

STATUTORY UPDATES

GOODS & SERVICES TAX (GST)

SUPPLY

Scope of supply (Section 7 of CGST Act, 2017)

As per Section 7(1) Supply includes	As per Section 7(2) Supply excludes
<p>(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;</p> <p>(b) import of services for a consideration whether or not in the course or furtherance of business; ('and' w.e.f. 29th Aug 2018 inserted retrospectively from 1.7.2017)</p> <p>(c) the activities specified in Schedule I, made or agreed to be made without a consideration; (w.e.f. 29th Aug 2018 'and' omitted retrospectively from 1.7.2017)</p> <p>(d) w.e.f. 29th Aug 2018, omitted retrospectively from 1.7.2017: the activities to be treated as supply of goods or supply of services as referred to in Schedule II.</p>	<p>(a) activities or transactions specified in Schedule III; or</p> <p>(b) such activities or transactions undertaken by the Central Government, a State Government or (Union territory w.e.f. 27th June 2018) any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,</p> <p>Note: Activities specified in Schedule III (i.e. Negative list):</p> <ol style="list-style-type: none">1. Services by employee to employer in the course of or in relation to his employment.2. Services by court or Tribunal3. Services by Member of Parliament and others4. Services by funeral, burial etc.5. Sale of land/Building6. Actionable claim other than lottery, betting and gambling. <p>w.e.f. 1-2-2019:</p> <ol style="list-style-type: none">7. Supply of goods from a place in the non-taxable

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<p>w.e.f. 29th Aug 2018, applicable retrospectively from 1.7.2017</p> <p>(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."</p>	<p>territory to another place in the non-taxable territory without such goods entering into India.</p> <p>8. (a) Supply of warehoused goods to any person before clearance for home consumption;</p> <p>(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.";</p> <p>Explanation 1: For the purpose of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.</p> <p>Explanation 2: For the purpose of this paragraph, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962</p>
<p>As per Section 7(3) Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—</p> <p>(a) a supply of goods and not as a supply of services; or</p> <p>(b) a supply of services and not as a supply of goods.</p>	

w.e.f. 1-10-2019: Alcoholic liquor licence – Grant thereof not to treated as supply of Goods/services:

As per section 7(2) of CGST Act, 2017 Central Govt. of India on the recommendation of the GST Council notifies that the following activities or transaction under taken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service namely:-

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“services by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called”

Section 7(1)(c) of the CGST Act, 2017 the activities specified in Schedule I, made or agreed to be made without a consideration:

SCHEDULE I

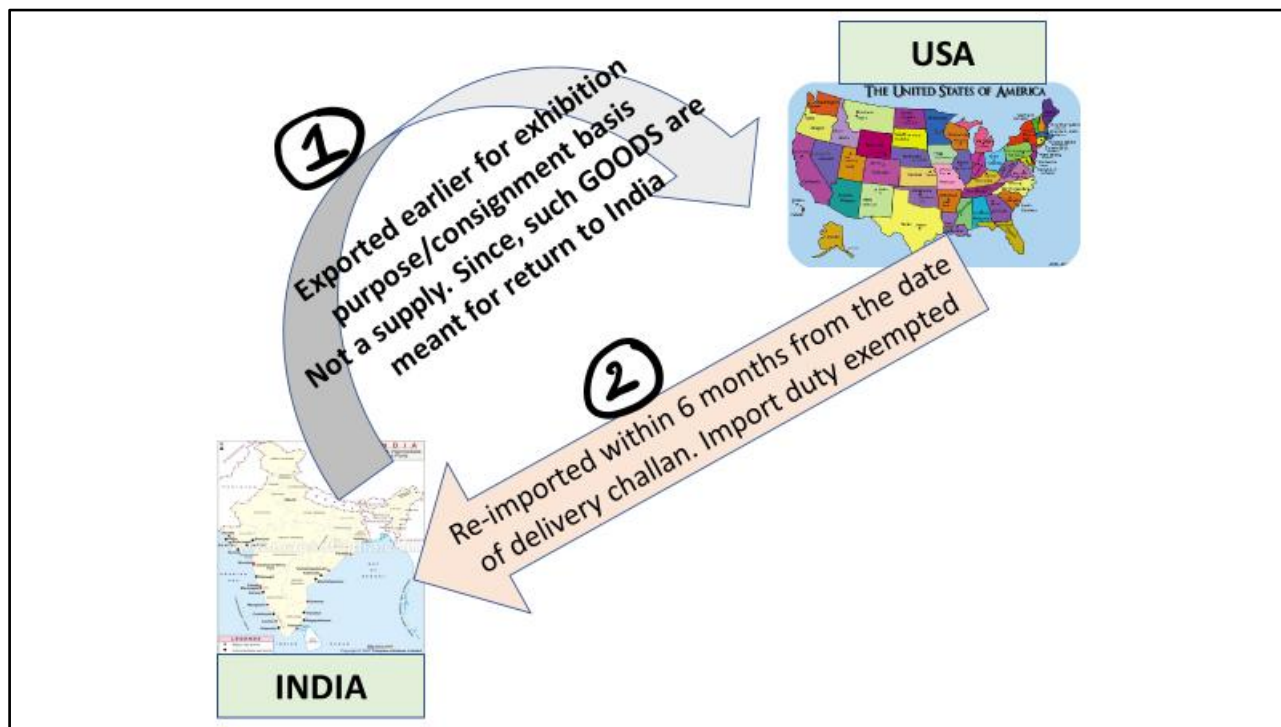
ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:
Provided that gifts not exceeding ₹50,000/- in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
3. Supply of goods—
 - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
4. Import of services by a taxable person (**w.e.f. 1-2-2019 the term taxable omitted**) from a related person or from any of his other establishments outside India, in the course or furtherance of business.

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

[Circular No. 108/27/2019 GST dated 18.07.2019]

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Goods sent to related person or distinct person or to principal or agents for participation in exhibition which are going to return to India is not a supply.

As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-

- (i) it should be for a consideration by a person; and
- (ii) it should be in the course or furtherance of business.

The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration. Further, sub-section (21) of section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act") defines "supply", wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

Section 16 of the IGST Act deals with "Zero rated supply". The provisions contained in the said section read as under:

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Sec 16 (1) of IGST Act, “zero rated supply” means any of the following supplies of goods or services or both, namely:—

(a) export of goods or services or both; or

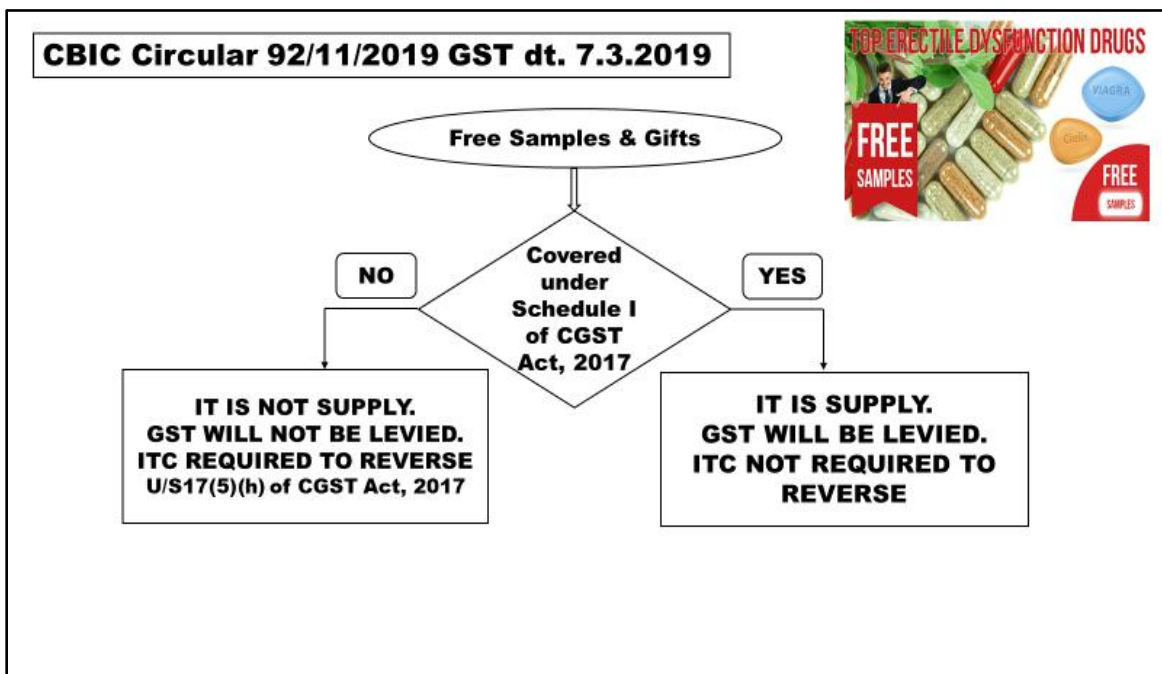
(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Therefore, it can be concluded that only such “supplies” which are either “export” or are “supply to SEZ unit / developer” would qualify as zero-rated supply.

It is, accordingly, clarified that the activity of sending / taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act (hereinafter referred to as the “specified goods”), do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as “Zero rated supply” as per the provisions contained in section 16 of the IGST Act.

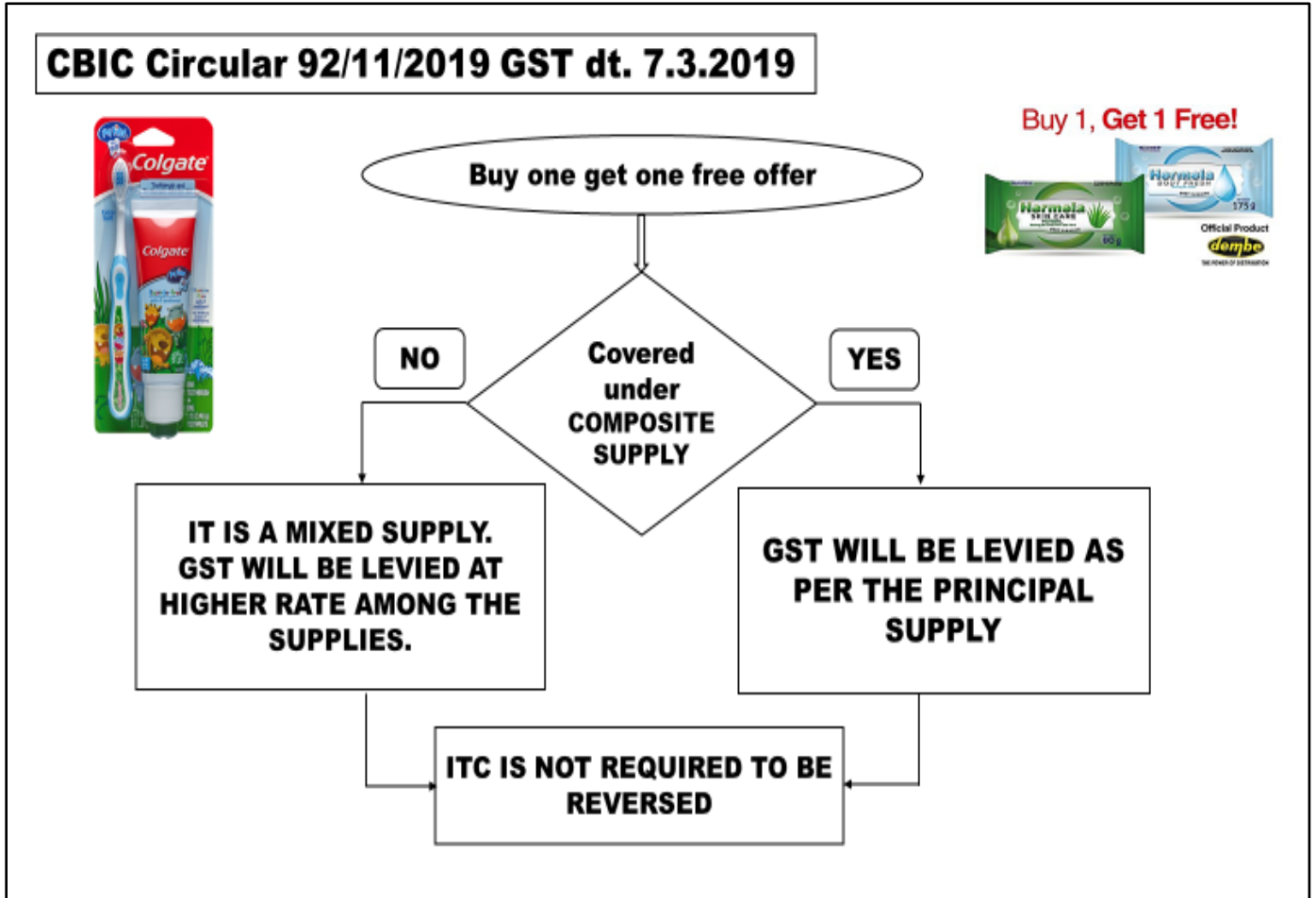
Composite and Mixed Supplies:

Free Samples & Gifts:



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Buy one get one free offer



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LEVY AND COLLECTION

CGST Act, 2017	IGST Act, 2017
<p>Section 9(4): supply by a not registered person, to a registered person, reverse charge applicable.</p> <p>Reverse charge provisions would not be applicable if the aggregate value of such supplies of goods or services or both received by a taxable person from any or all the suppliers, who are not registered, does not exceeds ₹5,000 in a day.</p> <p>This Section 9(4) of the CGST Act, 2017 has been suspended till 30th September 2019 (22/2018-Central Tax (Rate), dated 06-08-2018).</p> <p><u>Notification to exempt tax on goods or services received from Unregistered person rescinded w.e.f. 1-2019.</u></p> <p>w.e.f. 1-2-2019:</p> <p>Section 9(4) of the CGST Act, 2017, The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both".</p>	<p>Section 5(4): supply by a not registered person, to a registered person, reverse charge applicable.</p> <p>Reverse charge provisions would not be applicable if the aggregate value of such supplies of goods or services or both received by a taxable person from any or all the suppliers, who are not registered, does not exceeds ₹5,000 in a day.</p> <p>This Section 9(4) of the CGST Act, 2017 has been suspended till 30th September 2019 (22/2018-Central Tax (Rate), dated 06-08-2018).</p> <p><u>Notification to exempt tax on goods or services received from Unregistered person rescinded w.e.f. 1-2019.</u></p> <p>w.e.f. 1-2-2019:</p> <p>Section 5(4) of the IGST Act, 2017, The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both".</p>

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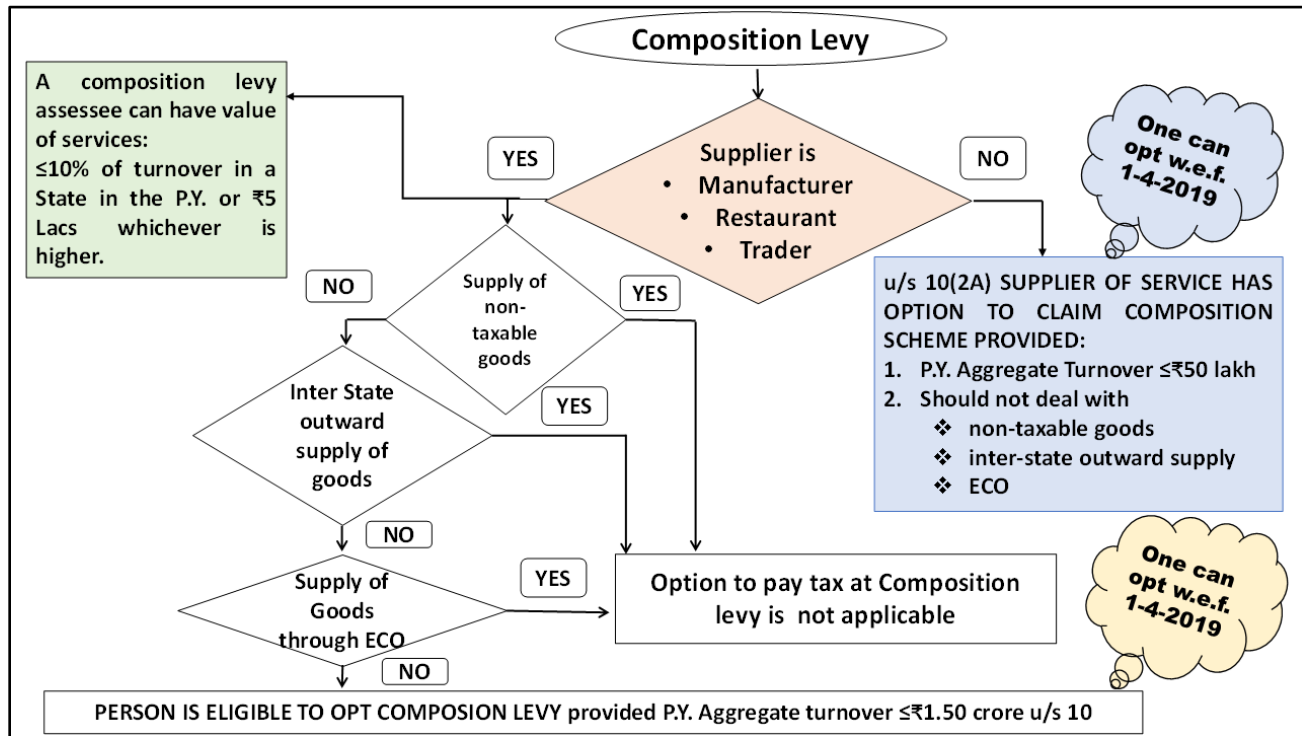
Notified services taken from unregistered person liable to tax on reverse charge basis w.e.f. 1st April, 2019

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

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Composition Levy:







The Central Government vide Notification No. 14/2019 – Central Tax dated 07th March, 2019 notified that an eligible registered person, whose aggregate turnover in the preceding financial year **did not exceed ₹ 1.5 Crores**, may opt to pay tax under Composition scheme. However, the said aggregate turnover shall be **₹ 75 lakh** in case of persons registered under following States:-

1. Arunachal Pradesh
2. Manipur
3. Meghalaya
4. Mizoram
5. Nagaland
6. Sikkim
7. Tripura
8. Uttarakhand

Manufacture of goods as notified u/s 10(2)(e) of the CGST Act, 2017 during the preceding financial year shall not be eligible to opt for composition levy under clause (e) of sub-section (1) of section 10 of the said Act if such person is a manufacturer of the following goods:

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Sl. No.	Tariff item, sub-heading or heading or Chapter	Description
1	2105 00 00 	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20 	Pan masala
3	24 	All goods, i.e. Tobacco and manufactured tobacco substitutes
4	2202 10 10 	w.e.f. 1-10-2019 AERATED WATER

As per Notification No. 2/2019 CT(R) dated 07.03.2019, a registered person making supplies of the above goods is also not eligible to pay concessional tax under the said notification.

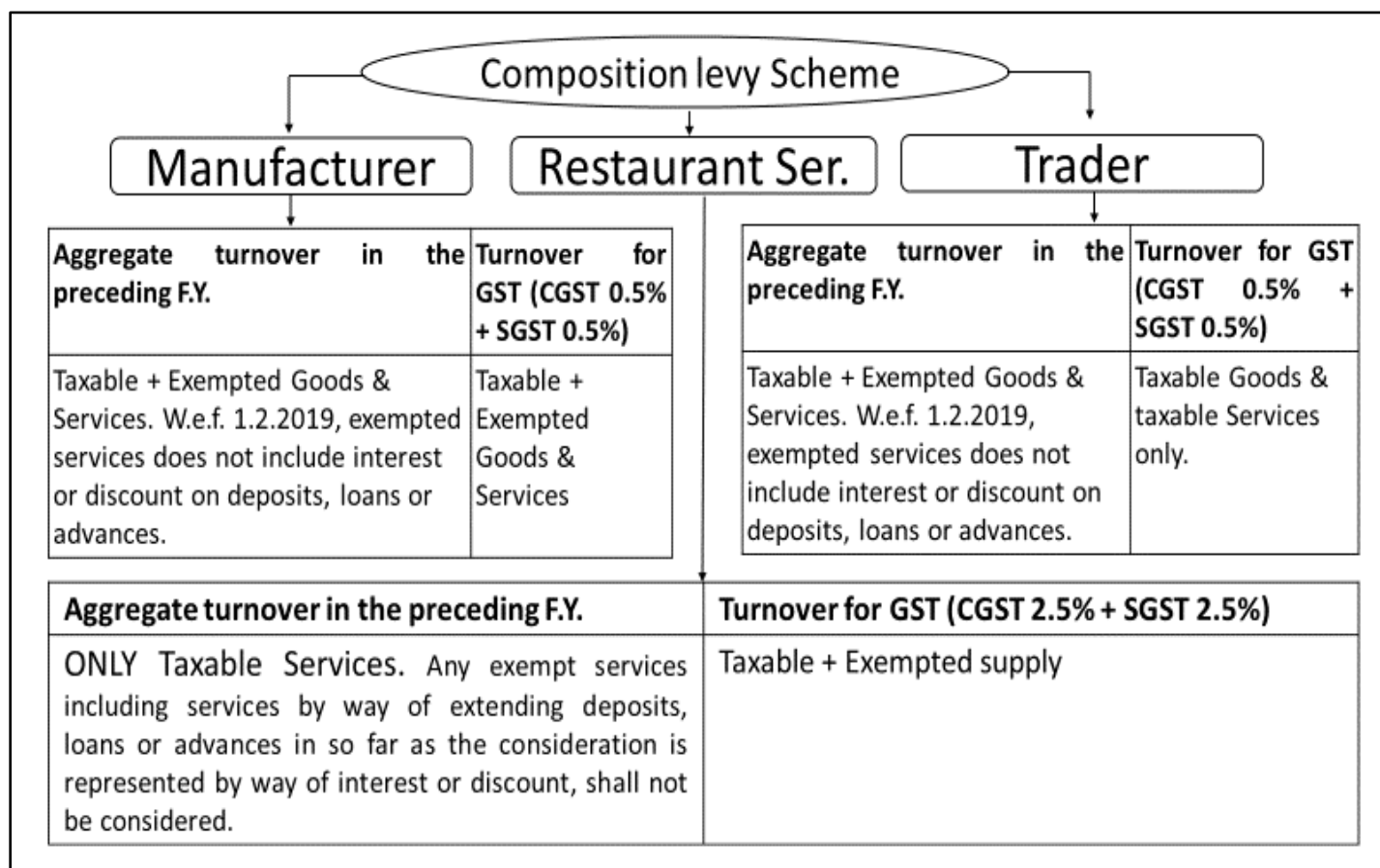
Thus, now a manufacturer of aerated water (Tariff item 2202 10 10) will also not be eligible to opt for composition scheme. Likewise, a supplier of aerated water (Tariff item 2202 1010) will also not be eligible to pay concessional tax under Notification No. 2/2019 CT(R) dated 07.03.2019.

[Notification No. 43/2019 CT dated 30.09.2019 & Notification No. 18/2019 CT(R) dated 30.09.2019]

Payment of GST under Composition Scheme:

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Simplified Approach:



Composition scheme for supplier of services with a tax rate of CGST 3% AND SGST 3% w.e.f April 1, 2019:

The Central Government vide Notification No. 2/2019-Central Tax (Rate) dated 07th March, 2019 notified Composition scheme in case of **intra-State supply** of goods or services or both, at the rate along with the conditions specified below:

Description of supply:

First supplies of goods or services or both upto an aggregate turnover of ₹50 lakhs made on or after the 1st day of April in any financial year, by a registered person

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Conditions

1. Supplies are made by a registered person, -
 - (i) whose aggregate turnover in the preceding financial year was ₹50 lakh or below;
 - (ii) who is **not eligible** to pay tax under sub-section (1) of section 10;
 - (iii) who is **not engaged** in making any supply which is **not leviable to tax**;
 - (iv) who is **not engaged** in making any **inter-State** outward supply;
 - (v) who is neither a casual taxable person nor a non-resident taxable person;
 - (vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and
 - (vii) who is not engaged in making supplies of:
 - (a) Ice cream and other edible ice, whether or not containing cocoa.
 - (b) Pan masala
 - (c) Tobacco and manufactured tobacco substitutes
2. Where more than one registered persons are having same PAN, central tax on supplies by all such registered persons is paid at the given rate.
3. The registered person **shall not collect any tax** from the recipient nor shall he be entitled to any credit of input tax.
4. The registered person shall issue, instead of tax invoice, a bill of supply.
5. The registered person shall mention the following words at the top of the bill of supply, namely: -
'Taxable person paying tax in terms of Notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.
6. Liability to pay central tax at the rate of 3% on all outward supplies **notwithstanding any other notification issued** under section 9 or section 11 of said Act.
7. Liability **to pay central tax on inward supplies** on reverse charge under sub-section (3) or sub-section (4) of section 9 of said Act.

Explanation: For the purposes of this notification, the expression "first supplies of goods or services or both" shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

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It may be noted that while computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of 3%, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

Amendment in scheme for supplier of services with a tax rate of 6% :

The Central Government vide Notification No. 9/2019-Central Tax (R) dated 29th March, 2019 has made following amendments in the Composition scheme in case of intra-State supply of goods or services or both:

- One more condition to avail the scheme has been provided where any registered person who has availed of input tax credit opts to pay tax under this notification, he shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods in stock and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the Act and the rules made there-under and after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Further explanation has been inserted to provide that the Central Goods and Services Tax Rules, 2017, as applicable to a person paying tax under section 10 of the said Act shall, mutatis mutandis, apply to a person paying tax under this notification.

Various Forms for Composition levy assessee:

The amended rule 62 whose heading has been changed to "Form and manner of submission of statement and return" provides as under:

- (i) Every registered person paying tax under section 10 or paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 shall electronically furnish-
 - (a) a statement in the prescribed form (GST CMP-08) containing details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter; and

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- (b) a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.
- (ii) Every registered person furnishing the statement under sub-rule (1) shall discharge his liability towards tax or interest payable by debiting the electronic cash ledger.
- (iii) The return furnished under sub-rule (1) shall include the- (a) invoice wise inter- State and intra- State inward supplies received from registered and un- registered persons; and (b) consolidated details of outward supplies made.
- (iv) A registered person who has opted to pay tax under section 10 or by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier. Here, the person shall not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme or paying tax by availing the benefit of Notification No. 02/2019CT (R) dated 07.03.2019.
- (v) A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax under the composition scheme till the 18th day of the month succeeding the quarter in which the date of withdrawal falls and furnish GSTR 4 for the said period till the 30th day of April following the end of the financial year during which such withdrawal falls.
- (vi) A registered person who ceases to avail the benefit of Notification No. 02/2019 CT (R) dated 7.03.2019, shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax by availing the benefit under the said notification till the 18th day of the month succeeding the quarter in which the date of cessation takes place and furnish GSTR 4 for the said period till the 30th day of April following the end of the financial year during which such cessation happens.
- [Notification No. 20/2019 CT dated 23.04.2019]

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EXEMPTIONS:

Explanation in such notification or order:

As per section 11(3) of the CGST Act, 2017 or section 6(3) of the IGST Act, 2017, Government is empowered to clarify the scope of applicability of any notification or special order by inserting an explanation in such notification or order. Such clarification shall only be issued by notification within ONE year of issuing of notification or special order and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Example: Assume a notification issued on 28th June 2017 may specify that it will be effective from 1st July 2017. In such case an explanation is inserted (i.e. subsequently) within one year reckoned from 1st July 2017 but not from 28th June 2017. If so such an explanation is effective from 1st July 2017.

Sec. 11(3) of CGST Act, 2017 [Circular No. 120/39/2019 GST dated 11.10.2019]:

Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within 1 year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.

It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry in notification and not from the date from which the notification (that inserted said explanation) becomes effective.

Example: The principal Notification No. 11/2017 CT (R) dated 28.06.2017 came into force with effect from 1.07.2017. Thereafter, a new entry - Entry no. 10(A) is inserted w.e.f. 21.09.2017. Subsequently, an explanation is also inserted with respect to entry no. 10(A) on 26.07.2018. Although the effective date mentioned in the notification which inserted said explanation is 27.07.2018, said explanation will be effective from the inception of entry in notification i.e. 21.09.2017 and not 27.07.2018.

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The following services are exempted from GST:

Sl. No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
7	<p>Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of upto ₹20 lakh (₹10 lakh in case of a special category state) in the preceding financial year.</p> <p>Explanation: For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to—</p> <p>(a) services,—</p> <ul style="list-style-type: none"> (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers; and <p>(b) services by way of renting of immovable property.</p> <p>w.e.f. 1-10-2019:</p> <p>Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to “such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)” is exempt.</p> <p>Earlier the turnover was specified as “twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year” which has now been rationalised.</p>
9AA	<p>w.e.f. 1-10-2019:</p> <p>services provided by and to Federation International de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the event under FIFA U-17 Women’s World Cup 2020 to be hosted in India is exempted from GST.</p> <p>Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2020.</p>

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14	<p>Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below ₹1,000 per day or equivalent.</p> <p>w.e.f. 1-10-2019 clarification given by Govt. of India:</p> <p>Amendment has been brought under S. No. 14 of Services exemption notification to clarify that services by way of residential or lodging purposes, having value of supply of a unit of accommodation below or upto one thousand rupees per day is exempt.</p>
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.</p> <p>Now extended upto 30th September 2019.</p> <p>w.e.f. 1-10-2019 this exemption further extended upto September 2020</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</p>
22(aa)	<p>w.e.f 1-10-2019:</p> <p>Services by way of giving on hire to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;</p> <p><u>EOV</u> 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.</p>
24B	<p>w.e.f. 1-10-2019:</p> <p>services provided by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery , raw vegetable fibres, jute etc. indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea exempted from GST.</p>
25	<p>Transmission or distribution of electricity by an electricity transmission or distribution utility.</p>

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26	Services by the Reserve Bank of India.
27	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.
27A	Notification No. 28/2018-CT (R), dated 31st Dec, 2018: Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).
28	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).
29	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
29A	w.e.f. 25.1.2018, Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government retrospectively w.e.f. 1 st July 2017.
29B	w.e.f. 1-10-2019: Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force exempted from GST.
35	Services of general insurance business provided under following schemes— (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women;


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	<p>(f) Agricultural Pump set and Failed Well Insurance;</p> <p>(g) premia collected on export credit insurance;</p> <p>(h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;</p> <p>(i) Jan Arogya Bima Policy;</p> <p>(j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);</p> <p>(k) Pilot Scheme on Seed Crop Insurance;</p> <p>(l) Central Sector Scheme on Cattle Insurance;</p> <p>(m) Universal Health Insurance Scheme;</p> <p>(n) Rashtriya Swasthya Bima Yojana;</p> <p>(o) Coconut Palm Insurance Scheme;</p> <p>(p) Pradhan Mantri Suraksha Bima Yojna;</p> <p>(q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).</p> <p>w.e.f 1-10-2019: exemption notification has been amended to exempt services of general insurance business provided under “Bangla Shasya Bima” scheme.</p>
41A	<p>Service by way of transfer of development rights or Floor Space Index on or after 1st April 2019 for construction of residential apartments.</p> <p>Exemption is available only when promoter or builder paying tax under construction supply of service.</p>
41B	<p>Upfront amount payable in respect of service by way of granting of long-term lease of 30 years, or more, on or after 01.04.2019, for construction of residential apartments.</p> <p>Exemption is available only when promoter or builder paying tax under construction supply of service.</p>
45	<p>Services provided by—</p> <p>(a) an arbitral tribunal to—</p> <p style="padding-left: 40px;">(i) any person other than a business entity; or</p> <p style="padding-left: 40px;">(ii) a business entity with an aggregate turnover upto ₹20 lakh (₹10 lakh in the case of special category states) in the preceding financial year;</p>

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	<p>(iii) w.e.f. 25.1.2018, the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</p> <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to—</p> <p>(a) an advocate or partnership firm of advocates providing legal services;</p> <p>(b) any person other than a business entity; or</p> <p>(c) a business entity with an aggregate turnover upto ₹20 lakh (₹10 lakh in the case of special category states) in the preceding financial year;</p> <p>(d) w.e.f. 25.1.2018, the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</p> <p>(c) a senior advocate by way of legal services to—</p> <p>(i) any person other than a business entity; or</p> <p>(ii) a business entity with an aggregate turnover upto ₹20 lakh (₹10 lakh in the case of special category states) in the preceding financial year or</p> <p>(iii) w.e.f. 25.1.2018, the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.</p> <p>w.e.f. 1-10-2019:</p> <p>aggregate turnover of up to “such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017_(12 of 2017)” is exempt.</p> <p>Earlier the turnover was specified as “twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year” which has now been rationalised.</p>
67	<p>Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme:—</p> <p>(a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;</p> <p>(b) fellow programme in Management;</p> <p>(c) five year integrated programme in Management.</p>

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	<p>Entry No. 67 Omitted w.e.f. 1-1-2019 (vide CBIC Circular No. 82/01/2019- GST, dated 1-1-2019):</p>		
	Period	Exemption	Remarks
	1-7-2017 to 30-1-2018	IIM's exempted from Entry No. 67 of Notification No. 12/2017 C.T.	IIMs were not covered by the definition of educational institutions as given in notification No. 12/2017 Central Tax (Rate), dated 28.06.2017. Thus, they were not entitled to exemption under Sl. No. 66 of the said notification.
	<p>It is further, clarified that with effect from 31st January 2018, all IIMs have become eligible for exemption benefit under Sl. No. 66 of notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017. As such, specific exemption granted to IIMs vide Sl. No. 67 has become redundant. The same has been deleted vide notification No. 28/2018- Central Tax (Rate) dated, 31st December 2018 w.e.f. 1st January 2019.</p>		
	31-1-2018 to 31-12-2018	Two exemptions, i.e. under Sl. No. 66 and under Sl. No. 67 of notification No. 12/ 2017- Central Tax (Rate), dated 28.06.2017 are available to the IIMs.	As per Hon'ble Supreme Court of India, if there are two or more exemption notifications available to an assessee, the assessee can claim the one that is more beneficial to him.
	<p>Important Note: Indian Institutes of Managements also provide various short duration/ short term programs for which they award participation certificate to the executives/ professionals as they are considered as "participants" of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of Indian Institutes of Management. Services provided by IIMs as an educational institution to such participants is not exempt from GST.</p>		
82A	<p>w.e.f. 1-10-2019</p> <p>services by way right to admission to the events organised under FIFA U-17 Women's World Cup 2020 exempted from GST.</p>		
			

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Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India. (CBIC Circular No. 117/36/2019-GST, dated 11th October, 2019)

Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.

Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017-Central Tax (Rate), dated 28.06.2017.

List of services exempt from IGST

	Apart from above, list of services exempts from IGST by Notification No. 9/2017-Integrated Tax (Rate), dated 28th June, 2017 also include following three services.
86	w.e.f. 1-10-2019, Notification No. 20/2019- (IT Rate) dated September 30, 2019: so as to exempt "Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory".

Inter State supply of services- Nepal and Bhutan exempt:

Further, Notification No. 9/2017-IT(R), dated 28.06.2017 has also been amended vide Notification No. 42/2017-IT(R), dated 27.10.2017 to exempt inter-State supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees.

This exemption has been withdrawn from Integrated Tax for supply of services having place of supply in Nepal and Bhutan, against payment in Indian Rupees. vide Notification No. 2/2019-IT, dated 4-2-2019.

Reverse Charge Mechanism (RCM):

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

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12.2 w.e.f. 1st July 2017: As per Notification No. 13/2017-Central Tax (Rate), dated 28th June, 2017 and Notification No. 10/2017-Integrated Tax (Rate), dated 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
1	GTA Services w.e.f. 1st January 2019 , Services provided by GTA to Government departments/local authorities exempted which have taken registration only for the purpose of deducting tax under Section 51 not liable under RCM <u>(N. No. 29/2018-CT(R), dated 31st December 2018)</u> .	Goods Transport Agency (GTA)	Any factory, society, co-operative society, registered person, body corporate, partnership firm, casual taxable person; located in the taxable territory.	Recipient
5B	w.e.f. 1-4-2019, Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.	Promoter
5C	w.e.f. 1-4-2019, Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter	Any person	Promoter.	Promoter.

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9	<p>w.e.f.1-10-2019:</p> <p>Supply of services by music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to dramatic, musical or artistic works to a music company, producer or the like</p>	<p>music composer, photographer, artist, or the like</p>	<p>music company, producer or the like, located in the taxable territory</p>	<p>Recipient</p>
9A	<p>w.e.f.1-10-2019:</p> <p>Supplier of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher</p>	<p>Author</p>	<p>Publisher located in the taxable territory:</p> <p>Provided that nothing contained in this entry shall apply where,-</p> <p>(i) the author has taken registration under the CGST and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the services specified (i.e. copyright by author) under forward charge in accordance with Sec 9(1) of CGST Act, 2017 and to comply with all the provisions of CGST Act, 2017</p>	<p>Recipient</p>

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			<p>as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of ONE year from the date of exercising such option;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in the Form GST Inv-I to the publisher.</p>
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w.e.f. 1st January 2019, Insertion of new services to RCM u/s 9(3) of CGST Act [Notification No. 29/2018-CT (R), dated 31st December, 2018]:

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service	Comment
(1)	(2)	(3)	(4)	(5)
12	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory	
13	Services provided by an agent of business correspondent (BC) to	An agent of business correspondent (BC)	A business correspondent, located in the	

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	business correspondent (BC).		taxable territory.	
14	<p>Security services (services provided by way of supply of security personnel) provided to a registered person:</p> <p>Provided that nothing contained in this entry shall apply to,—(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of</p>	<p>Any person other than a body corporate</p>	<p>A registered person, located in the taxable territory.";</p>	<p>Therefore, when Security services are provided to registered persons only then no need to take registration as per Section 23 of CGST Act, 2017.</p> <p>However, when supplier of security services provides services to registered as well as unregistered person then such supplier is required to take registration for</p>

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	2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.			supply to unregistered recipient and those under composition.
15	w.e.f. 1-10-2019: services provide by way of renting of a motor vehicle provided to a body corporate	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business.	Any body corporate located in the taxable territory.	Recipient
16	w.e.f. 1-10-2019: services of lending of securities under Securities Lending	Lender i.e. a person who deposits the securities registered in his name or in the name of any other	Borrower i.e. a person who borrows the securities under	Recipient

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Scheme 1997 of Securities and Exchange Board of India (SEBI), as amended	person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI.	the scheme through an approved intermediary of SEBI.	
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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

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TIME OF SUPPLY

The following treatment shall apply to TDR/FSI and Long-term lease for projects commencing after 1-4-2019:

The supply of TDR, FSI, long term lease (premium) of land by a land owner to a developer shall be exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them. Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses.

The liability to pay tax on TDR, FSI, long term lease (premium) shall be shifted from landowner to builder under the Reverse Charge Mechanism (RCM).

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.

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.

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PLACE OF SUPPLY

Section 12 of IGST Act, 2017:

Services by way of Transportation of goods including by mail or courier (Section 12(8) of IGST Act, 2017)	<p>Place of supply of services:</p> <p>Provided to a registered person:</p> <ul style="list-style-type: none">• Location of recipient of Service. <p>Provided to an un-registered person:</p> <ul style="list-style-type: none">• Location at which such goods are handed over for their transportation. <p>w.e.f. 1-2-2019:</p> <p>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.</p>
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Section 13 of IGST Act, 2017:

In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Govt. of India shall have the power to notify any description of service or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service. Section 13(13) of IGST Act, 2017	<p>Place of supply of services:</p> <p>w.e.f. 1-10-2019:</p> <p>The CBIC vide Notification No. 04/2019- (IT) dated September 30, 2019 has notified the place of supply of R&D services related to pharmaceutical sector provided by Indian pharma companies to foreign service recipients, as the place of effective use and enjoyment of a service i.e. location of the service recipient.</p>
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Clarification in respect of determination of place of supply in following cases: -

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

- (i) Services provided by Ports - place of supply in respect of various cargo handling services provided by ports to clients;
- (ii) Services rendered on goods temporarily imported in India - place of supply in case of services rendered on unpolished diamonds received from abroad, which are exported after cutting, polishing etc.

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(i) Issue: Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc.

Whether the place of supply for such services would be determined in terms of the provisions contained in section 12(2) or section 13(2) of the IGST Act, as the case may be, or the same shall be determined in terms of the provisions contained in section 12(3) of the IGST Act?

Clarification: It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in section 12(2) or section 13(2) of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.

(ii) Issue: What would be the place of supply in case of 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?

Clarification: Place of supply in case of performance-based services is to be determined as per the provisions contained in section 13(3)(a) of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process. In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in section 13(2) of the IGST Act.

Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry (CBIC Circular No. 118/37/2019-GST, dated 11th October, 2019.)

In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the

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service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted. Therefore, it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in **non-taxable territory** by using sample prototype hardware/test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

IGST Rules, 2017:

<u>w.e.f. 1st January 2019, Integrated Goods and Services Tax (Amendment) Rules, 2018</u>

Central Government vide **N. No. 04/2018-Integrated Tax, dated 31st December, 2018** notified the following rules as Integrated Goods and Services Tax (Amendment) Rules, 2018:—

1. **Rule 3 in clause (h):**

The words “**the service shall be deemed to have been provided all over India and**” inserted after the words “in the case of advertisements over internet” to clarify that the services provided over internet is not specific to 1 or more State or Union territory and shall be deemed to be provided all over India.

2. **Insertion of Rule 4:**

The place of supply in case of the supply of services attributable to different States or Union territories, under sub section (3) of section 12 of the IGST Act, 2017 shall be:—

Where such immovable property or boat or vessel is located in more than one State or Union territory- each of the respective States or Union territories and

1. In the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory- to be determined in the following manner namely:-

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(i) Services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called and services ancillary to such services:

1. Where such property is a single property located in two or more contiguous States or Union territories or both: the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable property lying in each State or Union territory.

Illustration: There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.

2. Cases except where such property is a single property located in two or more contiguous States or Union territories or both: the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of nights stayed in such property.

Illustration: A hotel chain X charges a consolidt. sum of ₹30, 000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively. The value of services provided will thus be apportioned as ₹20, 000/- in the Union territory of Delhi and ₹10,000/- in the State of Uttar Pradesh.

- (i) All other services in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc :** the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable property lying in each State or Union territory

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(ii) **services provided by way of lodging accommodation by a house boat or any other vessel and services ancillary to such services:** the supply shall be treated as made in each of the respective States or Union territories, in proportion to the time spent by the boat or vessel in each such State or Union territory, determined on the basis of a declaration made to the effect by the service provider.

Illustration 3: A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka inasmuch as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

3. **Insertion of Rule 5:**

The place of supply in case of supply of services attributable to different States or Union territories, under subsection (7) of section 12 of the said Act, in the case of-

1. services provided by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, including supply of services in relation to a conference, fair exhibition, celebration or similar events; or
2. services ancillary to the organisation of any such events or assigning of sponsorship to such events, where the services are supplied to a person other than a registered person, the event is held in India in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in each of the respective States or Union territories, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by application of the generally accepted accounting principles.

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Illustration: An event management company E has to organise some promotional events in States S1 and S2 for a recipient R. 3 events are to be organised in S1 and 2 in S2. They charge a consolidated amount of ₹10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as ₹6,00,000/- in S1 and ₹4,00,000/- in S2.

4. **Insertion of Rule 6: Supply under section 12(11) of the IGST Act**

In the case of supply of services relating to a leased circuit, where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in **each of the respective States or Union territories**, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:—

1. The number of points in a circuit shall be determined in the following manner:
 - (i) in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points;
 - (ii) any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point;
2. the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of points lying in the State or Union territory.

Illustration 1: A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.

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Illustration 2: A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.

Illustration 3: A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.

5. **Insertion of Rule 7**

In the case of **services supplied in respect of goods** which are required to be made physically available by the recipient to the supplier, or to a person acting on behalf of the supplier, or in the case of **services supplied to an individual**, represented either as the recipient or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are supplied in more than one State or Union territory, shall be taken as being in each of the respective States or Union territories, and the proportion of value attributable to each such State and Union territory in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case may be, shall be determined in the following manner, namely:-

1. in the case of services supplied on the same goods, by equally dividing the value of the service in each of the States and Union territories where the service is performed;
2. in the case of services supplied on different goods, by taking the ratio of the invoice value of goods in each of the States and Union territories, on which service is performed, as the ratio of the value of the service performed in each State or Union territory;
3. in the case of services supplied to individuals, by applying the generally accepted accounting principles.

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Illustration-1: A company C which is located in Kolkata is providing the services of testing of a dredging machine and the testing service on the machine is carried out in Orissa and Andhra Pradesh. The place of supply is in Orissa and Andhra Pradesh and the value of the service in Orissa and Andhra Pradesh will be ascertained by dividing the value of the service equally between these two States.

Illustration-2: A company C which is located in Delhi is providing the service of servicing of two cars belonging to Mr. X. One car is of manufacturer J and is located in Delhi and is serviced by its Delhi workshop. The other car is of manufacturer A and is located in Gurugram and is serviced by its Gurugram workshop. The value of service attributable to the Union Territory of Delhi and the State of Haryana respectively shall be calculated by applying the ratio of the invoice value of car J and the invoice value of car A, to the total value of the service.

Illustration-3: A makeup artist M has to provide make up services to an actor A. A is shooting some scenes in Mumbai and some scenes in Goa. M provides the makeup services in Mumbai and Goa. The services are provided in Maharashtra and Goa and the value of the service in Maharashtra and Goa will be ascertained by applying the generally accepted accounting principles.

6. **Insertion of Rule 8**

In case of supply of services directly in relation to an immovable property, including services supplied by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are supplied in more than one State or Union territory, in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by applying the provisions of rule 4, mutatis mutandis.

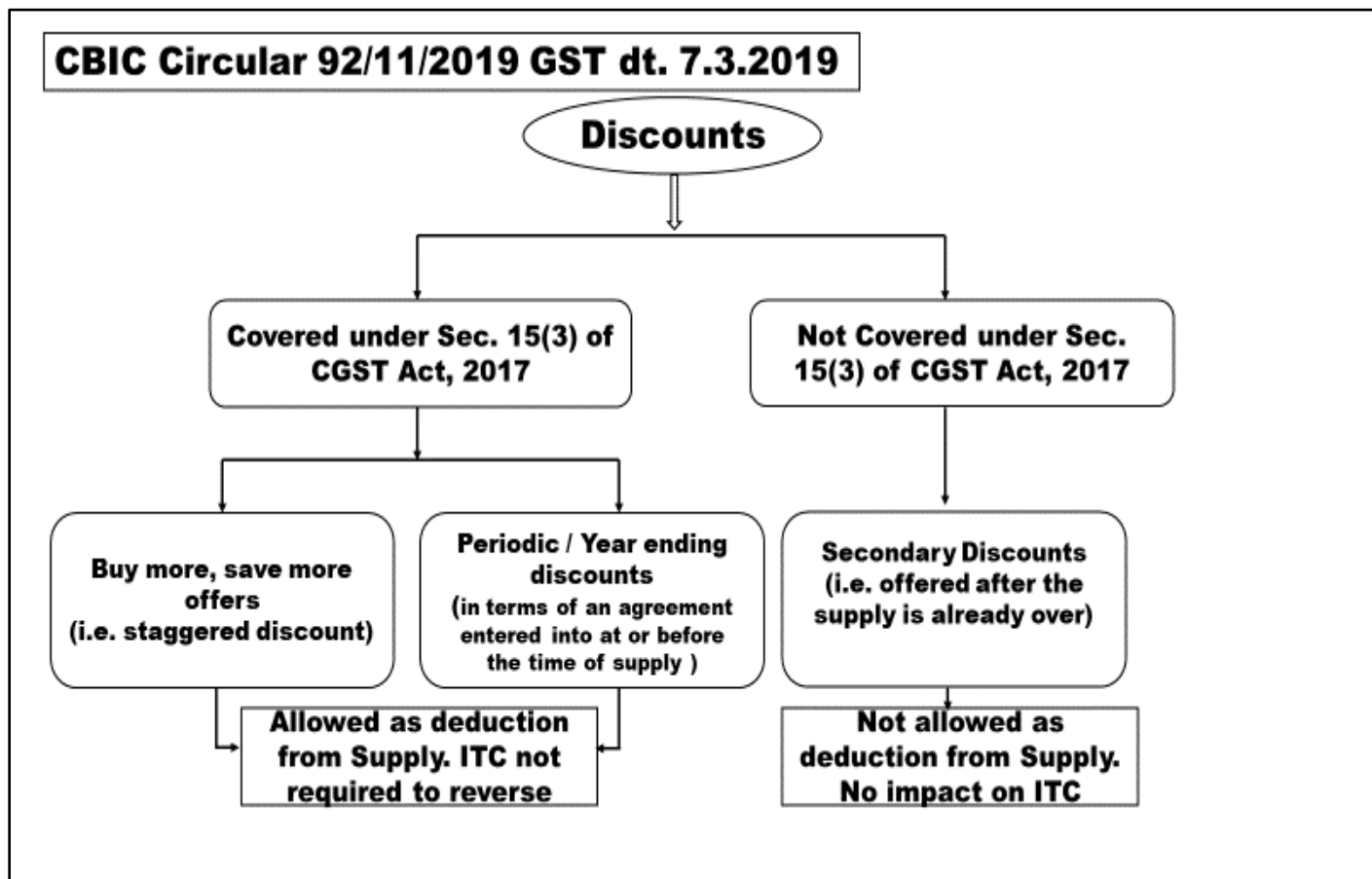
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7. Insertion of Rule 9

In case of supply of services by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, where the location of the supplier or the location of the recipient is outside India, and where such services are provided in more than one State or Union territory, in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by applying the provisions of rule 5, mutatis mutandis".

VALUE OF SUPPLY

Discounts:



TCs would not be includible in the value of supply under GST:

The Central Government *vide Corrigendum to Circular No. 76/50/2018-GST, dated 31st December, 2018* has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible “income” arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer. Accordingly, for the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.

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Donation or gifts from individual donors – Levy of GST on service display of name plates or donor in premises of charitable organisation (CBIC Circular No. 116/35/2019 GST, dated 11-10-2019):

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

When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no **GST liability** on such consideration.

Example 1: "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Rajesh to a charitable Yoga institution.

Example 2: "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

Airport levies under GST (CBIC Circular No. 115/34/2019-GST, dated 11-10-2019):

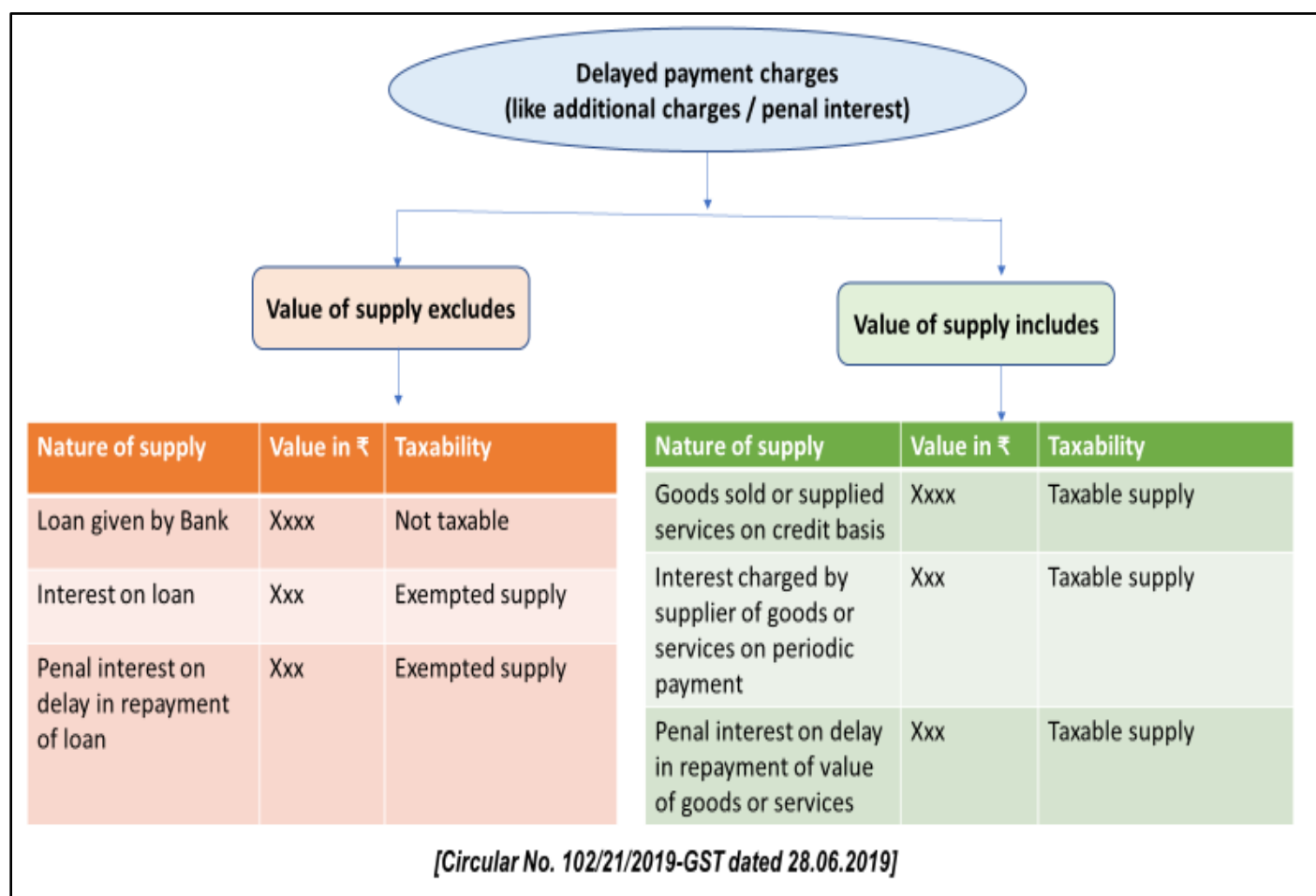
Passenger Service Fee (PSF) or User Development Fee (UDF) levied by airport operator for services provided to passengers, are collected by the air lines as an agent and is not a consideration for any service provided by the airlines. Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST Rules, 2017.

The airport operators (like Mumbai International Airport Ltd., or Airport Authority of India or Delhi International Airport Ltd. etc) shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.

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Collection charges paid by the airport operator to airlines are a consideration for the services provided by the airlines to the airport operator and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

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



Issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association from its members. (CBIC Circular No. 109/28/2019-GST, dated 22nd July, 2019)

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Sl. No.	Issue	Clarification		
1	Are the maintenance charges paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?	Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST. Prior to 25th January 2018, the exemption was available if the charges or share of contribution did not exceed ₹ 5,000/- per month per member. The limit was increased to ₹ 7,500/- per month per member with effect from 25th January 2018. [Refer clause (c) of Sl. No. 77 to the Notification No. 12/2018- Central Tax (Rate), dated 28.06.2019]		
2	A RWA has aggregate turnover of ₹ 20 lakh or less in a financial year. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than ₹ 7,500/- per month per member?	No. If aggregate turnover of an RWA does not exceed ₹ 20 Lakh in a financial year, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds ₹ 7,500/- per month per member. RWA shall be required to pay GST on monthly subscription/contribution charged from its members, only if such subscription is more than ₹ 7,500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also ₹ 20 lakhs or more.		
		Annual turnover of RWA	Monthly maintenance charge	Whether exempt?
		More than ₹ 20 lakhs	More than ₹ 7500/-	No
			₹ 7500/- or less	Yes
		₹ 20 lakhs or less	More than ₹ 7500/-	Yes
			₹ 7500/- or less	Yes

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3	Is the RWA entitled to take input tax credit of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than ₹ 7,500/- per month per member?	RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.
4	Where a person owns two or more flats in the housing society or residential complex, whether the ceiling of ₹ 7,500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?	As per general business sense, a person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of ₹ 7,500/- per month per member shall be applied separately for each residential apartment owned by him. For example, if a person owns two residential apartments in a residential complex and pays ₹ 15,000/- per month as maintenance charges towards maintenance of each apartment to the RWA (₹ 7,500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.
5	How should the RWA calculate GST payable where the maintenance charges exceed ₹ 7,500/- per month per member? Is the GST payable only on the amount exceeding ₹ 7,500/- or on the entire amount of maintenance charges?	The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed ₹ 7,500/- per month per member. In case the charges exceed ₹ 7,500/- per month per member, the entire amount is taxable. For example, if the maintenance charges are ₹ 9,000/- per month per member, GST @18% shall be payable on the entire amount of ₹ 9,000/- and not on [₹ 9,000 - ₹ 7,500] = ₹ 1,500/- .

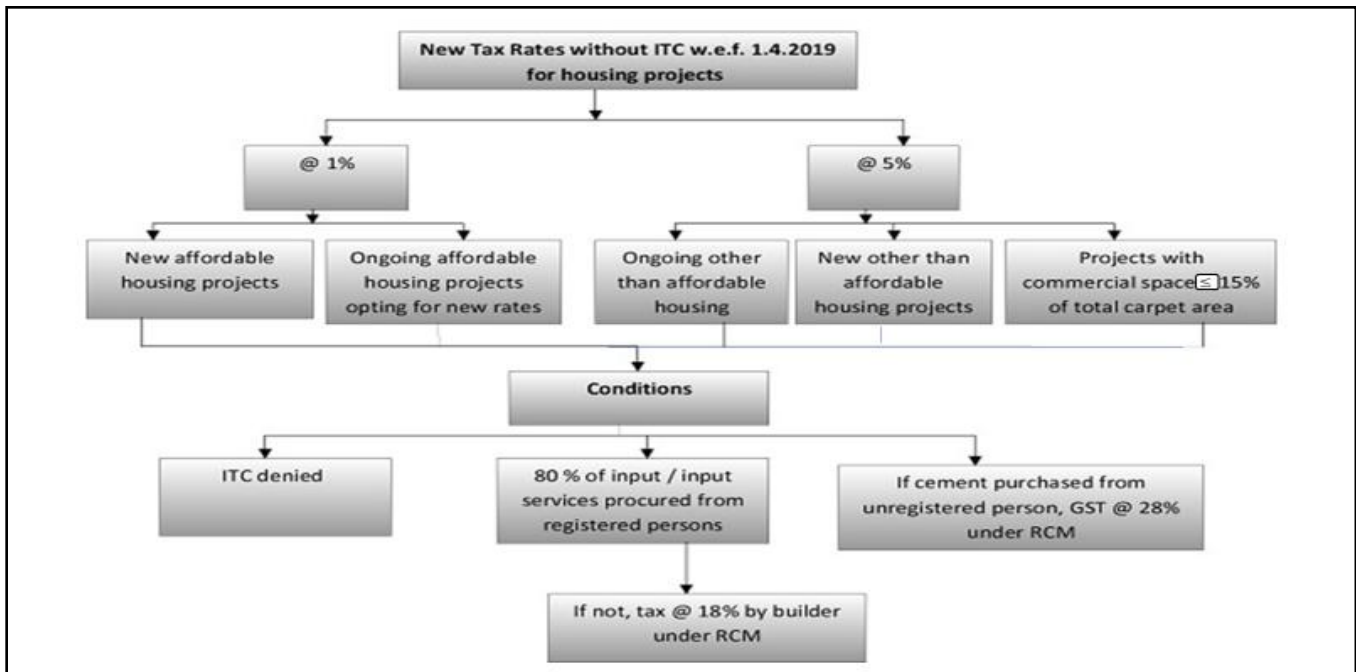
Construction service vs works contract service – valuation

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W.e.f. 1-4-2019 REAL ESTATE SECTORS are summarized as under:

Conditions for the new tax rates:

- At least 80% of the material to be procured from registered dealers. Further, on shortfall of purchases from 80%, tax shall be paid by the builder @ 18% on RCM basis.
- However, Tax on cement purchased from unregistered person shall be paid @ 28% under RCM, and on capital goods under RCM at applicable rates.
- Input tax credit shall not be available.



Applicability of new tax rates:

The new tax rates which shall be applicable as follows:

1% without input tax credit (ITC) on construction of affordable houses shall be available for:

- Houses having area of 60 sqm in metros/90 sqm in non-metros and value upto ₹45 lakhs
- Under construction affordable houses presently eligible for concessional rate of 8% GST (after 1/3rd land abatement)

5% without input tax credit shall be applicable on construction of:

- Under construction houses other than affordable houses presently booked prior to or after 01.04.2019. For houses booked prior to 01.04.2019, new rate shall be available on instalments payable on or after 01.04.2019.

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Commercial apartments having carpet area of not more than 15% of total carpet area of all apartments.

The following treatment shall apply to TDR/FSI and Long term lease for projects commencing after 1-4-2019:

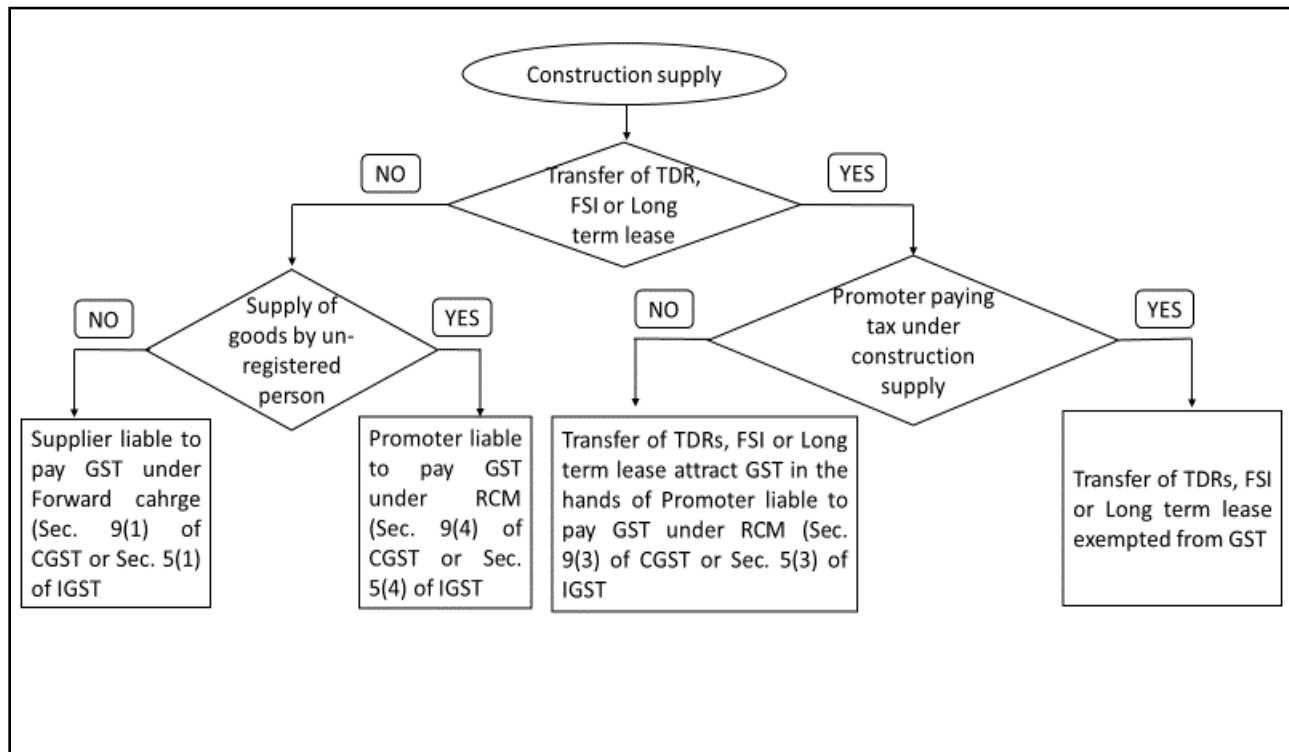
The supply of TDR, FSI, long term lease (premium) of land by a land owner to a developer shall be exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them. Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses.

The liability to pay tax on TDR, FSI, long term lease (premium) shall be shifted from landowner to builder under the Reverse Charge Mechanism (RCM).

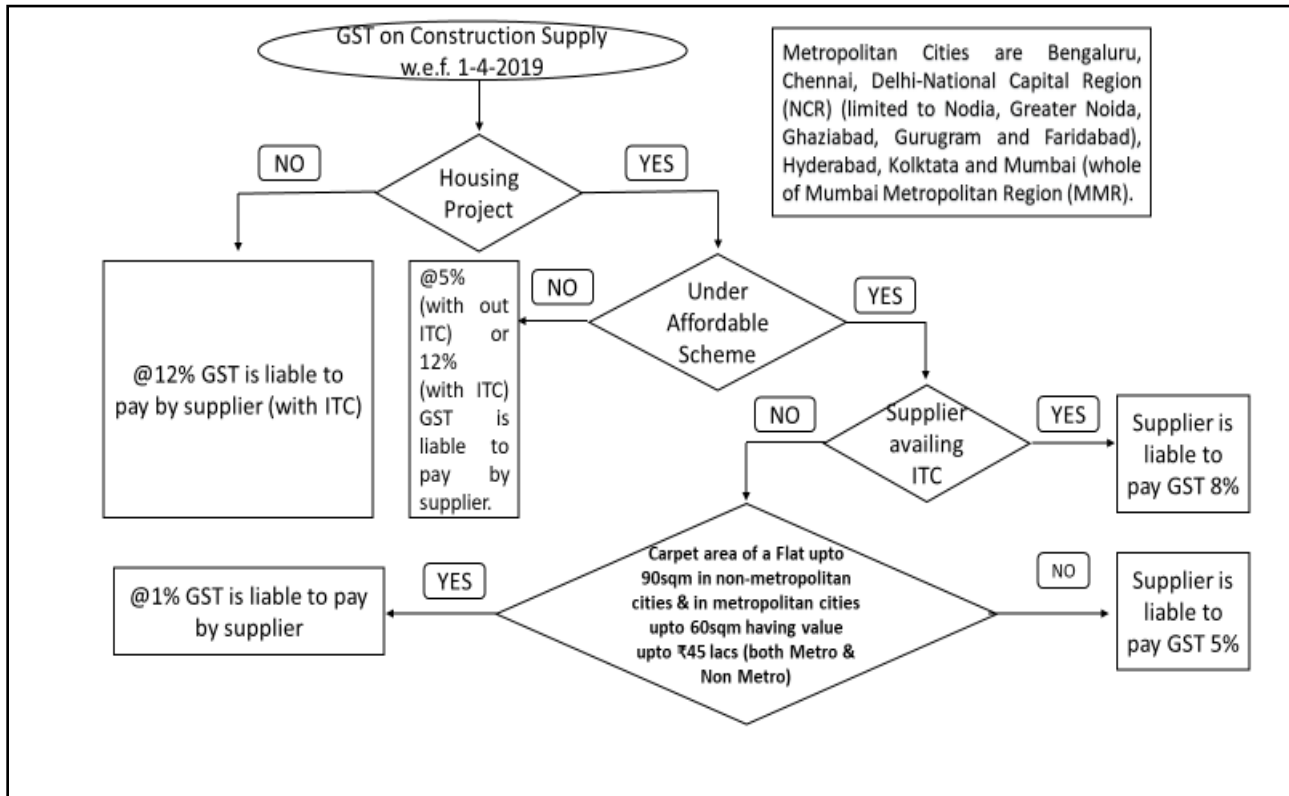
The date on which builder shall be liable to pay tax on TDR, FSI, long term lease (premium) of land under RCM in respect of flats sold after completion certificate is being shifted to date of issue of completion certificate.

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.

Simplified Approach:



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REGISTRATION UNDER GST

Section 22(1) of the CGST Act, 2017:

Registration is mandatory if aggregate turnover exceeds threshold limit.

Exemption from obtaining registration w.e.f April 1, 2019:

Sr. No.	States	w.e.f 1 April 2019 (Notification No.- 10/2019- Central Tax)
FOR SUPPLIER ENGAGED EXCLUSIVELY IN "SUPPLY OF GOODS"		
1	Manipur, Mizoram, Nagaland, Tripura	₹10 Lakh
2	Uttarakhand, Meghalaya, Sikkim, Arunachal Pradesh, Puducherry, Telangana	₹20 Lakh
3	Rest States of India	₹40 Lakh
FOR SUPPLIER ENGAGED IN "SUPPLY OF SERVICES" OR BOTH "GOODS AND SERVICES"		
1	Manipur, Mizoram, Nagaland, Tripura	₹10 Lakh
2	Rest States of India	₹20 Lakh

For the purpose of Section 22(1) of CGST Act, 2017 a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Any person engaged in exclusive supply of goods and whose turnover in the financial year does not exceeds ₹40 Lakh exempted from registration. Exceptions to this exemption are as follows:

- (a) persons required to take compulsory registration under section 24 of the CGST Act, 2017
- (b) person engaged in making supplies of ice cream and other edible ice and tobacco and manufactured tobacco substitutes.

Compulsory registration in certain cases

Section 24: the following categories of persons shall be required to be registered under GST:

Every electronic commerce operator "**who is required to collect tax at source under section 52**" shall be inserted as per the Finance Act, 2018 w.e.f. 1-2-2019

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Furnishing of Bank Account Details.- (Notification No. 31/2019 CT dated 28.06.2019)

As per Rule 10A of CGST Rules, 2017, 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."

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.

In other words, a registered person has an option to give his bank account details after obtaining registration, within 45 days from the date of grant of registration or the due date of furnishing return, whichever is earlier.

However, if a person violates the provisions of rule 10A, his GST registration is liable to be cancelled [Rule 21].

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.

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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.

Cancellation (or suspension w.e.f. 1-2-2019) of GST Registration under Section 29 of the CGST Act, 2017:

The following persons are allowed to cancel a GST registration:

- (1) The registered person himself
- (2) By a GST officer
- (3) The legal heir of the registered person

w.e.f. 1-2-2019, the following proviso shall be inserted under section 29(1), namely:—

“Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed”.

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w.e.f. 1st February 2019, The Central Government vide N No. 03/2019-CT, dated 29th January 2019 has amended CGST Rules, 2017 details of which are explained below:

	Revised	Comment
<p>Insertion of Rule 21A [Suspension of registration]:-</p>	<p>(1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later.</p> <p>(2) Where the proper officer has reasons to believe that the registration is liable to be cancelled under section 29 or under rule 21, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him</p> <p>(3) A registered person, whose registration has been suspended shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.</p> <p>(4) The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.</p>	<p>With this insertion, where cancellation is applied but continues to appear online, please ensure that suspension order is obtained to avoid late fee. The exemption from late fee is only in respect of returns upto Sept 2018.</p>

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2nd & 3rd Proviso to Rule 23(1) of CGST Rules, 2017 (Inserted vide Notification No. 20/2019-CT, dated 23.04.2019):

Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.

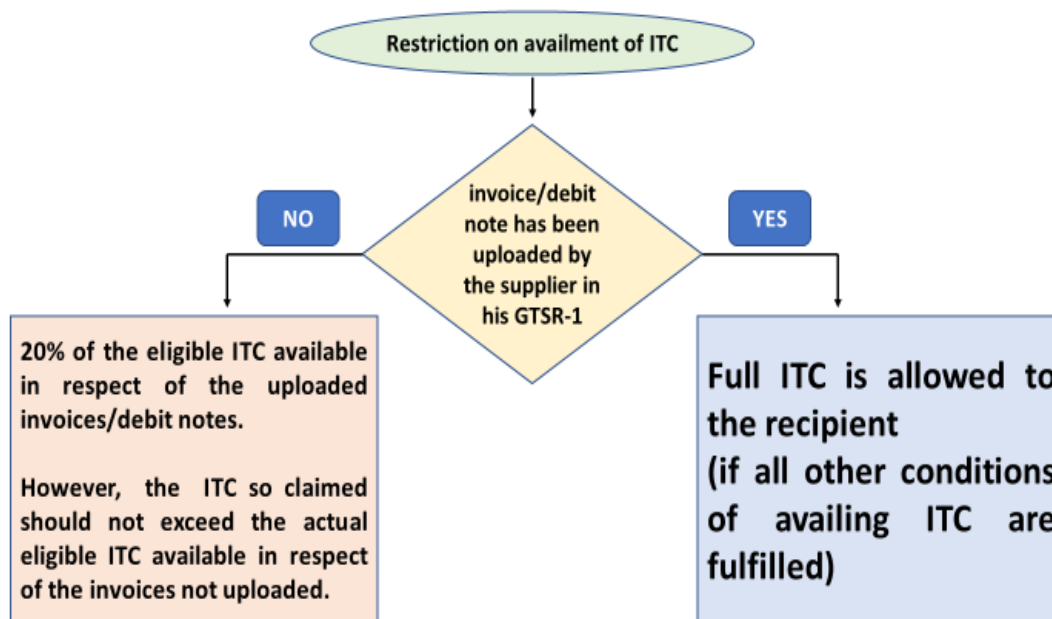
Notification No. 39/2018 dated 4.9.2018:

Where the person instead of replying to the notice served under sub-rule (1) of rule 22 (i.e. **Cancellation of Registration**) for contravention of provisions contained in clause (b) or (c) of sub-section (2) of section 29 (namely a person paying tax under section 10 has not furnished returns for 3 consecutive tax periods or a person has not furnished returns for a continuous period of 6 months) furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG 20 (i.e. If the proper officer is satisfied with the explanation, he can use this form to drop the cancellation proceeding and pass a formal order).

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INPUT TAX CREDIT (ITC)

Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules] [Notification No. 49/2019 CT dated 09.10.2019]



20% ITC restrictions clarified by CBIC Circular No. 123/42/2019– GST dated 11.11.2019:

Sl. No	Issue	Clarification
1.	What are the invoices/debit notes on which the restriction under rule 36(4) of the CGST Rules shall apply?	The restriction of availment of ITC is imposed only in respect of those invoices/debit notes, details of which are required to be uploaded by the suppliers under sub-section (1) of section 37 and which have not been uploaded. Therefore, taxpayers may avail full ITC in respect of IGST paid on import, documents issued under RCM, credit received from ISD etc. which are outside the ambit of sub-section (1) of section 37, provided that eligibility conditions for availment of ITC are met in respect of the same. The restriction of 36(4) will be applicable only on the invoices/debit notes on which credit is availed after 09.10.2019.

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2.	Whether the said restriction is to be calculated supplier wise or on consolidated basis?	The restriction imposed is not supplier wise. The credit available under sub-rule (4) of rule 36 is linked to total eligible credit from all suppliers against all supplies whose details have been uploaded by the suppliers. Further, the calculation would be based on only those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision (say under sub-section (5) of section 17) would not be considered for calculating 20 per cent. of the eligible credit available.
3.	FORM GSTR-2A being a dynamic document, what would be the amount of input tax credit that is admissible to the taxpayers for a particular tax period in respect of invoices/debit notes whose details have not been uploaded by the suppliers?	The amount of input tax credit in respect of the invoices/debit notes whose details have not been uploaded by the suppliers shall not exceed 20% of the eligible input tax credit available to the recipient in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 as on the due date of filing of the returns in FORM GSTR-1 of the suppliers for the said tax period. The taxpayer may have to ascertain the same from his auto populated FORM GSTR 2A as available on the due date of filing of FORM GSTR-1 under sub-section (1) of section 37.
4.	How much ITC a registered tax payer can avail in his FORM GSTR-3B in a month in case the details of some of the invoices have not been uploaded by the suppliers under sub- section (1) of section 37.	Sub-rule (4) of rule 36 prescribes that the ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. 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. The eligible ITC that can be availed is explained by way of illustrations, in a tabulated form, below. In the illustrations, say a taxpayer "R" receives 100 invoices (for inward supply of goods or services) involving ITC of ₹ 10 lakhs, from various suppliers during the month of Oct, 2019 and has to claim ITC in his FORM GSTR-3B of October, to be filed by 20th Nov, 2019.

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			Details of suppliers' invoices for which recipient is eligible to take ITC	20% of eligible credit where invoices are uploaded	Eligible ITC to be taken in GSTR-3B to be filed by 20th Nov.
		Case 1	Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of ₹ 6 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	₹1,20,000/-	₹6,00,000 (i.e. amount of eligible ITC available, as per details uploaded by the suppliers) + ₹1,20,000 (i.e. 20% of amount of eligible ITC available, as per details uploaded by the suppliers) = ₹ 7,20,000/-
		Case 2	Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of ₹ 7 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	₹1,40,000/-	₹ 7,00,000 + ₹ 1,40,000 = ₹ 8,40,000/-
		Case 3	Suppliers have furnished in FORM GSTR-1 75 invoices having ITC of ₹ 8.5 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	₹1,70,000/-	₹ 8,50,000/- + ₹ 1,50,000/-* = ₹ 10,00,000 * The additional amount of ITC availed shall be limited to ensure that the total ITC availed does not exceed the total eligible ITC.

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5.	When can balance ITC be claimed in case availment of ITC is restricted as per the provisions of rule 36(4)?	<p>The balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers provided that credit on invoices, the details of which are not uploaded (under sub-section (1) of section 37) remains under 20 per cent of the eligible input tax credit, the details of which are uploaded by the suppliers. Full ITC of balance amount may be availed, in present illustration by "R", in case total ITC pertaining to invoices the details of which have been uploaded reaches ₹ 8.3 lakhs (₹ 10 lakhs /1.20). In other words, 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/ 1.2. The same is explained for Case No. 1 and 2 of the illustrations provided at Sl.No. 3 above as under:</p>				
		<table border="1" style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;">Case 1</td> <td>"R" may avail balance ITC of ₹ 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of ₹ 2.3 lakhs out of invoices involving ITC of ₹ 4 lakhs details of which had not been uploaded by the suppliers. [₹ 6 lakhs + ₹ 2.3 lakhs = ₹ 8.3 lakhs]</td> </tr> <tr> <td style="text-align: center;">Case 2</td> <td>"R" may avail balance ITC of ₹ 1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of ₹ 1.3 lakhs out of outstanding invoices involving ₹ 3 lakhs. [₹ 7 lakhs + ₹ 1.3 lakhs = ₹ 8.3 lakhs]</td> </tr> </table>	Case 1	"R" may avail balance ITC of ₹ 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of ₹ 2.3 lakhs out of invoices involving ITC of ₹ 4 lakhs details of which had not been uploaded by the suppliers. [₹ 6 lakhs + ₹ 2.3 lakhs = ₹ 8.3 lakhs]	Case 2	"R" may avail balance ITC of ₹ 1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of ₹ 1.3 lakhs out of outstanding invoices involving ₹ 3 lakhs. [₹ 7 lakhs + ₹ 1.3 lakhs = ₹ 8.3 lakhs]
Case 1	"R" may avail balance ITC of ₹ 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of ₹ 2.3 lakhs out of invoices involving ITC of ₹ 4 lakhs details of which had not been uploaded by the suppliers. [₹ 6 lakhs + ₹ 2.3 lakhs = ₹ 8.3 lakhs]					
Case 2	"R" may avail balance ITC of ₹ 1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of ₹ 1.3 lakhs out of outstanding invoices involving ₹ 3 lakhs. [₹ 7 lakhs + ₹ 1.3 lakhs = ₹ 8.3 lakhs]					

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.

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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.”

Common inputs and input services for taxable and exempted supplies [Section 17 of the CGST Act, 2017]

Section 17(1) of the CGST Act, 2017 where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

Section 17(2) of the CGST Act, 2017 where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

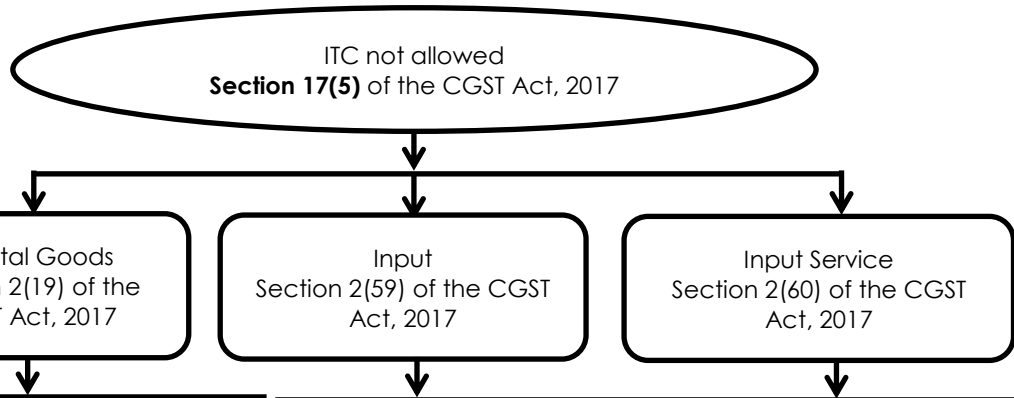
Section 17(3) of the CGST Act, 2017 the value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

w.e.f. 1-2-2019 Explanation: For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.

Input Tax Credit (ITC) not applicable goods and services Section 17(5) of the CGS Act, 2017

Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following:

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w.e.f. 1-2-2019:

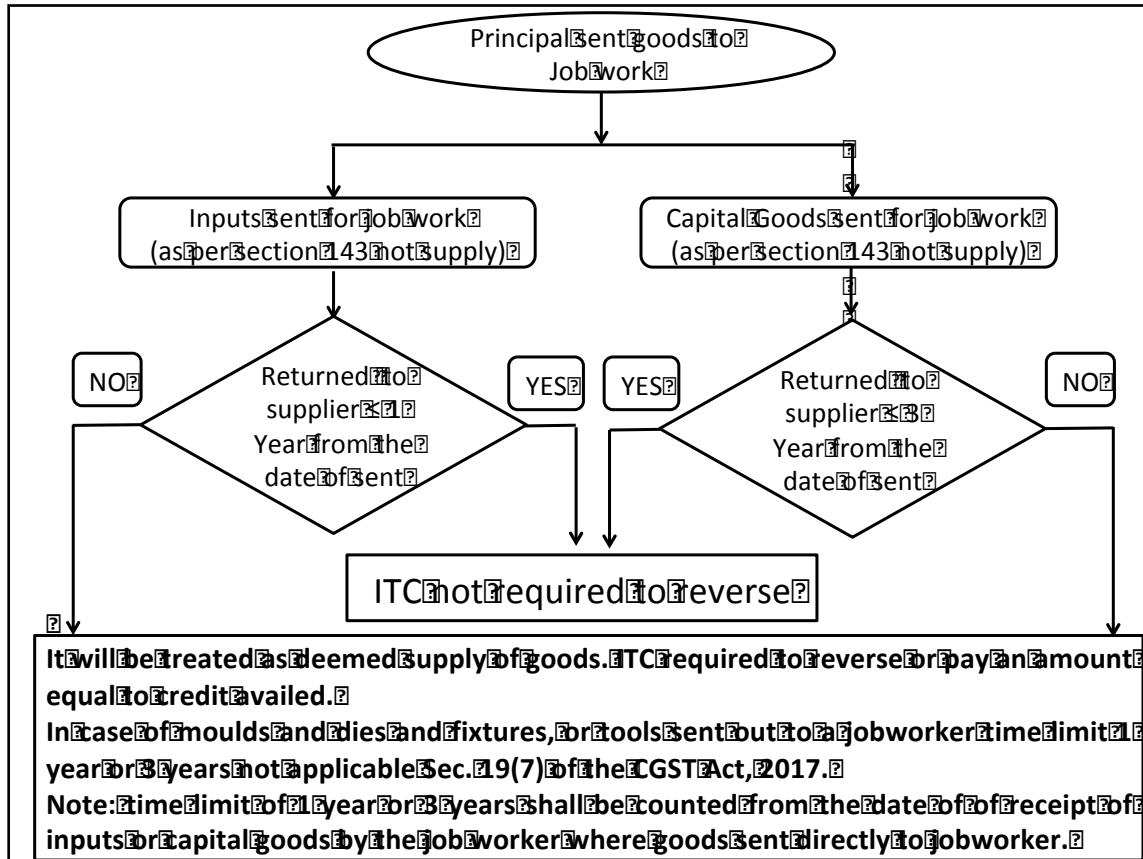
- (a)** motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making the following taxable supplies, namely:-
- (A) further supply of such vehicles; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving such motor vehicles;
- (aa)** vessel and aircraft except when they are used-
- (i) For making the following taxable supplies, namely: -
 - (A) Further supply of such vessels or aircraft; or
 - (B) Transportation of passengers or
 - (C) Imparting training on navigating such vessel or
 - (D) Imparting training on flying such aircraft
 - (ii) For transportation of goods;
- (ab)** services of general insurance, servicing, repair and maintenance insofar as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or (aa);
- Provided that the input tax credit in respect of such services shall be available—
- (i) Where the motor vehicles, vessels or aircraft referred to in clause (a) or (aa) are used for the purposes specified therein;
 - (ii) Where received by a taxable person engaged-
 - (I) In the manufacture of such motor vehicles, vessels or aircraft; or
 - (II) In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

- (b) w.e.f. 1-2-2019**, the following supply of goods or services or both—
- (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or (aa) except when used for the purposes specified therein, life insurance and health insurance; Provided that input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
 - (ii) membership of a club, health and fitness centre;
 - (iii) travel benefits extended to employees on vacation such as leave or home travel concession; Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.
- (c)** works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;
- (d)** goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.
- (e)** goods or services or both on which tax has been paid under section 10;
- (f)** goods or services or both received by a non-resident taxable person except on goods imported by him;
- (g)** goods or services or both used for personal consumption;
- (h)** goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (i)** any tax paid in accordance with the provisions of Fraud, Detention, Seizure and confiscation of goods or conveyance.

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Taking input tax credit in respect of inputs and capital goods sent for job work Section 19 of the CGST Act, 2017:

As per Section 19(3)/19(6) of the CGST Act, 2017:



w.e.f. 1-2-2019: 2nd Proviso to section 143 of the CGST Act, 2019:

the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.

Manner of distribution of credit by Input Service Distributor [Section 20 of the CGST Act, 2017]

w.e.f. 1-2-2019, the term "turnover", in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied (under entry 84 and 92A) of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

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PAYMENT OF TAX

Utilization of input tax credit:

Section 49(5) of the CGST Act, 2017

Section 49(5)	Input	Offset option available against	Not available	Order of Set off
(a)	IGST	✓ IGST ✓ CGST ✓ SGST ✓ UTGST	-	W.e.f. 1-4-2019 section 49A of CGST Act, 2017 read with Rule 88A of CGST Rules, 2017: IGST credit can be adjusted equally between CGST and SGST or any other proportion at the option of the assessee.
(b)	CGST	✓ CGST ✓ IGST	✗ SGST ✗ UTGST	1. CGST 2. IGST
(c)	SGST	✓ SGST ✓ IGST	✗ CGST ✗ UTGST	1. SGST 2. IGST
(d)	UTGST	✓ UTGST ✓ IGST	✗ CGST ✗ SGST	1. UTGST 2. IGST

Section 49A of CGST (w.e.f. 1-2-2019) read with rule 88A of CGST Rules, 2017:

Utilisation of Input tax credit subject to certain conditions:

Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

w.e.f. 1-4-2019, The Central Government vide N No. 16/2019-CT, dated 29th March, 2019 has amended Central Goods and Services Tax Rules, 2017. Amendments made are explained below:

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<p>Insertion of Rule 88A (Order of utilization of input tax credit)</p>	<p>Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order:</p> <p>Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.</p>	<p>Comment: As per Section 49 ITC can be utilised in a particular series and 49A provides that credit of CGST/SGST/UTGST can be utilised only after IGST ITC has been utilised fully. Therefore, combine reading of sec 49 and 49 A, IGST shall be utilised in a given series only. However, with this rule it has been provided that IGST shall be utilised for IGST first than in any order convenient to taxpayer.</p>
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Note: As per amendment act the order of utilization after the setoff of IGST liability was compulsory CGST and then SGST/UGST. Now the order has been relaxed wherein either of CGST or SGST/UGST liability can be set off.

As per Finance Act, 2019, w.e.f. 1-8-2019:

As per Section 49(10) of the CGST Act, 2019, A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

As per Section 10(11) of the CGST Act, 2019, Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1)."

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Interest on Delayed Payment of Tax

Interest on late payment of tax by taxpayer [Section 50 of the CGST Act, 2017]

The two scenarios where a taxpayer will be liable to pay interest are:

1. Delayed payment of tax
2. credit has been claimed in excess or where it was not eligible to be claimed/ Tax liability has been shown to be less than the actual

Interest rates Notification No. 13/2017-Central Tax, dated 28th June 2017

Section	Scenario	Interest rate w.e.f. 1-7-2017
50(1) of the CGST Act, 2017 w.e.f. 1-8-2019: "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.".	Delayed payment of tax	18% per annum
50(3) of the CGST Act, 2017	A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 of the CGST Act, 2017 or	24% per annum

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	undue or excess reduction in output tax liability under sub-section (10) of section 43 of the CGST Act, 2017, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be,	
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As per Section 50(2) of the CGST Act, 2017 the interest under sub-section 50(1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid. Payments even made after 8 pm will be credited on the same day to the taxpayer's account. While there will be no physical challan accepted for the GST payment while the challans will be generated from the gst.gov.in only for all the payments of taxes, fees, penalty, interest.

RELEVANT DATE TO CLAIM REFUND u/s 54 of CGST Act, 2017

(e) w.e.f. 1-2-2019 in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;

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TAX INVOICE, CREDIT AND DEBIT NOTES

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)

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):

Since the activity of sending/taking specified goods out of India is not a supply, doubts have been raised by the trade and industry on issues relating to maintenance of records, issuance of delivery challan/tax invoice etc. These issues have been examined and the clarification on each of these points is as under: -

Issue 1: Whether any records are required to be maintained by registered person for sending / taking specified goods out of India?

Clarification: The registered person dealing in specified goods shall maintain a record of such goods.

Issue 2: What is the documentation required for sending / taking the specified goods out of India?

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Clarification:

- a) The activity of sending / taking specified goods out of India is not a supply.
- b) The said activity is in the nature of "sale on approval basis" wherein the goods are sent / taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place. The activity of sending / taking specified goods is covered under the provisions of sub-section (7) of section 31 of the CGST Act read with rule 55 of Central Goods & Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules").
- c) The specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.
- d) The activity of sending / taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.

Issue 3: When is the supply of specified goods sent / taken out of India said to take place?

Clarification:

- a) The specified goods sent / taken out of India are required to be either sold or brought back within the stipulated period of six months from the date of removal as per the provisions contained in sub-section (7) of section 31 of the CGST Act.
- b) The supply would be deemed to have taken place, on the expiry of six months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.
- c) If the specified goods are sold abroad, fully or partially, within the specified period of six months, the supply is effected, in respect of quantity so sold, on the date of such sale.

Issue 4: Whether invoice is required to be issued when the specified goods sent / taken out of India are not brought back, either fully or partially, within the stipulated period?

Clarification:

- a) When the specified goods sent / taken out of India have been sold fully or partially, within the stipulated period of six months, as laid down in sub-section (7) of section 31 of the CGST Act, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

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- b) When the specified goods sent / taken out of India have neither been sold nor brought back, either fully or partially, within the stipulated period of six months, as laid down in sub-section (7) of section 31 of the CGST Act, the sender shall issue a tax invoice on the date of expiry of six months from the date of removal, in respect of such quantity of specified goods which have neither been sold nor brought back, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

Issue 5: Whether the refund claims can be preferred in respect of specified goods sent / taken out of India but not brought back?

Clarification:

- a) The activity of sending / taking specified goods out of India on sale or approval basis is not a zero-rated supply. That being the case, the sender of goods cannot prefer any refund claim when the specified goods are sent / taken out of India.
- b) It has further been clarified in answer to question no. 3 above that the supply would be deemed to have taken place:
- (i) on the date of expiry of six months from the date of removal, if the specified goods are neither sold nor brought back within the said period; or
 - (ii) on the date of sale, in respect of such quantity of specified goods which have been sold abroad within the specified period of six months.
- c) It is clarified accordingly that the sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond or LUT, if he is otherwise eligible for refund as per the provisions contained in sub-section (3) of section 54 the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules, in respect of zero rated supply of goods after he has issued the tax invoice on the dates as has been clarified in answer to the question no. 4 above. 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.

The above position is explained by way of illustrations below:

Illustrations:

- i) M/s ABC sends 100 units of specified goods out of India. The activity of merely sending / taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the

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provisions contained in rule 55 of the CGST Rules. In case the entire quantity of specified goods is brought back within the stipulated period of six months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case. In case, however, the entire quantity of specified goods is neither sold nor brought back within six months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under sub-section (7) of section 31 of the CGST Act.

ii) M/s ABC sends 100 units of specified goods out of India. The activity of sending/taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules. If 10 units of specified goods are sold abroad say after one month of sending/taking out and another 50 units are sold say after two months of sending/taking out, a tax invoice would be required to be issued for 10 units and 50 units, as the case may be, at the time of each of such sale in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. If the remaining 40 units are not brought back within the stipulated period of six months from the date of removal, a tax invoice would be required to be issued for 40 units in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. Further, M/s ABC may claim refund of accumulated input tax credit in accordance with the provisions contained in subsection (3) of section 54 of the CGST Act read with sub-rule (4) of rule 89 of the CGST Rules in respect of zero-rated supply of 60 units

Credit and Debit Notes [Section 34 of the CGST Act, 2017]

Credit note

In cases where (w.e.f. 1-2-2019, one or more tax invoices) have been issued for a supply and subsequently it is found that the value or tax charged in that invoice is more than what is actually payable/chargeable or where the recipient has returned the goods, the supplier can issue one or more credit notes to the recipient.

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A registered person who issues such a credit note has to declare details of such credit note in the return for the month during which such credit note has been issued but not later than

- **September** following the end of the financial year in which such supply was made or
- the date of furnishing of the relevant annual return, whichever is earlier.

The tax liability of the registered person will be adjusted in accordance with the credit note issued, however no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Debit note

In cases where (w.e.f. 1-2-2019 one or more tax invoices) have been issued for a supply and subsequently it is found that the value or tax charged in that invoice is less than what is actually payable/chargeable, the supplier can issue one or more debit notes to the recipient. Any registered person who issues a debit note in relation to a supply of goods or services or both, shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

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

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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.

***Relevant date** means the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

****Over dimensional cargo** means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

OFFENCES AND PENALTIES UNDER GST

Detention, seizure and release of goods and conveyances in transit Section 129 of the CGST Act, 2017:

Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within 7 days **(w.e.f. 1-2-2019, 14 days)** of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

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RETURNS UNDER GST

Following table lists the various types of returns under GST Law:

Return Form	Particulars	Frequency	Due Date
GSTR-9	Annual Return (section 44 of the CGST Act, 2017) (a) Who Files: Registered Person other than an ISD, TDS/TCS Taxpayer, Casual Taxable Person and Non-resident Taxpayer. (b) In this return, the taxpayer needs to furnish details of expenditure and details of income for the entire Financial Year. (c) The persons who are non-residents and are providing OIDAR service in India to unregistered persons have been exempted from submitting GSTR-9 and GSTR-9C (vide NT 30/2019 CT dated 28/6/2019)	Annually	31st December of next financial year

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

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portal after filing of Form GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.

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 ₹ 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.

Taxpayers with annual aggregate turnover upto ₹1.5 crore to file GSTR-1 on quarterly basis and taxpayers with annual aggregate turnover greater than ₹1.5 crore to file GSTR-1 on monthly basis.

Composition taxpayers and tax payers paying tax under Notification No. 2/2019-CT, dated 01.03.2019 to file return annually and make payment quarterly

A special procedure for furnishing of return and payment of tax has been prescribed for the following persons:

- (i) registered persons paying composition tax
- (ii) registered person paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019.

Such persons will:

- (i) furnish a statement in the prescribed form (Form GST CMP-08) containing details of payment of self - assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.
- (ii) furnish a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.

The registered persons paying tax by availing the benefit of Notification No. 02/2019-CT(R), dated 07.03.2019 will be deemed to have complied with the provisions of section 37 and section 39 of the CGST Act if they have furnished the prescribed statement and GSTR 4 as mentioned above.

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w.e.f 1-8-2019 Furnishing of returns Section 39 amended:

Section 39(1) of the CGST Act, 2017 Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

Section 39(2) of the CGST Act, 2017, A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.;

Section 39(7) of the CGST Act, 2017, Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed."

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ACCOUNTS AND RECORDS UNDER GST

Compulsorily Audit (Section 35(5) of the CGST Act, 2017 read with rule 80(3) of the CGST Rules, 2017)

w.e.f. 1st February 2019, The Central Government vide Notification No. 03/2019-CT, dated 29th January 2019 has amended CGST Rules, 2017 details of which are explained below:

	Revised	Comment
Rule 80 (3) [Annual Return]	Every registered person other than those referred to in the proviso to sub-section (5) of section 35, whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.	Consequential changes provided in rule that audit provisions shall NOT apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

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REFUND

Supplies against Advance Authorisation scheme not to be used in supply of nil rated/fully exempted supplies, when exports have already been made after availing ITC on inputs used in manufacture of such exports

Notification No. 48/2017-CT, dated 18.10.2017 specifies the supplies which shall be treated as deemed exports. The said notification has been amended as under:

- (i) Supply of goods by a registered person against Advance Authorisation is a deemed export in terms of the said notification. The following conditions have been prescribed in this regard:
1. the goods so supplied, when exports have already been made after availing ITC on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply.
 2. No such certificate shall be required if ITC has not been availed on inputs used in manufacture of export goods.
 2. Thus, supplies against Advance Authorisation scheme cannot be used in manufacture and supply of nil rated or fully exempted supplies.
- (ii) The definition of advance authorisation has been amended to remove the words “on pre import basis” therefrom. The amended definition reads as under:
- “Advance Authorisation means an authorisation issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015-20 for import or domestic procurement of inputs for physical exports”.
- [Notification No. 01/2019-CT, dated 15.01.2019]

Filing of departure manifest shall be deemed to be the application filed for refund of tax paid on export of goods (vide Notification No. 74/2018-CT, dated 31.12.2018)

Amendments in provisions relating to grant of provisional refund [Rule 91]

Rule 91(2) provides that the proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund is due to the

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applicant in accordance with the provisions of section 54(6), shall make an order in prescribed form, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding 7 days from the date of the acknowledgement.

With effect from 01.02.2019, a proviso is inserted in this sub-rule that the order issued under this sub-rule shall not be required to be revalidated by the proper officer.

Further, rule 91(3) stipulates that the proper officer shall issue a payment advice for the amount so sanctioned and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

With effect from 01.02.2019, a new proviso has been inserted in this sub-rule also that the payment advice shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.

[Notification No. 03/2019-CT, dated 29.01.2019]

Circular No. 03/1/2018 IGST dated 25.5.2018 which clarified on the applicability of IGST on goods supplied while being deposited in a customs bonded warehouse, rescinded

The provisions of the CGST (Amendment) Act, 2018 and SGST Amendment Acts of the respective States have been brought into force w.e.f. 01.02.2019. Schedule III of the CGST Act has been amended vide section 32 of the CGST (Amendment) Act, 2018 so as to provide that the “supply of warehoused goods to any person before clearance for home consumption” shall be neither a supply of goods nor a supply of services.

Accordingly, Circular No. 03/01/2018 IGST dated 25.05.2018 which clarified on the applicability of IGST on goods supplied while being deposited in a customs bonded warehouse, has been rescinded.

[Circular No. 04/01/2019 IGST dated 01.02.2019]

Refund of taxes to the retail outlets established in departure area of an international Airport beyond immigration counters making tax free supply to an outgoing international tourist.

As per Rule 95A of CGST Rules, 2017, w.e.f. 1-7-2019 (vide NT 31/2019-CT, dated 28/6/2019)

(1) Retail outlet established in departure area of an international airport, beyond the immigration counters, supplying indigenous goods to an outgoing international tourist who is leaving India shall be eligible to claim refund of tax paid by it on inward supply of such goods.

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- (2) Retail outlet claiming refund of the taxes paid on his inward supplies, shall furnish the application for refund claim in FORM GST RFD- 10B on a monthly or quarterly basis, as the case may be, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.
- (3) The self-certified compiled information of invoices issued for the supply made during the month or the quarter, as the case may be, along with concerned purchase invoice shall be submitted along with the refund application.
- (4) The refund of tax paid by the said retail outlet shall be available if—
- (a) the inward supplies of goods were received by the said retail outlet from a registered person against a tax invoice;
 - (b) the said goods were supplied by the said retail outlet to an outgoing international tourist against foreign exchange without charging any tax;
 - (c) name and Goods and Services Tax Identification Number of the retail outlet is mentioned in the tax invoice for the inward supply; and
 - (d) such other restrictions or conditions, as may be specified, are satisfied.
- (5) The provisions of rule 92 shall, mutatis mutandis, apply for the sanction and payment of refund under this rule.

Explanation.—For the purposes of this rule, the expression “outgoing international tourist” shall mean a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.”.

Specialized agencies notified under section 55 of CGST Act entitled to refund of IGST paid on import of goods [Circular No. 23/2019 Cus. dated 01.08.2019]

Section 55 of the CGST Act provides refund of taxes paid on the notified supplies of goods and/or services by notified specialized agencies like United Nations or a specified international organisation. Section 3(7) of Customs Tariff Act, 1975 provides for a parity between the integrated tax rate attracted on imported goods and the integrated tax applicable on the domestic supplies of goods. Therefore, on this principle of parity, specialised agencies ought to get the refund of the IGST paid on imported goods.

TCS UNDER GST

7. Annual Statement:

The operator who collects tax at source shall furnish an annual Statement, electronically, containing all the details, under sub-section (3) of Section 52 of the Act, regarding:

(a) Outward supplies of Goods and Services

(b) Return of goods and services during the Financial Year,

Before 31st December following the end of such Financial Year.

w.e.f. 1-4-2019:

“Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement 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.”;

the following provisos shall be inserted, namely:— “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 statement 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.”.

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GST PRACTITIONERS

w.e.f. 1st February 2019, The Central Government vide Notification No. 03/2019-CT, dated 29th January, 2019 has amended CGST Rules, 2017 details of which are explained below:

	Revised	Comment
Insertion in Rule 83(8) [Provisions related to goods and services tax practitioner]	<p>A goods and services tax practitioner can undertake any or all of the following additional activities on behalf of a registered person, if so authorised by him to-</p> <p>(f) furnish information for generation of e-way bill;</p> <p>(g) furnish details of challan in FORM GST ITC-04;</p> <p>(h) file an application for amendment or cancellation of enrolment under rule 58; and</p> <p>(i) file an intimation to pay tax under the composition scheme or withdraw from the said scheme</p> <p>Provided that where any application relating to a claim for refund or an application for amendment or cancellation of registration or where an intimation to pay tax under composition scheme or to withdraw from such scheme has been submitted by the goods and services tax practitioner authorised by the registered person, a confirmation shall be sought from the registered person and the application submitted by the said practitioner shall be made available to the registered person on the common portal and such application shall not be further proceeded with until the registered person gives his consent to the same.</p>	

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Application to register as GST Practitioner

- ❖ A person desirous of becoming GST Practitioner has to submit an application in the form GST PCT-1
- ❖ The application shall be scrutinised and GST practitioner certificate shall be granted in the form GST PCT-2.
- ❖ In case, the application is rejected, proper reasons shall have to be mentioned in the form GST PCT-4

The enrolment once done remains valid till it is cancelled. But no person enrolled as a goods and services tax practitioner shall be eligible to remain enrolled unless he passes such examination conducted at such periods and by such authority as may be notified by the Council.

Any person who has been enrolled as goods and services tax practitioner by virtue of him being enrolled as a sales tax practitioner or tax return preparer under the existing law shall remain enrolled only for a period of one year from the appointed date unless he passes the said examination within the said period of one year.

w.e.f. 1st February 2019, [Notification No. 03/2019-CT, dated 29th January 2019]:

Substitution in heading of Chapter-II	Composition Rules	"Composition Levy"	
Substitution in 2nd proviso to Rule 83 (3)	Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of [eighteen months] from the appointed date	Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of [thirty months] from the appointed date	Allows time to complete the exam after enrolment.

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DEMAND AND ADJUDICATION

Intimation before show cause notice under section 73 or 74 of CGST Act, 2017 [Notification No. 49/2019 CT dated 09.10.2019]:

With effect from 09.10.2019, the proper officer shall, before serving of such a notice, communicate the details of any tax, interest and penalty as ascertained by him, in the prescribed form, to the person chargeable with tax, interest and penalty under section 73 or section 74. Further, where such person has made partial payment of amount communicated to him or desires to file any submission against the proposed liability, he may make such submission in the prescribed form. Taxpayer will be able to take advantage of nil or reduced penalty under sections 73(5) and 74(5) of the CGST Act.

Where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act **whether on his own ascertainment or, as communicated by the proper officer as mentioned above**, he shall inform the proper officer of such payment and the proper officer shall issue an acknowledgement, accepting the payment made by the said person.

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ADVANCE RULING

“advance ruling” means a decision provided by the Authority or the Appellate Authority **(or the National Appellate Authority w.e.f. 1-8-2019)** to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

W.e.f. 1-8-2019 “National Appellate Authority” means the National Appellate Authority for Advance Ruling referred to in section 101A.’.

Constitution of National Appellate Authority for Advance Ruling w.e.f. 1-8-2019:

“Section 101A of the CGST Act, 2017, —

- (1) The Government shall, on the recommendations of the Council, by notification, constitute, with effect from such date as may be specified therein, an Authority known as the National Appellate Authority for Advance Ruling for hearing appeals made under section 101B.
- (2) The National Appellate Authority shall consist of—
 - (i) the President, who has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;
 - (ii) a Technical Member (Centre) who is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
 - (iii) a Technical Member (State) who is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the Additional Commissioner of State tax with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.
- (3) The President of the National Appellate Authority shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:
Provided that in the event of the occurrence of any vacancy in the office of the President by the reason of his death, resignation or otherwise, the senior most Member of the National Appellate

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Authority shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Appellate Authority shall discharge the functions of the President until the date on which the President resumes his duties.

(4) The Technical Member (Centre) and Technical Member (State) of the National Appellate Authority shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

(5) No appointment of the Members of the National Appellate Authority shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.

(6) Before appointing any person as the President or Members of the National Appellate Authority, the Government shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.

(7) The salary, allowances and other terms and conditions of service of the President and the Members of the National Appellate Authority shall be such as may be prescribed:

Provided that neither salary and allowances nor other terms and conditions of service of the President or Members of the National Appellate Authority shall be varied to their disadvantage after their appointment.

(8) The President of the National Appellate Authority shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall also be eligible for reappointment.

(9) The Technical Member (Centre) or Technical Member (State) of the National Appellate Authority shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall also be eligible for reappointment.

(10) The President or any Member may, by notice in writing under his hand addressed to the Government, resign from his office:

Provided that the President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Government, or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

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(11)The Government may, after consultation with the Chief Justice of India, remove from the office such President or Member, who— (a) has been adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or (c) has become physically or mentally incapable of acting as such President or Member; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President or Member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

(12)Without prejudice to the provisions of sub-section (11), the President and Technical Members of the National Appellate Authority shall not be removed from their office except by an order made by the Government on the ground of proven misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Government and such President or Member had been given an opportunity of being heard.

(13)The Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or Technical Members of the National Appellate Authority in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (12)

(14)Subject to the provisions of article 220 of the Constitution, the President or Members of the National Appellate Authority, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Appellate Authority where he was the President or, as the case may be, a Member.

Appeal to National Appellate Authority.

Section 101B. (1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting Advance Rulings are given by the Appellate Authorities of two or more States or Union territories or both under sub-section (1) or sub-section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such Advance Ruling, may prefer an appeal to National Appellate Authority:

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Provided that the officer shall be from the States in which such Advance Rulings have been given.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.—For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Order of National Appellate Authority

Section 101C. (1) The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.

(2) If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.

(3) The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.

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(4) A copy of the Advance Ruling pronounced by the National Appellate Authority shall be duly signed by the Members and certified in such manner as may be prescribed and shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement."

Orders of Appellate Authority [Section 101 of CGST Act, 2017]

- (1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.
- (2) The order referred to in sub-section (1) shall be passed **within a period of ninety days** from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.
- (3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.
- (4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

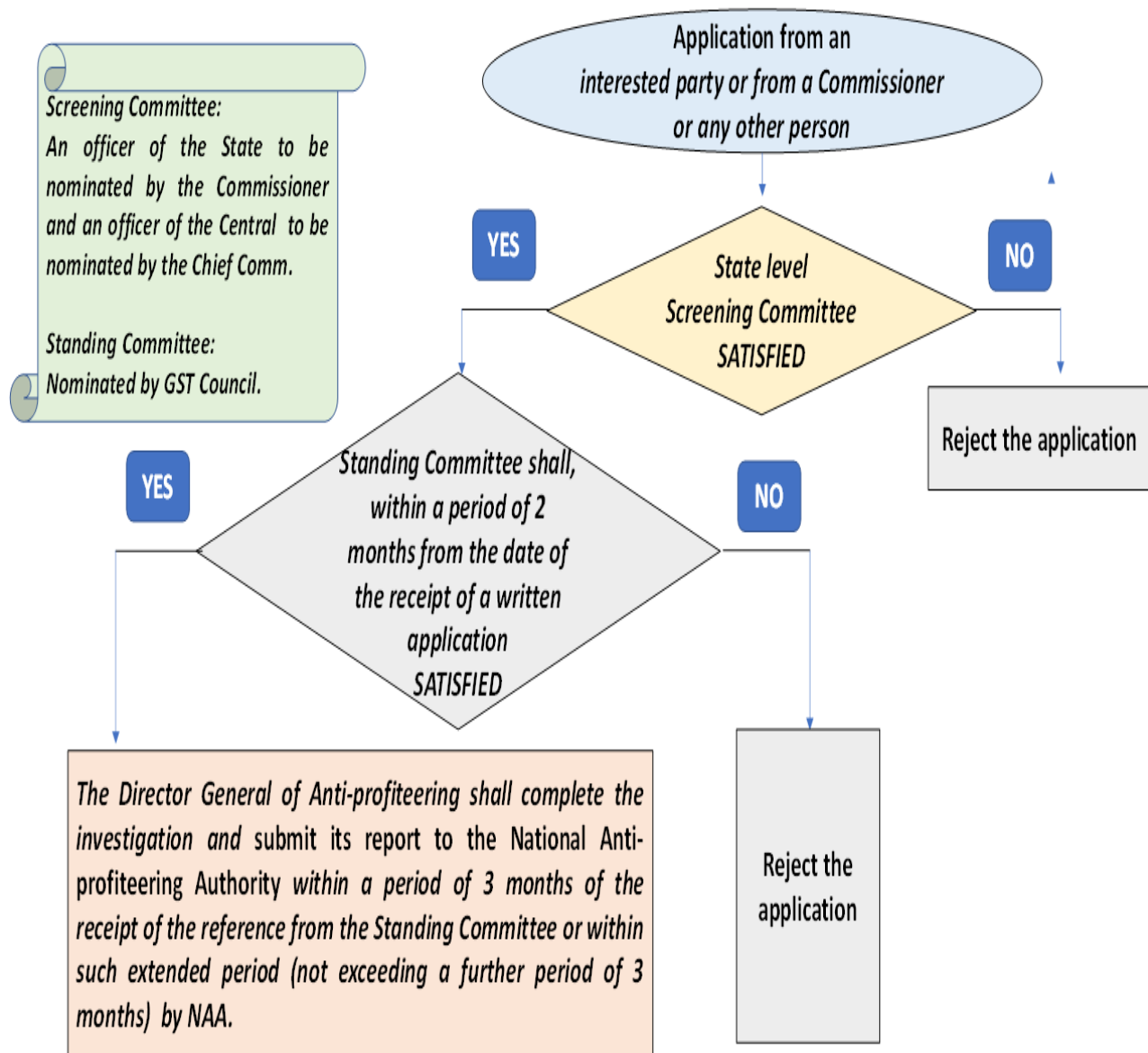
w.e.f 1-8-2019:

"(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

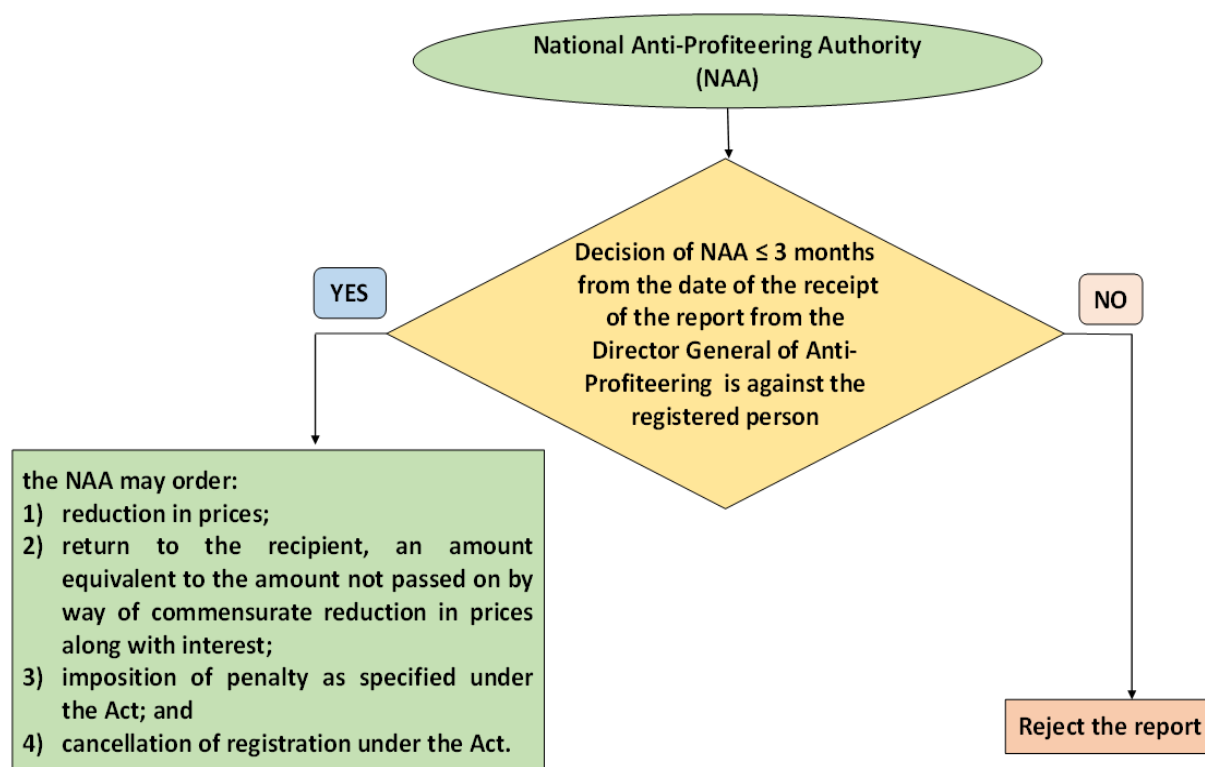
- (a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961;
- (b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.";

ANTI - PROFITEERING

The procedure followed in decision making/investigation:



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Vide Notification No. 31/2019 CT dated 28.06.2019:

Time period of 2 months available with the Standing Committee for examination of an application under rule 128 can be extended up to a further period of 1 month.

Rule 128 has been amended to provide that all applications from interested parties on issue of local nature **as well as those forwarded by Standing Committee** shall first be examined by the State level Screening Committee and the Screening Committee shall, **within 2 months from the date of receipt of a written application (further extendable up to 1 month)**, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.

Earlier, Screening Committee used to examine application on issues of local nature only and there was no time limit for forwarding the application to Standing Committee for further action.

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Rule 129 provides that where Standing Committee is satisfied that there is a *prima facie* evidence to show that the supplier has not passed on the benefit to the recipient, it shall refer the matter to the Director General of Anti-Profiteering [DGAP] for detailed investigation.

Earlier, DGAP had to complete the investigation within a period of **3 months** of the receipt of the reference from the Standing Committee. Now the said period of **3 months has been extended to 6 months**.

Therefore, now DGAP has to complete the investigation within a period of 6 months of the receipt of the reference from the Standing Committee which is further extendable up to 3 months.

In addition to DGAP and an officer authorized by him in this behalf, **the Authority has also been empowered to summon any person** whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 of the CGST Act and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 [Rule 132].

As per rule 133, the Authority had to determine as to whether the registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of ITC to the recipient by way of commensurate reduction in prices, within **3 months** from the date of receipt of investigation report from DGAP. The said period of **3 months has now been extended to 6 months**.

In terms of rule 133, the **Authority can now seek a clarification from DGAP on the Investigation report** submitted by it during the process of determining as to whether the benefit of reduction in rate of tax or benefit of ITC has been passed on to the recipient by way of commensurate reduction in prices.

As per rule 133, the Authority may, *inter-alia*, order to deposit an amount equivalent to 50% of the amount not passed on by way of commensurate reduction in prices, in the Consumer Welfare Fund of the Centre and remaining 50% in the Consumer Welfare Fund of the concerned State* where the eligible person does not claim return of the amount or is not identifiable.

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The rule has been amended to provide that the **said amount shall now be deposited along with interest @ 18% from the date of collection of the higher amount till the date of deposit of such amount.**

*Here, the expression “concerned State” means the State **or Union Territory** in respect of which the Authority passes an order.

A new sub-rule (5) has been inserted in rule 133 to provide that where upon receipt of the report of the DGAP, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods and/or services other than those covered in the said report, it may, for reasons to be recorded in writing, within a period of six months, direct the DGAP to cause investigation or inquiry with regard to such other goods and/or services.

Such investigation or enquiry shall be deemed to be a new investigation or enquiry and all the provisions of rule 129 shall *mutatis mutandis* apply to such investigation or enquiry.

As per rule 137, the Authority ceases to exist after the expiry of 2 years from the date on which the Chairman enters upon his office unless the GST Council recommends otherwise. Rule 137 has been amended to increase the said period of 2 years to 4 years.

CUSTOMS LAW

BASIC CONCEPTS

W.e.f. 29.03.2019:

Section 11(3) of the Customs Act, 1962, Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit."

TYPES OF DUTIES

w.e.f. 1-10-2019 Clarification regarding taxability of goods imported under lease (vide Notification No. 34/2019 Customs, dated 30-09-2019)

In respect of goods imported on temporary basis, aircrafts, aircraft engines and other aircraft parts imported into India under a transaction covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2019 are exempted from IGST under Customs Act, 1962.

Similarly, rigs and ancillary items imported for oil or gas exploration and production taken on lease by the importer for use after import have also been exempted from IGST. Subsequently, all goods vessels, ships (other than motor vehicles) imported under lease, by the importer for use after importation, were also exempted from IGST.

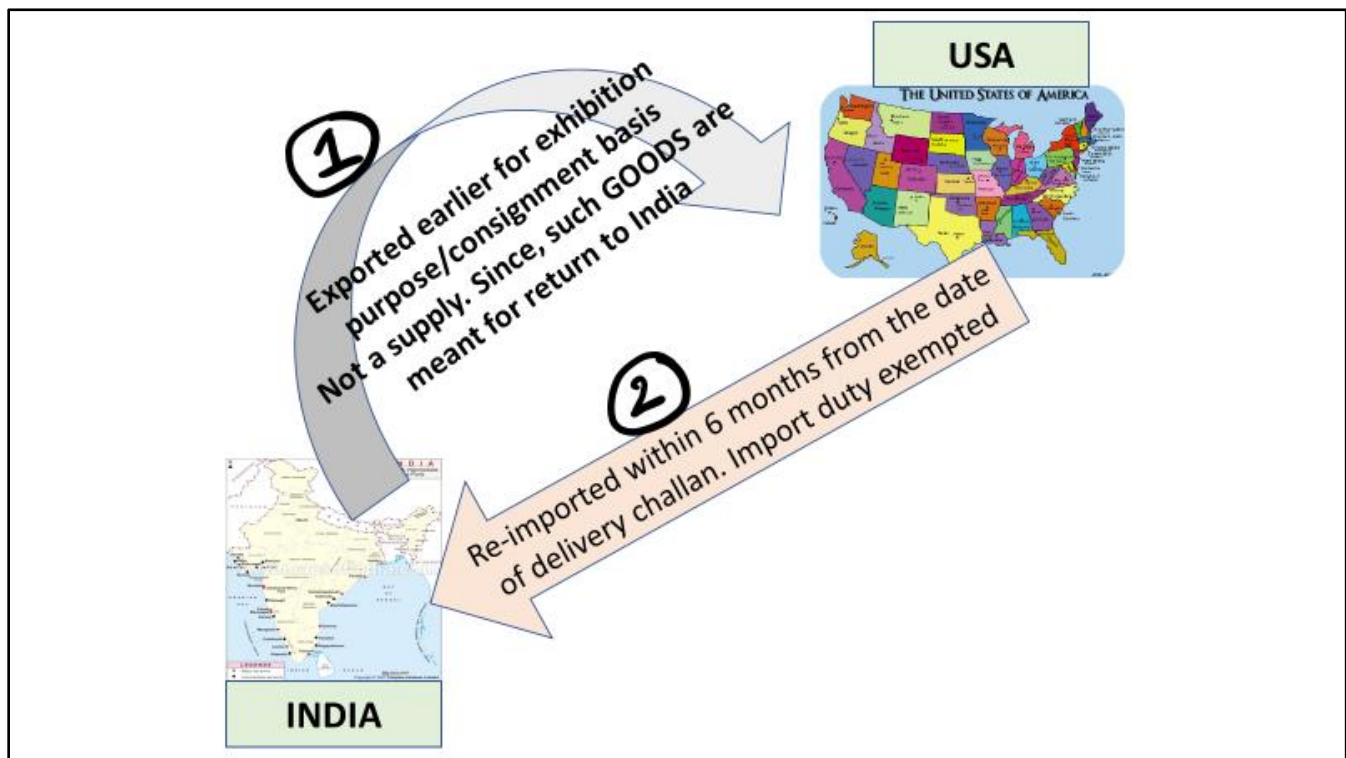
This exemption is available only if the importer, by the execution of bond, in such form and for such sum as may be specified by the Commissioner of Customs, binds himself:

- (a) to pay IGST under section 5(1) of the IGST Act, 2017 on supply of service covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017;
- (b) not to sell or part with the goods, without the prior permission of the Commissioner of Customs of the port of importation;
- (c) to re-export the goods within 3 months of the expiry of the period for which they were supplied under a transaction covered by item 1(b) or 5(f) of Schedule II of CGST Act, 2017
- (d) to pay on demand an amount equal to the IGST payable on the said goods but for the exemption under this Notification in the event of violation of any of the above conditions.

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IMPORT AND EXPORT PROCEDURE

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



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-in-charge or other person shall be liable to pay penalty not exceeding **fifty thousand rupees**".

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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.,

Search and Seizure:

w.e.f. 1-8-2019 section 110(1) of the Customs Act, 1962:

“Provided that where it is not practicable to remove, transport, store or take physical possession of the seized goods for any reason, the proper officer may give custody of the seized goods to the owner of the goods or the beneficial owner or any person holding himself out to be the importer, or any other person from whose custody such goods have been seized, on execution of an undertaking by such person that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that where it is not practicable to seize any such goods, the proper officer may serve an order on the owner of the goods or the beneficial owner or any person holding himself out to be importer, or any other person from whose custody such goods have been found, directing that such person shall not remove, part with, or otherwise deal with such goods except with the previous permission of such officer.”;

Where the proper officer, during any proceedings under the Act, is of the opinion that for the purposes of protecting the interest of revenue or preventing smuggling, it is necessary so to do, he may, with the approval of the Principal Commissioner of Customs or Commissioner of Customs, by order in writing, provisionally attach any bank account for a period not exceeding six months:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform such extension of time to the person whose bank account is provisionally attached, before the expiry of the period so specified.”

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Penalty for availing instruments (like duty drawback, MEIS, SEIS etc.) fraudulently **w.e.f. 1-8-2019 As per Section 114AB of the Customs Act, 2019:**

Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

Explanation.—For the purposes of this section, the expression “instrument” shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.’.

Residual Penalty Section 117:

As per section 117 of the Customs Act, 1962, if no penalty has been prescribed for contravenes, then the penalty would be ₹1,00,000 can be levied (w.e.f. 10.5.2008).

w.e.f. 1-8-2019 In section 117 of the Customs Act, for the words “one lakh rupees”, the words “four lakh rupees” shall be substituted.

Redemption Fine (Section 125)

Provisos to section 125(1) of the Customs Act, 1962 (w.e.f. 29.3.2018):

“Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:

w.e.f. 1-8-2019 In section 125 of the Customs Act, in sub-section (1), in the first proviso, for the words “the provisions of this section shall not apply”, the words “no such fine shall be imposed” shall be substituted.

Offences under Customs

w.e.f. 1-8-2019 In section 135 of the Customs Act, following sub-item shall be inserted:

obtaining an instrument from any authority by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilised by any person, where the duty relatable to utilisation of the instrument exceeds fifty lakh rupees,”.

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Goods liable to confiscation secreted inside his body w.e.f. 1-8-2019 section 103 of the Customs Act, 1962:

- (i) “(1) Where the proper officer has reason to believe that any person referred to in sub-section (2) of section 100 has any goods liable to confiscation secreted inside his body, he may detain such person and shall,—
- (a) with the prior approval of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as soon as practicable, screen or scan such person using such equipment as may be available at the customs station, but without prejudice to any of the rights available to such person under any other law for the time being in force, including his consent for such screening or scanning, and forward a report of such screening or scanning to the nearest magistrate if such goods appear to be secreted inside his body; or
- (b) produce him without unnecessary delay before the nearest magistrate.”;
- (ii) in sub-section (6), after the words “Where on receipt of a report”, the words, brackets, letter and figure “from the proper officer under clause (a) of sub-section (1) or” shall be inserted.

Non-bailable offence:

w.e.f 1-8-2019 non-bailable offence includes:

Fraudulently obtaining an instrument for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992, and such instrument is utilised under this Act, where duty relatable to such utilisation of instrument exceeds fifty lakh rupees,”

‘Explanation.—For the purposes of this section, the expression “instrument” shall have the same meaning as assigned to it in Explanation 1 to section 28AAA.’.

FOREIGN TRADE POLICY 2015 - 2020

FOREIGN TRADE POLICY 2015 - 2020

Notification No. 08/2019-Customs, dated 25th March, 2019:

The Directorate General of Foreign Trade (DGFT) has said that exemption from integrated GST and compensation cess under advance authorisation scheme, EOU, and EPCG scheme of foreign trade policy 2015-20 "is extended **up to March 31, 2020**".

These exemptions have been extended for exporters buying inputs domestically or importing for export purposes under export oriented unit (EOU) scheme, Export Promotion Capital Goods (EPCG) scheme and advance authorisation.

Refund of drawback of basic customs duty paid on inputs for deemed exports also allowed **on "All Industry Rate" basis [Notification No. 28/2015-2020 dated 31.10.2019]**

DGFT vide Notification No. 28/2015-20 dated 31st October 2019 has amended the said provision and provided that refund of drawback on the inputs used in manufacture and supply under the deemed exports category can be claimed on '**All Industry Rate**' of Duty Drawback Schedule notified by Department of Revenue from time to time provided no CENVAT credit has been availed by supplier of goods on excisable inputs or on '**Brand rate basis**' upon submission of documents evidencing actual payment of basic custom duties. Accordingly, the refund of drawback of duty paid on inputs is also allowed on All Industry Rate basis.

Note: Earlier, the refund of drawback in the form of Basic Customs duty of the inputs used in manufacture and supply under the deemed exports category was given on brand rate basis upon submission of documents evidencing actual payment of basic custom duties.