**

For example: Due date for filing GSTR-1 for the month of January, 2020 is 11.02.2020.

Now, ITC in respect of invoice/ debit note which have not been uploaded by supplier shall be maximum of 20% **[amended to 10% subsequently]** of total ITC reflected in GSTR 2A as on 11.02.2020.

Restrictions on utilisation of ITC [Rule 86A]

A new rule 86A has been inserted in the CGST Rules to empower the Commissioner/ an officer (not below the rank of an Assistant Commissioner) authorised by him, to impose restrictions on utilization of ITC available in the electronic credit ledger if he has reasons to believe that such ITC has been fraudulently availed or is ineligible.

The restrictions can be imposed in the following circumstances:

- (i) ITC has been availed on the basis of tax invoices/valid documents -
 - issued by a non-existent supplier or by a person not conducting any business from the registered place of business; or
 - without receipt of goods or services or both; or
 - the tax in relation to which has not been paid to the Government
- (ii) Registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or
- (iii) Registered person availing ITC is not in possession of tax invoice/valid document.

If the ITC is so availed, the restrictions can be imposed by not allowing such ITC to be used for discharging any liability under section 49 or not allowing refund of any unutilised amount of such ITC. Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions. However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.

[Notification No. 75/ 2019 CT dated 26.12.2019]

Clarification of issues relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017, cumulatively for the months of February, 2020 to August, 2020:

The Central Board of Indirect Taxes & Customs vide Circular No. 142/12/2020- GST dated 9th October, 2020 has issued the following clarification relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017 for the months of February, 2020 to August, 2020:-

Keeping the situation prevailing in view of measures taken to contain the spread of COVID-19 pandemic, vide notification No. 30/2020-CT, dated 03.04.2020, it had been prescribed that the condition made under sub-rule (4) of rule 36 of the CGST Rules shall apply cumulatively for the tax period February, March, April, May, June, July and August, 2020 and that the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months.

1. It is re-iterated that the clarifications issued earlier vide Circular No. 123/42/2019 – GST dated 11.11.2019 shall still remain applicable, except for the cumulative application as prescribed in proviso to sub-rule (4) of rule 36 of the CGST Rules. Accordingly, all the taxpayers are advised to ascertain the details of invoices uploaded by their suppliers under subsection (1) of section 37 of the CGST Act for the periods of February, March, April,

May, June, July and August, 2020, till the due date of furnishing of the statement in FORM GSTR-1 for the month of September, 2020 as reflected in GSTR-2As.

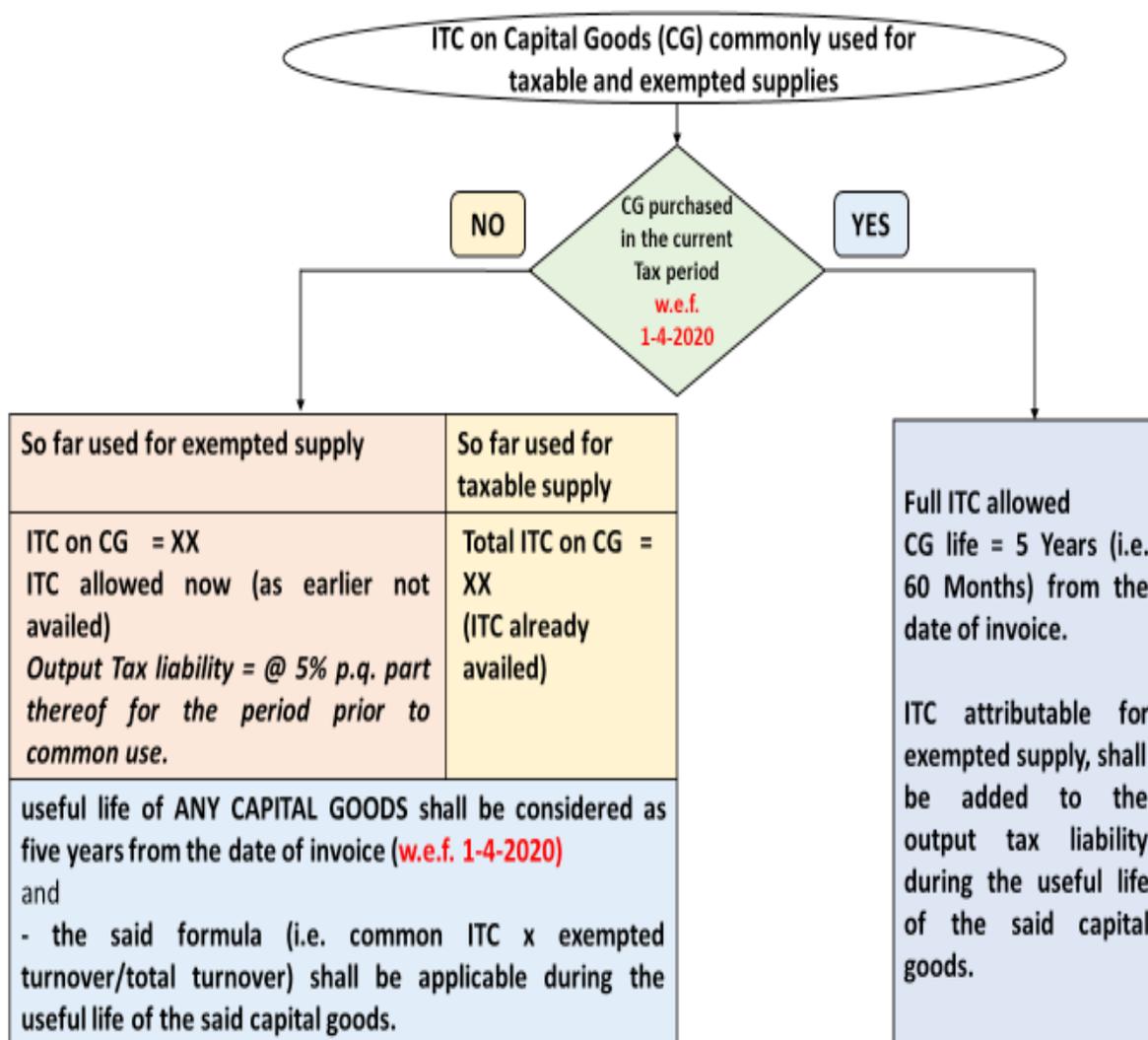
2. Taxpayers shall reconcile the ITC availed in their FORM GSTR-3Bs for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said months, till the due date of furnishing FORM GSTR-1 for the month of September, 2020. The cumulative amount of ITC availed for the said months in FORM GSTR-3B should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act, till the due date of furnishing of the statements in FORM GSTR-1 for the month of September, 2020.
3. It may be noted that availability of 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act does not mean that the total credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of section 16 of the CGST Act.
4. *The excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of FORM GSTR-3B, for the month of September, 2020. Failure to reverse such excess availed ITC on account of cumulative application of sub-rule (4) of rule 36 of the CGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.

The manner of cumulative reconciliation for the said months in terms of proviso to sub-rule (4) of rule 36 of the CGST Rules is explained by way of illustration, in a tabulated form, below:-

Tax period	Eligible ITC as per the provisions of Chapter V of the CGST Act and the rules made thereunder, except rule 36(4)	ITC availed by the taxpayer (recipient) in GSTR-3B of the respective months	Invoices on which ITC is eligible and uploaded by the suppliers till due date of FORM GSTR-1 for the tax period of September, 2020	Effect of cumulative application of rule 36(4) on availability of ITC.
Feb, 2020	300	300	270	Maximum eligible ITC in terms of rule 36 (4) is 2450 + [10% of 2450] = 2695. Taxpayer had availed ITC of 2750. Therefore, ITC of 55 [2750-2695] would be required to be reversed as mentioned in para 4 *. above
March, 2020	400	400	380	
April, 2020	500	500	450	
May, 2020	350	350	320	
June, 2020	450	450	400	
July, 2020	550	550	480	
August, 2020	200	200	150	
TOTAL	2750	2750	2450	
ITC Reversal required to the extent of 55				
September, 2020	500	385	350	10% Rule shall apply independently for September, 2020
In the FORM GSTR-3B for the month of September, 2020, the tax payer shall avail ITC of 385 under Table 4(A) and would reverse ITC of 55 under Table 4(B)(2)				

w.e.f 1-4-2020. For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years **from the date of invoice** and the said formula shall be applicable during the useful life of the said capital goods.

Amendment in rule 43 of the CGST Rules which prescribes the manner of determination of ITC in respect of capital goods and reversal thereof in certain cases w.e.f. 1-4-2020.



[Notification No. 16/2020 CT dated 23.03.2020]

Example: Roi Industries is a manufacturing company registered under GST. It manufactures two taxable products 'X' and 'Y' and one exempt product 'Z'. The turnover of 'X', 'Y' and 'Z' in the month of April, 20XX was ₹2,00,000, ₹10,00,000 and ₹12,00,000. Roi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

From the following particulars furnished by it, compute the amount to be credited to the electronic credit ledger of Roi Industries and amount of common credit attributable towards exempted supplies, if any, for the month of April, 20XX.

Particulars	GST paid (₹)
Machine 'A' purchased on 01.04.20XX for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.20XX for being exclusively used in manufacturing zero-rated supplies	38,400
Machine 'C' purchased on 01.04.20XX for being used in manufacturing all the three products – X, Y and Z	96,000
Machine 'D' purchased on April 1, 2 years before 01.04.20XX for being exclusively used in manufacturing product Z. From 01.04.20XX, such machine will also be used for manufacturing products X and Y.	1,92,000
Machine 'E' purchased on April 1, 3 years before 01.04.20XX for being exclusively used in manufacturing products X and Y. From 01.04.20XX, such machine will also be used for manufacturing product Z.	2,88,000

Answer:

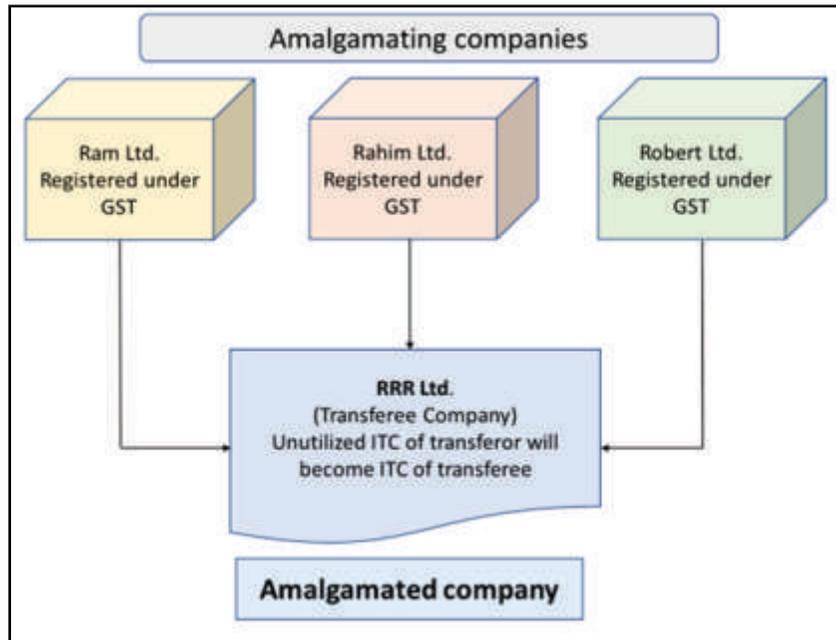
Statement showing Common ITC on Capital Goods as on 1st April 20XX

Particulars	Value in ₹	Working note
Capital goods C Used both for taxable and exempted supplies	96,000	As per rule 43(1)(c) of CGST Rules, 2017
Capital goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,92,000	Proviso to rule 43(1)(c) of CGST Rules, 2017. ₹1,92,000 ITC allowed fully, provided, ₹77,800 is considered as output tax liability in April, 20XX. $1.92 \text{ L} \times 5\% \times 8 \text{ quarters} = ₹76,800.$
Capital goods E (has been exclusively used for 3 years for taxable supplies). Now there is change in use, both for taxable and exempt supplies.	2,88,000	Proviso to rule 43(1)(d) of CGST Rules, 2017. ITC already availed and hence, ITC in April 20XX is not allowed.
Common credit	5,76,000	
the amount of input tax credit attributable to a tax period on common capital goods during their useful life	9,600	As per Rule 43(1)(e) of the CGST Rules, 2017 calculated as: $5,76,000 \div 60 = ₹9,600$
the amount of common credit attributable towards exempted supplies	4,800	As per Rule 43(1)(g) of the CGST Rules, 2017 calculated as: $₹9,600 \times ₹12,00,000 / ₹24,00,000.$

Statement showing Total ITC to the Electronic Credit Ledger for the month of April 20XX:

Particulars	Value in ₹
Capital goods B used exclusively for taxable supplies (i.e. Zero-rated supply)	38,400
Capital goods C Used both for taxable and exempted supplies	96,000
Capital goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,92,000
Electronic Credit Ledger	3,26,400

Clarification in respect of apportionment of ITC in cases of business reorganization under section 18(3) of the CGST Act read with rule 41(1) of the CGST Rules



Circular No. 133/03/2020- GST dated 23rd Mar 2020 Demerger – ITC apportioned in ratio of value of assets

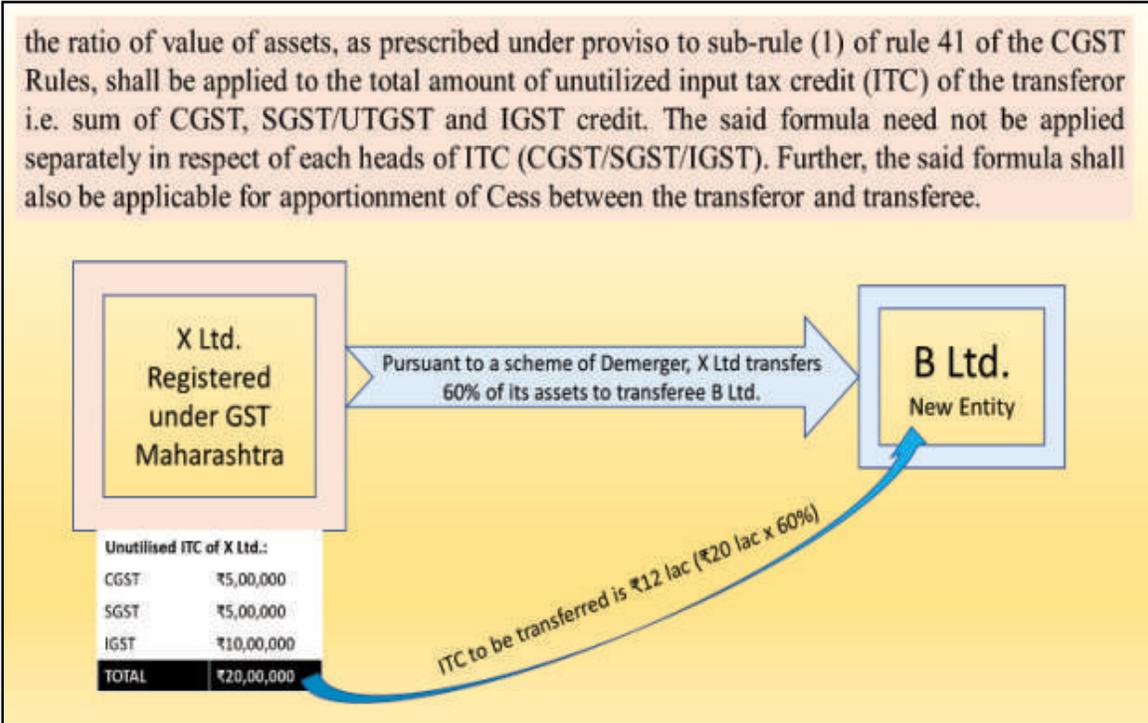
	M.P. State (₹)	U.P. State (₹)	Total assets (₹)	clarification
Value of assets	60 crore	40 crore	100 crore	As per Rule 41 of CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level. Applicable for all types of business re-organisation.
Assets transferred on demerger	30 crore	10 crore	40 crore	
Unutilised ITC transferred to the demerged entity	30/60 = 0.50	10/40 = 0.25	40/100 = 0.40	

The flowchart details the demerger process. It starts with 'XYZ Ltd. Registered under GST' having 'Total Assets ₹100 crore' and the instruction to 'Submit Form GST ITC-02 (i.e. transfer of ITC)'. A note states 'A certificate from CA/CMA is to be furnished'. The assets are divided into two units: 'A unit M.P. State' with 'Assets = ₹60 crore' and 'B unit U.P. State' with 'Assets = ₹40 crore'. A 'Demerger' box indicates 'Total assets transferred ₹40 crore'. Finally, 'ABC Ltd. A New Entity' receives the assets: 'Assets transferred ₹10 crore' from the B unit and 'Assets transferred ₹30 crore' from the A unit.

Question:

Is the transferor required to file FORM GST ITC – 02 in all States where it is registered?

Answer: No. The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.



How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of FORM GST ITC–02 by the transferor?

The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under Rule 41(1) of the CGST Rules.

However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head.

In other words, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, while the ratio of the value of assets should be taken as on the “appointed date of demerger” (Sec. 232(6) of the Companies Act, 2013), the said ratio is to be applied on the ITC balance of the transferor on the date of filing **FORM GST ITC - 02** to calculate the amount to transferable ITC.

1	2	3	4	5	6
State	Asset Ratio of Transferee	Tax Heads	ITC balance of transferor (pre-apportionment) as on the date of filing Form GST ITC-02	Total amount of ITC transferred to the Transferee under Form GST ITC-02	ITC balance of Transferor (post apportionment) after filing of Form GST ITC-02 [4-5]
Delhi	70%	CGST	10,00,000	10,00,000	0
		SGST	10,00,000	10,00,000	0
		IGST	30,00,000	15,00,000	15,00,000
		TOTAL	50,00,000	35,00,000	15,00,000
Haryana	40%	CGST	25,00,000	3,00,000	22,00,000
		SGST	25,00,000	5,00,000	20,00,000
		IGST	20,00,000	20,00,000	0
		TOTAL	70,00,000	28,00,000	42,00,000

Latest up-dations under job work (w.e.f. 23-3-2018):

- (i) In case of goods 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 as per rule 55 of the CGST Rules, 2017.
- (ii) Where the goods are sent by one job worker to another or are returned to the principal, the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods. Such endorsed challan may be further endorsed by another job worker, indicating therein the quantity and description of goods.
- (iii) the details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter shall be furnished for that period on or before the 25th day of the month succeeding the said quarter (FORM GST ITC-04).
- (iv) CGST Commissioner or SGST/UTGST Commissioner to grant extension of time period for furnishing of the said details. Thus, now the said details may be furnished on or before the 25th day of the month succeeding the said quarter or within such further period as may be extended by the Commissioner by a notification in this behalf [Notification No. 51/2017-CT, dated 28.10.2017]

The due of furnishing of FORM ITC-04 for the quarter ending March, 2020 stands extended upto 30-6-2020 (vide CBIC Circular No. 138/08/2020 GST dated 6-5-2020).

CBIC has notified that the due dates to furnish ITC-04 for the January-March 2020 and April-June 2020 quarters (falling due between 20th March 2020 to 30th August 2020) stands extended till 31st August 2020.

The due of furnishing of FORM ITC-04 for the quarter ending September 2020 stands extended upto 30-11-2020 (vide Notification No. 87/2020 CT dated 10-11-2020).

Study Note - 5

REGISTRATION UNDER GST



Verification of the application and approval (w.e.f. 1-4-2020):

Vide NT No. 16/2020 – CT dt. 23.03.2020: As per Rule 8(4A), The applicant shall, while submitting an application under sub-rule (4), with effect from **01.04.2020**, undergo authentication of Aadhaar number for grant of registration.

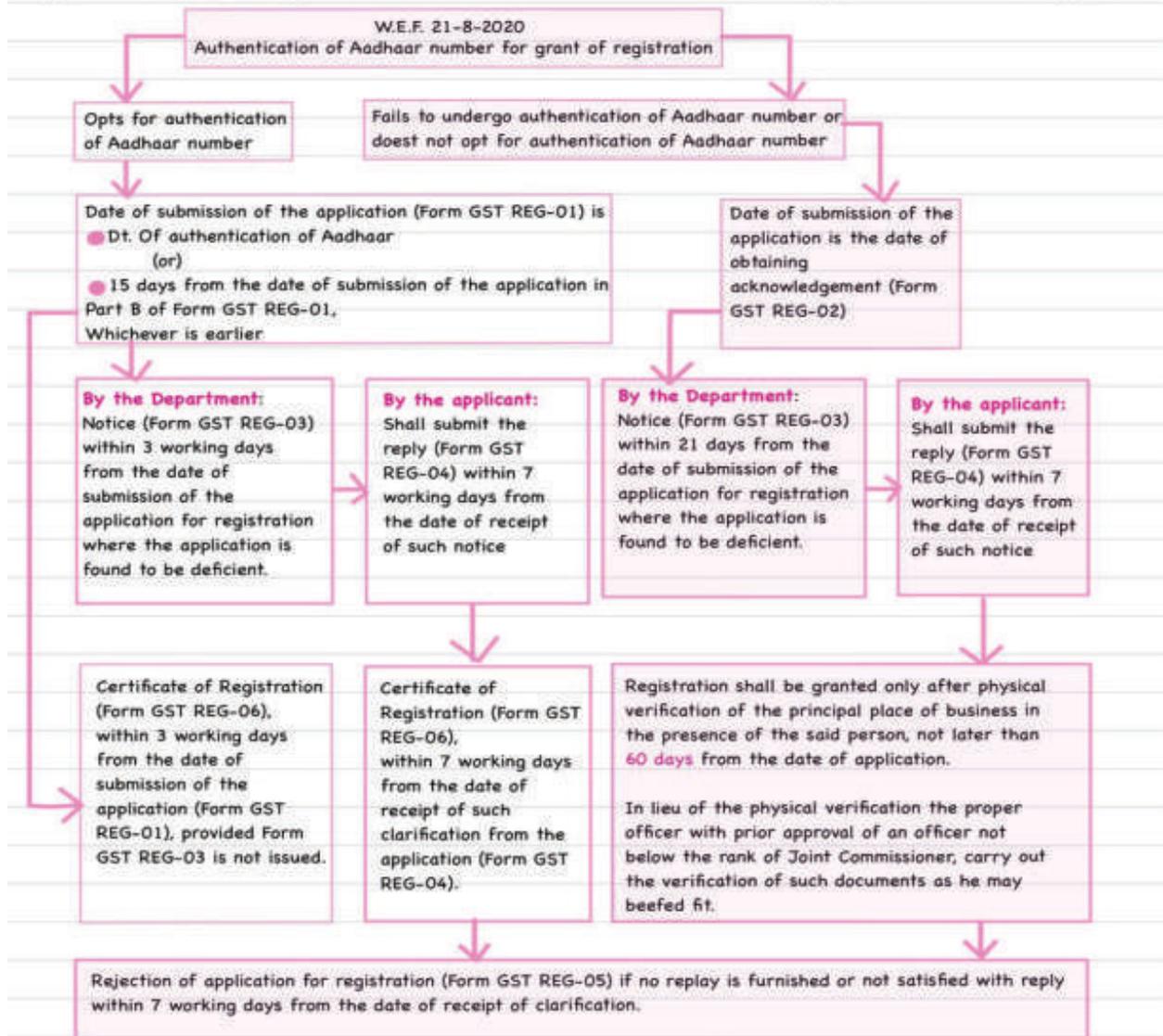
Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than **60 days** from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases (i.e. Deemed Registration).

The Central Government vide Notification No. 62/2020- Central Tax dated 20th August 2020; has made the following amendments in the **Central Goods & Services Tax Rules, 2017** :-

Rule	Amendments
Rule 8: (Application for registration)	Substitution of sub-rule (4A) wef 1st April,2020:- “(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with effect from 21st August, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub rule (4), whichever is earlier.”
Rule 9: (Verification of the application and approval.)	Amendments w.e.f 21st August,2020:- (i) Substitution of proviso in sub-rule (1):- in sub-rule (1), for the proviso, the following provisos shall be substituted, namely:- “Provided that where a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number, the registration shall be granted only after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25: Provided further that the proper officer may, for reasons to be recorded in writing and with the approval of an officer not below the rank of Joint Commissioner, in lieu of the physical verification of the place of business, carry out the verification of such documents as he may deem fit.”;

	<p><u>(ii) Insertion of proviso in sub-rule (2):-</u> in sub-rule (2), before the Explanation, the following proviso shall be inserted, namely: - “Provided that where a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number, the notice in FORM GST REG-03 may be issued not later than twenty one days from the date of submission of the application.”;</p> <p><u>(iii) in sub-rule (4), for the word, “shall”, the word “may” shall be substituted;</u></p> <p><u>(iv) Substitution of sub-rule (5):-</u> for sub-rule (5), the following sub-rule shall be substituted, namely: - “(5) If the proper officer fails to take any action, -</p> <ul style="list-style-type: none"> (a) within a period of three working days from the date of submission of the application in cases where a person successfully undergoes authentication of Aadhaar number or is notified under subsection (6D) of section 25; or (b) within the time period prescribed under the proviso to sub-rule (2), in cases where a person, other than a person notified under sub- section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8; or (c) within a period of twenty one days from the date of submission of the application in cases where a person does not opt for authentication of Aadhaar number; or (d) within a period of seven working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2). <p>the application for grant of registration shall be deemed to have been approved.”.</p>
<p>Rule 25: (Physical verification of business premises in certain cases.)</p>	<p><u>Insertion in Rule 25:-</u> with effect from 21st August, 2020, after the words “failure of Aadhaar authentication”, the words “or due to not opting for Aadhaar authentication” shall be inserted.</p>

Application for Registration and Verification of the application and approval:



Aadhaar Authentication not applicable:

W.e.f. 1-4-2020, Authentication of Aadhaar number shall not apply to a person who is not a citizen of India or to a class of persons other than (i) Individual, (ii) authorised signatory of all types (iii) Managing and Authorised partner; and (iv) Karta of a HUF.

Deemed Registration: Proper officer fails to take any action

- (a) ≤ 3 working days from the date of submission of application
- (b) ≤ 7 working days from the date of submission of Form GST REG-04
- (c) ≤ 21 days from date of submission of the application

Manner of furnishing the details of State/UT in application for registration by a TDS deductor in a State/UT where he doesn't have a physical presence [Rule 12(1A) of the CGST Rules] [Notification No. 33/2019 CT dated 18.07.2019]

Hitherto, there was specific provision for furnishing details of State/ UT in the application for registration by a TCS collector in a State where he doesn't have a physical presence, prescribed under rule 12(1A).

Rule 12(1A) has been amended to extend to said provisions to a TDS deductor also.

Resultantly, when a person is applying for registration 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.

Registered person required to issue revised tax invoice and file first return for supplies during suspension period [Rule 21A of the CGST Rules] [Notification No. 49/2019 CT dated 09.10.2019]

Rule 21A provides that once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, his registration shall remain suspended during pendency of the proceedings relating to cancellation of registration filed. Such person **shall not make any taxable supply** during the period of suspension and shall not be required to file any return [Rule 21A(3)].

An explanation has been inserted to this sub-rule (3) to rule 21A clarifying that the expression “**shall not make any taxable supply**” shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

Further, a new sub-rule (5) has been inserted in said rule to provide that where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.



Furnishing of Bank Account Details.—

After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than forty five 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, 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." (Notification No. 31/2019 – Central Tax dated 28-6-2019).

This relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 12 or who have obtained *suo-motu* registration under rule 16.

Suo-moto registration (Rule 16 of CGST Rules, 2017:

During any survey, enquiry, inspection, search or any other proceedings, the Proper Officer finds that a person liable to registration but not registered, such officer may register the said person on a temporary basis and issue an order in Form GST REG-12.

Person to whom a temporary registration has been granted shall, within 90 days from the date of grant of such registration, submit an application for registration (i.e GST REG -01 or GST REG-07).

If said person has filed an appeal against the grant of temporary registration, in such case, the application for registration shall be submitted within 30 days from the date of the issuance of the order upholding the liability to registration by the Appellate Authority.

Registration is effective from the date of such order granting registration in Form GST REG-12.



5.7 CANCELLATION OF REGISTRATION

- As per Finance Act, 2020, Voluntary registration can be cancelled by proper officer on own or on application by registered person or his legal heir.

Indirect Taxation

Procedure for Revocation of Cancellation of Registration as per Rule 23 of the CGST Rules, 2017:

Particulars	Relevant Form
<p>Application for revocation of cancellation of registration within 30 days from the date of service of the order of cancellation of Registration.</p> <p>As per Finance Act, 2020: Provided that such period may on sufficient cause being shown, and for reasons to be recoded in writing, be extended</p> <p>(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days.</p> <p>(b) by the Commissioner, for a furhter period not exceeding 30 days, beyond the period specified in clause (a).</p>	<p>GST REG-21</p> <p>Note: Application for revocation cannot be filed if cancellation is on account of failure to furnish returns or failure to pay liability unless such return is filed / liabilities are discharged.</p>

Study Note - 6

TAX INVOICE, CREDIT AND DEBIT NOTES AND OTHER DOCUMENTS UNDER GST



As per Finance Act, 2020, under Section 31(2) of CGST Act, 2017

Provided that the Government may, on the recommendations of the Council, by notification,—

- (a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;
- (b) subject to the condition mentioned therein, specify the categories of services in respect of which—
 - (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
 - (ii) tax invoice may not be issued.

The proviso to Section 31(2) of the CGST Act has been amended to widen the powers to the Central Government to notify the categories of services in respect of which a tax invoice shall be issued within such time and in such manner as may be prescribed.

Thus, the Central Government can now even prescribe a different time limit for issuance of tax invoices for such categories of services as may be notified.

Goods sent/taken out of India for exhibition or on consignment basis for export promotion

(CBIC Circular No. 108/27/2019-GST dated 18th July 2019):

- Exporter shall maintain a record of such goods.
- Supply treated as sale on approval basis.
- a delivery challan to be issued.
- it is not a zero-rated supply. Hence, no need to execute Bond/LUT.
- Not a supply if the goods are returned ≤6months from the date of removal.
- Goods are sold ≤ 6 months from the date of removal, then it is supply. Shall issue tax invoice

Refund: It is further clarified that refund claim cannot be preferred under rule 96 of CGST Rules as supply is taking place at a time after the goods have already been sent / taken out of India earlier.

However, supplier can claim refund under Sec 54(3) of the CGST Act, 2017

Tax Invoice – Goods being sent or taken out of India on approval for sale or return time limit which falls from 20-3-2020 to 30-10-2020 for issue of Tax Invoice extended upto 31-10-2020 (NT No. 66/2020 CT. dated 21-8-2020).

Manner of issuing e-invoice:

Sub-rule (4) has been inserted to rule 48 to provide that the e-invoice shall be prepared by notified class of registered persons, on the recommendations of the Council, by including such particulars contained in Form GST INV-01 after obtaining an IRN (Invoice Reference Number) by uploading information contained therein on the Common GST Electronic Portal* in prescribed manner and subject to prescribed conditions and restrictions. Every invoice, issued by said persons, in any manner other than the manner specified in the rule 48(4) shall not be treated as an invoice. The requirement of preparing the invoices in duplicate and triplicate in case of supply of services and goods respectively does not apply to such e-invoices.



w.e.f. 1-10-2020, e-invoice is mandated for registered persons whose aggregate turnover (based on PAN) in a financial year is more than Rs. 500 Crores w.e.f. 30-7-2020 (earlier, this limit was ₹100 crores).

Further amendment, w.e.f. 1-1-2021, Government has mandated e-invoicing for taxpayers having aggregate turnover exceeding ₹100 crore (in any preceding financial year from 2017-18 onwards) to be implemented (vide Notification No. 88/2020 CT dated 10-11-2020).

Rules 46 and 49 of the CGST Rules, 2017 have been amended to provide that Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice/bill of supply shall have Quick Response (QR) code.

[Notification No. 31/2019 CT dated 28.06.2019 read with Notification No. 68, 69 and 71/2019 CT all dated 13.12.2019]

The Commissioner may, on the recommendations of the GST Council, by notification, exempt a person or a class of registered persons from issuance of invoice under rule 48(4) for a specified period, subject to such conditions and restrictions as may be specified in the said notification proviso to rule 48(4) of CGST Rules, 2017 inserted w.e.f. 30.9.2020.

Relaxation has been given to taxpayers from the requirement to generate IRN in respect of invoices issued during the period October 2020. In these cases, Invoice Reference Number (IRN) for such invoices from Invoice Reference Portal (IRP) can be generate within 30 days from the date of invoice (vide CBIC Notification No. 73/2020 CT dated 1-10-2020).

SEZ are not required to issue e-invoice (amendment dated 30-7-2020).

Electronic portals for e-invoice: Ten portals namely

- 1) www.einvoice1.gst.gov.in
- 2) www.einvoice2.gst.gov.in
- 3) www.einvoice3.gst.gov.in
- 4) www.einvoice4.gst.gov.in
- 5) www.einvoice5.gst.gov.in
- 6) www.einvoice6.gst.gov.in
- 7) www.einvoice7.gst.gov.in
- 8) www.einvoice8.gst.gov.in
- 9) www.einvoice9.gst.gov.in
- 10) www.einvoice10.gst.gov.in

have been notified for preparation of e-invoice. These websites are managed by GSTIN.

How is 'e-invoicing' different from present system?

There is no much difference indeed. Registered persons continue to create their GST invoices on their own Accounting / Billing/ERP systems. These invoices will now be reported to 'Invoice Reference Portal (IRP)'. On reporting, IRP returns the e-invoice with a unique 'Invoice Reference Number (IRN)' after digitally signing the e-invoice and adding a Quick Response Code. Then, the invoice can be issued to the receiver (along with QR Code).

A GST Invoice will be valid only with a valid IRN.

E-invoice is not applicable for import Bills of Entry.



Entities/Sectors are exempt from the e-invoicing:

- (a) Special Economic Zone Units
- (b) Insurer or a banking company or a financial institution, including a non-banking financial company.
- (c) Goods transport agency supplying services in relation to transportation goods by road in a goods carriage.
- (d) Suppliers of passenger transportation services.
- (e) Suppliers of services by way of admission to exhibition of cinematograph films in multiplex screens.

Invoice to be issued by specified registered person, whose aggregate turnover in a preceding financial year from 2017-18 exceed ₹500 crore (now ₹100 crore), to an unregistered person (B2C invoice), to have Dynamic Quick Response (QR) code, w.e.f. 1-12-2020 (vide NT No. 71/2020 CT dated 30-9-2020)

Facility of Electronic payment to recipient w.e.f. 1-8-2019

As per section 31A of the CGST Act, 2017, The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed."

Electronic ticket w.e.f. 1-9-2019

A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:

Provided that the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure (vide NT 33/2019-Central Tax, dated 18-7-2019)

6.2 CREDIT AND DEBIT NOTES

Credit note/Debit Note delinked from Invoice, while reporting them in Form GSTR-1/GSTR-6 of filing refund – One credit/debit note permitted for multiple invoices.

HSN Code related changes:

The Central Board of Indirect Taxes & Customs vide Notification No.78/2020-Central Tax dated 15th October, 2020 and Notification No.06/2020-Integrated Tax dated 15th October, 2020 has amended Notification No.12/2017-Central Tax dated 28th July, 2017 and Notification No.5/2017-Integrated Tax dated 28th July, 2017 relating to HSN Code.

The revised requirement for mentioning HSN code, **with effect from 1st day of April, 2021**, shall be as follows: -

Serial Number	Aggregate Turnover in the preceding Financial Year	Number of Digits of Harmonised System of Nomenclature Code (HSN Code) to be shown in the tax invoice:
1.	Up to rupees five crores	4
2.	more than rupees five crores	6

Provided that a registered person **having aggregate turnover up to five crores rupees** in the previous financial year **may not mention the number of digits of HSN Code**, as specified in the corresponding entry in column (3) of the said Table in a tax invoice issued by him under the said rules **in respect of supplies made to unregistered persons.**



Amendments in Central Goods & Services Tax Rules, 2017:

The Central Government vide Notification No.79/2020-Central Tax dated 15th October, 2020 has made the following amendments in the **Central Goods & Services Tax Rules, 2017** :-

Rule	Amendments
Rule 46: (Tax Invoice)	Substitution of First Proviso "Provided that the Board may, on the recommendations of the Council, by notification, specify- (i) the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or (ii) a class of supply of goods or services for which specified number of digits of Harmonised System of Nomenclature code shall be required to be mentioned by all registered taxpayers; and (iii) the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services".



Study Note - 7

ACCOUNTS AND RECORDS UNDER GST



Notf no. 16/2020-CT dt. 23.03.2020: Provided that every registered person whose aggregate turnover during the financial year 2018-2019 exceeds **five crore** rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

Rule 80(3) of CGST Rules, 2017 (vide Notification No.79/2020-Central Tax dated 15th October, 2020):

“Provided that for the financial year 2018-2019 and 2019-2020, every registered person whose aggregate turnover exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C** for the said financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”

Study Note - 8

PAYMENT OF TAX



Amendments in rule 87 of the CGST Rules prescribing provisions relating to electronic cash ledger

- (i) The second proviso to sub-rule (2) which gave an option to a person supplying OIDAR services from a place outside India to a non-taxable online recipient, to generate challan through the Board's payment system namely, Electronic Accounting System in Excise and Service Tax has been omitted.
- (ii) Sub-rule (9) provided that any amount deducted under section 51 or collected under section 52 and claimed in Form GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger in accordance with the provisions of rule 87.

The words, letters and figures "in Form GSTR-02" and words and figures "in accordance with the provisions of rule 87" have been omitted from sub-rule (9).

[Notification No. 31/2019 CT dated 28.06.2019]

Refund of tax that has been paid wrongly or in excess by utilising ITC [Rule 86]

A new sub rule (4A) has been inserted in rule 86 of the CGST Rules to provide that where a registered person has claimed refund of any tax that has been paid wrongly or in excess through electronic credit ledger, the said refund, if found admissible, will be credited to the electronic credit ledger.

[Notification No. 16/2020 CT dated 23.03.2020]

8.2 INTEREST ON DELAYED PAYMENT OF TAX

Section	Scenario	Interest rate w.e.f. 1-7-2017
50(1) of the CGST Act, 2017	<p>Delayed payment of tax</p> <p>w.e.f. 1-8-2019:</p> <p>"Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger."</p> <p>Recovery of interest on net cash tax liability w.e.f. 1-7-2017 (vide M.F.(D.R.) Instruction F.No. CBEC-20/01/08/2019 GST dated 18-9-2020): Interest to be charged on the net cash tax liability w.e.f. 1-7-2017 amendment of sec 50 of CGST Act retrospectively.</p>	18% per annum

Relief from interest for late payment of GST and late fee for delay in furnishing of FORM GSTR-3B / FORM GSTR-1 was provided for the tax periods of February, March and April, 2020 (CBIC Circular No.141/11/2020-GST dated the 24th June, 2020):

Manner of calculation of interest for taxpayers having aggregate turnover above Rs. 5 Cr.

- (i) Vide notification No.31/2020- Central Tax, dated 03.04.2020, a conditional lower rate of interest was provided for various class of registered persons for the tax period of February, March and April, 2020. The same was clarified through Circular No. 136/06/2020-GST, dated 03.04.2020 (para 3, sl. No. 3, 4 and 5). It was clarified that in case the return for the said months are not furnished on or before the date mentioned in the notification No.31/2020- Central Tax, dated 03.04.2020, interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed.
- (ii) The Government, vide notification no 51/2020- Central Tax, dated 24.06.2020 has removed the said condition. Accordingly, a lower rate of interest of NIL for first 15 days after the due date of filing return in FORM GSTR-3B and @ 9% thereafter **till 24.06.2020** is notified. After the specified date, normal rate of interest i.e. 18% per annum shall be charged for any further period of delay in furnishing of the returns.
- (iii) The calculation of interest in respect of this class of registered persons for delayed filing of return for the month of March, 2020 (due date of filing being 20.04.2020) is as illustrated in the Table below:

S.NO.	Date of filing GSTR-3B	No. of days of delay	Interest
1	02.05.2020	12	Zero interest
2	20.05.2020	30	Zero interest for 15 days, thereafter interest rate @9% p.a. for 15 days
3	20.06.2020	61	Zero interest for 15 days, thereafter interest rate @9% p.a. for 46 days
4	24.06.2020	65	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days
5	30.06.2020	71	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days and interest rate @18% p.a. for 6 days

Manner of calculation of interest for taxpayers having aggregate turnover below ₹ 5 Cr.

- (i) For the taxpayers having aggregate turnover below ₹5 Crore, notification No.31/2020- Central Tax, dated 03.04.2020 provided a conditional NIL rate of interest for the tax period of February, March and April, 2020. The Government, vide notification no 52/2020- Central Tax, dated 24.06.2020 provided the NIL rate of interest till specified dates in the said notification and 9% per annum thereafter till 30th September, 2020. **Similar relaxation of reduced rate of interest has been provided for the tax period of May, June and July 2020 also for the said class of registered persons having aggregate turnover below ₹ 5 Crore in the preceding financial year.** The notification, thus, provides NIL rate of interest till specified dates and after the specified dates lower rate of 9% would apply till 30th September 2020. After 30th September, 2020, normal rate of interest i.e. 18% per annum shall be charged for any further period of delay in furnishing of the returns.



- (ii) The calculation of interest in respect of this class of registered persons for delayed filing of return for the month of March, 2020 (for registered persons for whom the due date of filing was 22.04.2020) and June, 2020 (for registered persons for whom the due date of filing is 22.07.2020) is as illustrated in the Table below:

S.NO.	Tax period	Applicable rate of interest	Date of filing GSTR-3B	No. of days of delay	Interest
1	March 2020	Nil till the 3rd day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	22.06.2020	61	Zero interest
2			22.09.2020	153	Zero interest for 72 days, thereafter interest rate @9% p.a. for 81 days
3			22.10.2020	183	Zero interest for 72 days, thereafter interest rate @9% p.a. for 89 days and interest rate @18% p.a. for 22 days
4	June, 2020	Nil till the 23rd day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	28.08.2020	37	Zero interest
5			28.09.2020	68	Zero interest for 63 days, thereafter interest rate @9% p.a. for 5 days
6			28.10.2020	98	Zero interest for 63 days, thereafter interest rate @9% p.a. for 7 days and interest rate @18% p.a. for 28 days

Manner of calculation of late fee:

- 5.1 Vide notification No. 32/2020- Central Tax, dated 03.04.2020, a conditional waiver of late fee was provided for the tax period of February, March and April, 2020, if the return in FORM GSTR-3B was filed by the date specified in the said notification. The same was clarified through Circular No. 136/06/2020-GST, dated 03.04.2020.
- (ii) The Government, vide notification No. 52/2020- Central Tax, dated 24.06.2020 has provided the revised dates for conditional waiver of late fee for the months of February, March and April, 2020 and extended the same for the months of May, June and July, 2020 for the small taxpayers.
- (iii) It is clarified that the waiver of late fee is conditional to filing the return of the said tax period by the dates specified in the said notification. In case the returns in FORM GSTR3B for the said months are not furnished on or before the dates specified in the said notification, then late fee shall be payable from the due date of return, till the date on which the return is filed.

Interest rates for tax period from February, 2020 to July 2020 reduced (Notification No. 51/2020 – Central Tax dated 24-6-2020):

“Provided that the rate of interest per annum shall be as specified in column (3) of the Table given below for the period mentioned therein, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who are required to furnish the returns in FORM GSTR-3B, but fail to furnish the said return along with payment of tax for the months mentioned in the corresponding entry in column (4) of the said Table by the due date, namely:--

S. No.	Class of registered persons	Rate of interest	Tax period
1	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	Nil for first 15 days from the due date, and 9% thereafter till 24th day of June, 2020	February, 2020, March 2020, April, 2020
2	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	Nil till the 30th day of June, 2020, and 9% thereafter till the 30th day of September, 2020	February, 2020
		Nil till the 3rd day of July, 2020, and 9% thereafter till the 30th day of September, 2020	March, 2020
		Nil till the 6th day of July, 2020, and 9% thereafter till the 30th day of September, 2020	April, 2020
		Nil till the 12th day of September, 2020, and 9% thereafter till the 30th day of September, 2020	May, 2020
		Nil till the 23rd day of September, 2020, and 9% thereafter till the 30th day of September, 2020	June, 2020
		Nil till the 27th day of September, 2020, and 9% thereafter till the 30th day of September, 2020	July, 2020
3	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, 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 or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	Nil till the 30th day of June, 2020, and 9 per cent thereafter till the 30th day of September, 2020	February, 2020
		Nil till the 5th day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	March, 2020
		Nil till the 9th day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	April, 2020
		Nil till the 15th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	May, 2020
		Nil till the 25th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	June, 2020
		Nil till the 29th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	July, 2020



Study Note - 9

TDS AND TCS UNDER GST



Details of tax deducted and tax collected to be made available to the deductee and collectee respectively on the common portal after filing of GSTR-7 and GSTR-8 respectively [Rule 66(2) of the CGST Rules] [Notification No. 31/2019 CT dated 28.06.2019]

Sub-rule (2) of rule 66 has been amended to lay down that the details of TDS furnished by the deductor in GSTR-7 shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation.

Similarly, the details of TCS furnished by operator in GSTR-8 were made available to each supplier in Part C of Form GSTR-2A on the common portal after the due date of filing of Form GSTR-8 under rule 67(2) of the CGST Rules.

Sub-rule (2) of rule 67 has been amended to provide that the details of TCS furnished by the deductor in GSTR-8 is made available electronically to each of the deductees on the common portal after filing of Form GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.

As per Finance Act, 2020, Deductor of TDS need not issue certificate of TDS (Sec. 51):

Deductor of GST TDS is not required to issue any TDS certificate. It means the deductee can take credit of tax deducted on the basis of details of tax deducted and uploaded by the deductor under section 39(3) of CGST Act, 2017.

The details are available in the GSTR-7 return filed by the deductor will be auto populated in GSTR-2A of deductee. Hence, any further certificate is not required.

Study Note - 10

RETURNS UNDER GST



Form and manner of furnishing details of outward supplies Form GSTR-1 (Rule 59 of CGST Rules, 2017)-

- (1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), required to furnish the details of outward supplies of goods or services or both under section 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.
- (2) The registered persons required to furnish return for every quarter under proviso to subsection (1) of section 39 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 fifty lakh rupees in each of the months,- using invoice furnishing facility (hereafter in this notification 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.
- (3) The details of outward supplies furnished using the IFF, for the first and second months of a quarter, shall not be furnished in FORM GSTR-1 for the said quarter.
- (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 two and a half lakh rupees 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 two and a half lakh rupees made to unregistered persons for each rate of tax;
 - (c) debit and credit notes, if any, issued during the month for invoices issued previously.
- (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."

(vide Notification No. 82 /2020 – Central Tax dated 10th November, 2020)



Form GSTR-3B to be treated as a return furnished under section 39 of the CGST Act [Rule 61(5) of the CGST Rules] vide [Notification No. 49/2019 CT dated 09.10.2019]

Annual Return is optional [Notification No. 47/2019 CT dated 09.10.2019]:

Filing of annual return (GSTR- 9) under section 44(1) of CGST Act, read with rule 80(1) of CGST Rules, in respect of financial years 2017-18 and 2018-19, has been made voluntary for the registered persons whose turnover is less than Rs. 2 crore and who have not furnished the said annual return before the due date. The annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

Annual Return related relaxation for MSME for 2019-20

The Central Government vide Notification No.77/2020-Central Tax dated 15th October, 2020 has made the filing of Annual return optional under section 44 (1) of CGST Act for F.Y. 2019-20 also for those registered persons whose aggregate turnover is less than Rs 2 crores.

[Notification No. 77/2020 -Central Tax dated 15th October,2020]

Due Date for filing of Form GSTR-1 & Form GSTR-3B

The Central Government vide Notification No.74/2020, Notification No.75/2020 and Notification No.76/2020-Central Tax all dated 15th October, 2020 has notified the due dates for filing of Form GSTR-1 & Form GSTR-3B for the months of October, 2020 to March, 2021, as under:-

Due dates of filing of Form GSTR-1

Sl. No.	Form GSTR-1 for the Quarter/ Month	Due Date
1.	October, 2020 to December, 2020	13th January, 2021
2.	January, 2021 to March, 2021	13th April, 2021
3.	October, 2020	11th day of November, 2020
4.	November, 2020	11th day of December, 2020
5.	December, 2020	11th day of January, 2021
6.	January, 2021	11th day of February, 2021
7.	February, 2021	11th day of March, 2021
8.	March, 2021	11th day of April, 2021

The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of October, 2020 to March, 2021 shall be subsequently notified in the Official Gazette.

Due dates of filing of Form GSTR-3B

FORM GSTR- 3B For the Months of:-	Aggregate Turnover in the preceding F.Y. > ₹ 5 Crores	Aggregate Turnover in the preceding F.Y. < = ₹ 5 Crores	
		A*	B*
October, 2020	20th day of November, 2020	22nd day of November, 2020	24th day of November, 2020
November, 2020	20th day of December, 2020	22nd day of December, 2020	24th day of December, 2020
December, 2020	20th day of January, 2021	22nd day of January, 2021	24th day of January, 2021
January, 2021	20th day of February, 2021	22nd day of February, 2021	24th day of February, 2021
February, 2021	20th day of March, 2021	22nd day of March, 2021	24th day of March, 2021
March, 2021	20th day of April, 2021	22nd day of April, 2021	24th day of April, 2021

***A-** Taxpayers 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.

***B-** Taxpayers 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.

[Notification No.74/2020, 75/2020 & 76/2020 -Central Tax dated 15th October, 2020]

By virtue of Notification No. 83/2020 CT dated 10-11-2020, w.e.f. 1-1-2021 extends the time limit for furnishing the details of outward supplies in Form GSTR-1 of the CGST Rules, 2017, for each tax periods, till the 11th day of the month succeeding such tax period:

Provided the time limit for furnishing the details of outward supplies in Form GSTR-1 of the said rules for the class of registered persons required to furnish return for every quarter under sec 39(1) of the CGST Act, 2017, shall be extended till the 13th day of the month succeeding such tax period. This notification superseded NT 74/2020 CT and 75/2020 CT.

Manner of furnishing of return or details of outward supplies by short messaging service (SMS) facility:

As per Rule 67A of the CGST Rules, 2017, "Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in **FORM GSTR-3B** or a Nil details of outward supplies under section 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 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 facility.

Explanation - For the purpose of this rule, a Nil return or Nil details of outward supplies or Nil statement shall mean a return under section 39 or details of outward supplies under section 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" (vide Notification No. 79/2020-Central Tax dated 15th October, 2020).

Salient features of Quarterly Return filing & Monthly Payment of Taxes (QRMP) Scheme:

- Who can opt for the scheme:** Following registered person (hereinafter RP) can file quarterly returns and pay tax on monthly basis w.e.f. 01.01.2021 :
 - An RP who is required to file Form GSTR 3B with Aggregate Annual Turn Over (AATO) of up to ₹ 5 Cr. in the previous financial year is eligible. If AATO crosses Rs 5 Cr. during a qtr., RP will become in-eligible for the Scheme from next quarter.
 - Any person obtaining a new registration or opting out of Composition Scheme can also opt for this Scheme.
 - The option to avail this Scheme can be availed GSTIN wise. Therefore, few GSTINs for that PAN can opt for the Scheme and remaining GSTINs can remain out of the Scheme.
- Changes on the GST Portal:** For qtr. Jan., 2021 to March, 2021, all RPs whose AATO for the FY 2019-20 is up to ₹ 5 Cr. and have furnished the return in Form GSTR-3B for the month of October, 2020 by 30th 2020, will be migrated by default in the GST system as follows:

Sl. No.	Class of RPs with AATO of	Default Return Option
1	Up to ₹ 1.5 Cr., who have furnished Form GSTR-1 on quarterly basis in current FY	Qtrly
2	Up to ₹ 1.5 Cr., who have furnished Form GSTR-1 on monthly basis in current FY	Monthly
3	More than ₹ 1.5 Cr. and up to ₹ 5 Cr. in preceding FY	Qtrly

- When can a person opt for the scheme:**
 - Facility can be availed throughout the year, in any quarter.
 - Option for QRMP Scheme, once exercised, will continue till RP revises the option or his AATO exceeds ₹5 Cr.
 - RPs migrated by default can choose to remain out of the scheme by exercising their option from 5th, 2020 till 31st Jan., 2021.
- The RPs opting for the scheme can avail the facility of Invoice Furnishing Facility (IFF), so that the outward supplies to registered person is reflected in their Form GSTR 2A & 2B.
- Payment of tax under the scheme:**
 - RPs need to pay tax due in each of first two months (by 25th of next month) in the Qtr, by selecting "Monthly payment for quarterly taxpayer" as reason for generating Challan.
 - RPs can either use Fixed Sum Method (pre-filled challan) or Self-Assessment Method (actual tax due), for monthly payment of tax for first two months, after adjusting ITC.
 - No deposit is required for the month, if there is nil tax liability.
 - Tax deposited for first 02 months can be used for adjusting liability for the qtr. in Form GSTR-3B and can't be used for any other purpose till the filing of return for the qtr.

(source: <https://www.gst.gov.in>, dated 20-11-2020)

(QRMP) Quarterly Return Monthly Payment

- ◆ Aggregate Turnover >₹5 crore during a quarter in current financial year, shall opt for furnishing of return on a monthly basis, electronically, on the common portal, from the succeeding quarter.
- ◆ Tax payers who are automatically migrated into QRMP Scheme can be opt out between 5th Dec 2020 to 31st Jan 2021.

◆ OPT IN & OPT OUT:

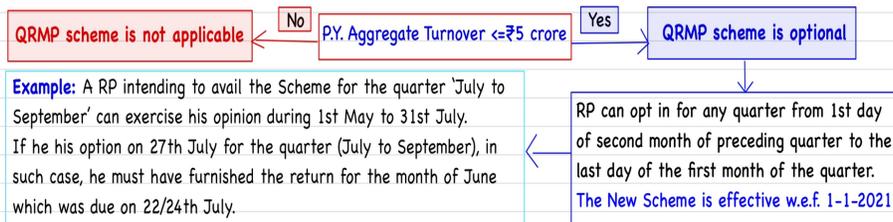


RP can opt in for any quarter from 1st day of second month of preceding quarter to the last day of the first month of the quarter.

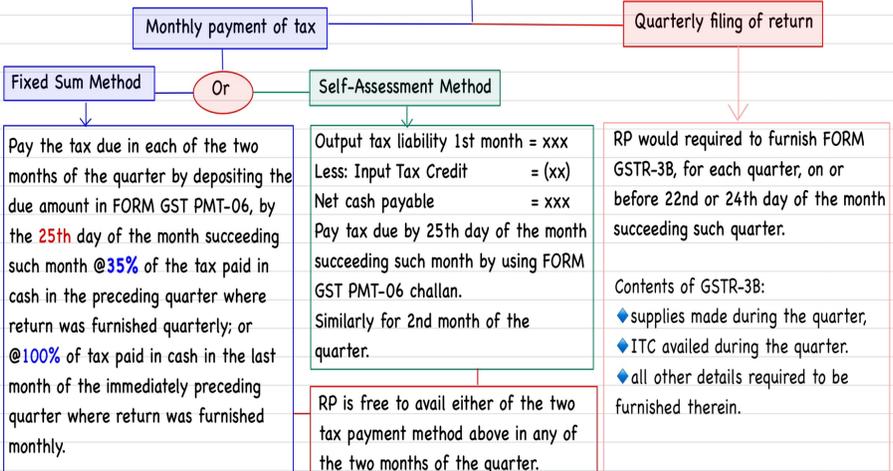
Persons who obtain registration during any quarter or RP opting out from paying tax u/s 10 of CGST Act, 2017 shall be able to opt for the QRMP Scheme.

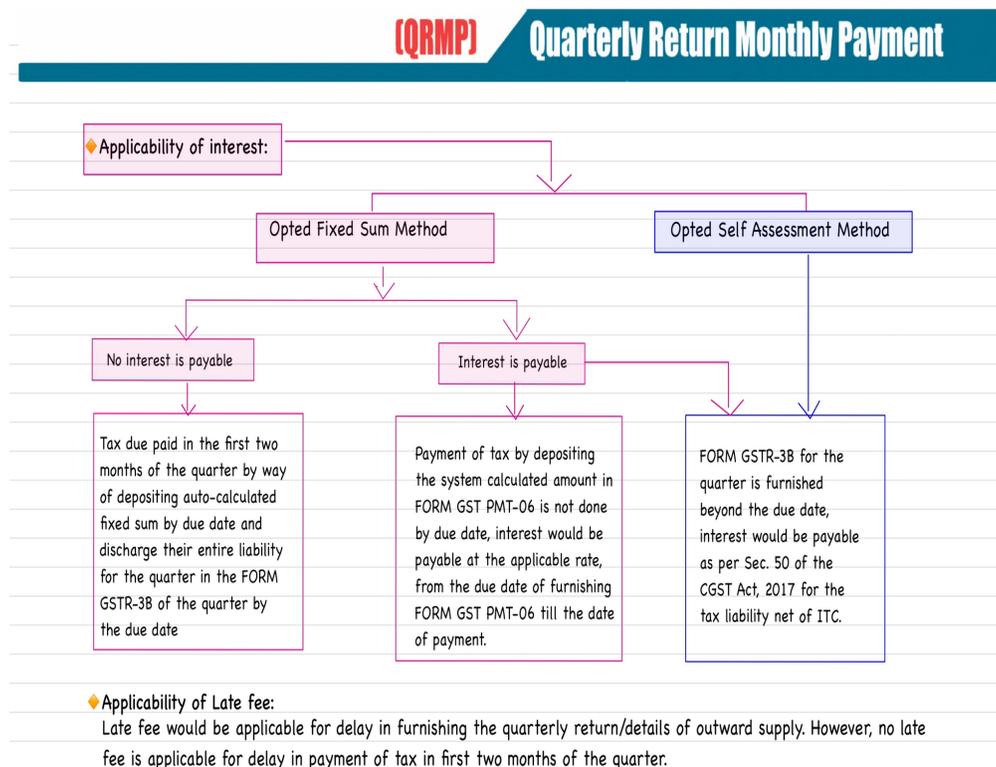
- ◆ QRMP Scheme is GSTIN wise.
- ◆ RP opting for the QRMP Scheme would be required to furnish the details of outward supply in FORM GSTR-1 Quarterly.
 - 1st and 2nd months of a quarter, such RP will have "Invoice Furnishing Facility" (IFF) to furnish the details of such outward supplies to a registered person, as he may consider necessary, between the 1st day of the succeeding month till the 13th day of the succeeding month.
 - The said details of outward supplies shall, however not exceed the value of ₹50 lakh in each month.

(QRMP) Quarterly Return Monthly Payment



◆ RP = Registered Person. ◆ P.Y. = Preceding Financial Year.





Annual Return of the succeeding financial year

As per Section 44 of the CGST Act, 2017, every registered taxable person is required to file annual return by 31st December following end of financial year. Thus, for the financial year 2019-20, the annual return is required to be filed by 31st December 2020.

w.e.f 1-8-2019:

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of 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.”

Due Date for filing of **Annual** Return & Reconciliation Statement for the FY 2018-19 extended upto 31st December, 2020:

CBIC vide Notification No. 80/2020- Central Tax dated 28th October, 2020 has further extended the time limit for furnishing of the Annual Return in Form GSTR-9 and Reconciliation Statement in Form GSTR- 9C specified under section 44 of the CGST Act read with Rule 80 of the CGST Rules, electronically through the common portal, for the financial year 2018-2019 till the 31st December, 2020 [Notification No.80/2020-Central Tax dated 28th October, 2020].

GSTR-3B – One time amnesty provided by lowering/waiving of late fee for non-furnishing of FORM GSTR-3B from July 2017 to January 2020 and providing relief by conditional waiver of late fee for delay in furnishing FORM GSTR-3B return for the period February, 2020 to July, 2020 (vide NT No. 52/2020 CT dated 24-6-2020):

S. No.	Class of registered persons	Tax period	Condition
1	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	February, 2020, March, 2020 and April, 2020	If return in FORM GSTR-3B is furnished on or before the 24th day of June, 2020
2	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020
		March, 2020	If return in FORM GSTR-3B is furnished on or before the 3rd day of July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 6th day of July, 2020
		May, 2020	If return in FORM GSTR-3B is furnished on or before the 12th day of September, 2020
		June, 2020	If return in FORM GSTR-3B is furnished on or before the 23rd day of September, 2020
		July, 2020	If return in FORM GSTR-3B is furnished on or before the 27th day of September, 2020
3	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, 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 or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020
		March, 2020	If return in FORM GSTR-3B is furnished on or before the 5th day of July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 9th day of July, 2020
		May, 2020	If return in FORM GSTR-3B is furnished on or before the 15th day of September, 2020
		June, 2020	If return in FORM GSTR-3B is furnished on or before the 25th day of September, 2020
		July, 2020	If return in FORM GSTR-3B is furnished on or before the 29th day of September, 2020

“Provided also that the total amount of late fee payable for a tax period, under section 47 of the said Act shall stand waived which is in excess of an amount of two hundred and fifty rupees for the registered person who failed to furnish the return in FORM GSTR-3B for the months of July, 2017 to January, 2020, by the due date but furnishes the said return between the period from 01 st day of July, 2020 to 30th day of September, 2020: Provided also that where the total amount of central tax payable in the said return is nil, the total amount of late fee payable for a tax period, under section 47 of the said Act shall stand waived for the registered person who failed to furnish the return in FORM GSTR-3B for the months of July, 2017 to January, 2020, by the due date but furnishes the said return between the period from 01st day of July, 2020 to 30th day of September, 2020.”.



GSTR-1: Relief by waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods from March 2020 to June 2020 for monthly filers and for quarters from January, 2020 to June 2020 for quarterly filers (vide NT No. 53/2020 CT dated 24-6-2020):

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who fail to furnish the details of outward supplies for the months or quarter mentioned in column (2) of the Table below in FORM GSTR-1 by the due date, but furnishes the said details on or before the dates mentioned in column (3) of the said Table:-

S. No.	Month/Quarter	Dates
1	March 2020	10th day of July, 2020
2	April 2020	24th day of July, 2020
3	May 2020	28th day of July, 2020
4	June 2020	05th day of August, 2020
5	January to March, 2020	17th day of July, 2020
6	April to June 2020	03rd day of August, 2020.”.

Study Note - 12

AUDIT UNDER GST



12.1 MEANING

Notf no. 16/2020-CT dt. 23.03.2020: Provided that every registered person whose aggregate turnover during the financial year 2018-2019 exceeds **five crore** rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

Rule 80(3) of CGST Rules, 2017 (vide Notification No.79/2020-Central Tax dated 15th October, 2020):

“Provided that for the financial year 2018-2019 and 2019-2020, every registered person whose aggregate turnover exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C** for the said financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”

Study Note - 13

E-WAYBILLS UNDERS GST



13.1 E-WAYBILLS

Validity period of e-way bill/consolidated e-way bill [Rule 138(10)] [Notification No. 31/2019 CT dated 28.06.2019]

Sl. No.	Distance within country	Validity period from relevant date
1.	Upto 100 km	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
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.	Upto 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

The sub-rule (10) has been further amended to lay down that the validity of the e-way bill can be extended within eight hours from the time of its expiry.

Restriction on furnishing of information in Part A of Form GST EWB-01

No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in Part A of Form GST EWB-01 in respect of following registered persons, whether as a supplier or a recipient:

- (i) A person paying tax under composition scheme or under *Notification No. 2/2019 CT (R) dated 07.03.2019* has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or
- (ii) A person paying tax under regular scheme has not furnished the returns for 2 consecutive months, or
- (iii) A person paying tax under regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be.

However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions. An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

[Notification No. 74/2018 CT dated 31.12.2018 read with Notification No. 36/2019 CT dated 20.08.2019 and Notification No. 75/ 2019 CT dated 26.12.2019]

“Provided also that the said restriction shall not apply during the period from the 20th day of March, 2020 till the 15th day of October, 2020 in case where the return in **FORM GSTR-3B** or the statement of outward supplies in **FORM GSTR-1** or the statement in **FORM GST CMP-08**, as the case may be, has not been furnished for the period February, 2020 to August, 2020” (vide Notification No.79/2020-Central Tax dated 15th October, 2020)



e-way bill generated on or before 24-3-2020 (whose validity has expired on or after 20-3-2020 - validity extended till 30-6-2020 (vide NT No. 47/2020 CT dated 9-6-2020).

Blocking of E-Way Bill (EWB) generation facility for taxpayers with AATO over ₹ 5 Cr., after 15th October, 2020

- In terms of Rule 138E(b) of the CGST Rules, 2017, the E Way Bill generation facility of a person is liable to be restricted, in case the person fails to file their GSTR-3B returns, for a consecutive period of two months or more.
- The GST Council has decided that this provision will be made applicable for the taxpayers whose Aggregate Annual Turn Over (AATO, PAN based) is more than ₹ 5 Crores.
- Thus, if the GSTIN associated with the respective PAN (with AATO over ₹5 Cr.) has failed to file their GSTR-3B Return for 02 or more tax periods, up to the month of tax period of August, 2020, their EWB generation facility will be blocked on the EWB Portal. Please note that the EWB generation facility for such GSTINs (whether as consignor or consignee or by transporter) will be blocked on EWB Portal after 15th October, 2020.
- To avail continuous EWB generation facility on EWB Portal, you are therefore advised to file your pending GSTR 3B returns immediately.
- Please ignore this update if:
You are not registered on the EWB portal or
You have already filed your GSTR-3B Return for August, 2020 or
Your AATO (PAN based) is below ₹ 5 Cr.



Section B

Customs Laws





Study Note - 1

CUSTOMS LAW - BASIC CONCEPTS



Export General Manifest now called as departure manifest or an export manifest:

w.e.f. 1-8-2019, "The person-in-charge of a conveyance carrying export goods or imported goods or any other person as may be specified by the Central Government, by notification, shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, a departure manifest or an export manifest by presenting electronically, and in the case of a vehicle, an export report, in such form and manner as may be prescribed and in case, such person-in-charge or other person fails to deliver the departure manifest or export manifest or the export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-incharge or other person shall be liable to pay penalty not exceeding **fifty thousand rupees**".

w.e.f. 1-8-2019 VERIFICATION OF IDENTITY AND COMPLIANCE

The proper officer, authorised in this behalf by the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, may, for the purposes of ascertaining compliance of the provisions of this Act or any other law for the time being in force, require a person, whose verification he considers necessary for protecting the interest of revenue or for preventing smuggling etc.,

Study Note - 2

TYPES OF DUTIES



Goods which were exported earlier for exhibition purpose/consignment basis [Circular No. 21/2019 Cus dated 24.07.2019]

