

SUPPLEMENTARY

PAPER-18

INDIRECT TAX LAWS & PRACTICE

(Syllabus - 2016)

(Applicable for June 2021 & December 2021 Examinations)

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory body under an Act of Parliament)

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Section A

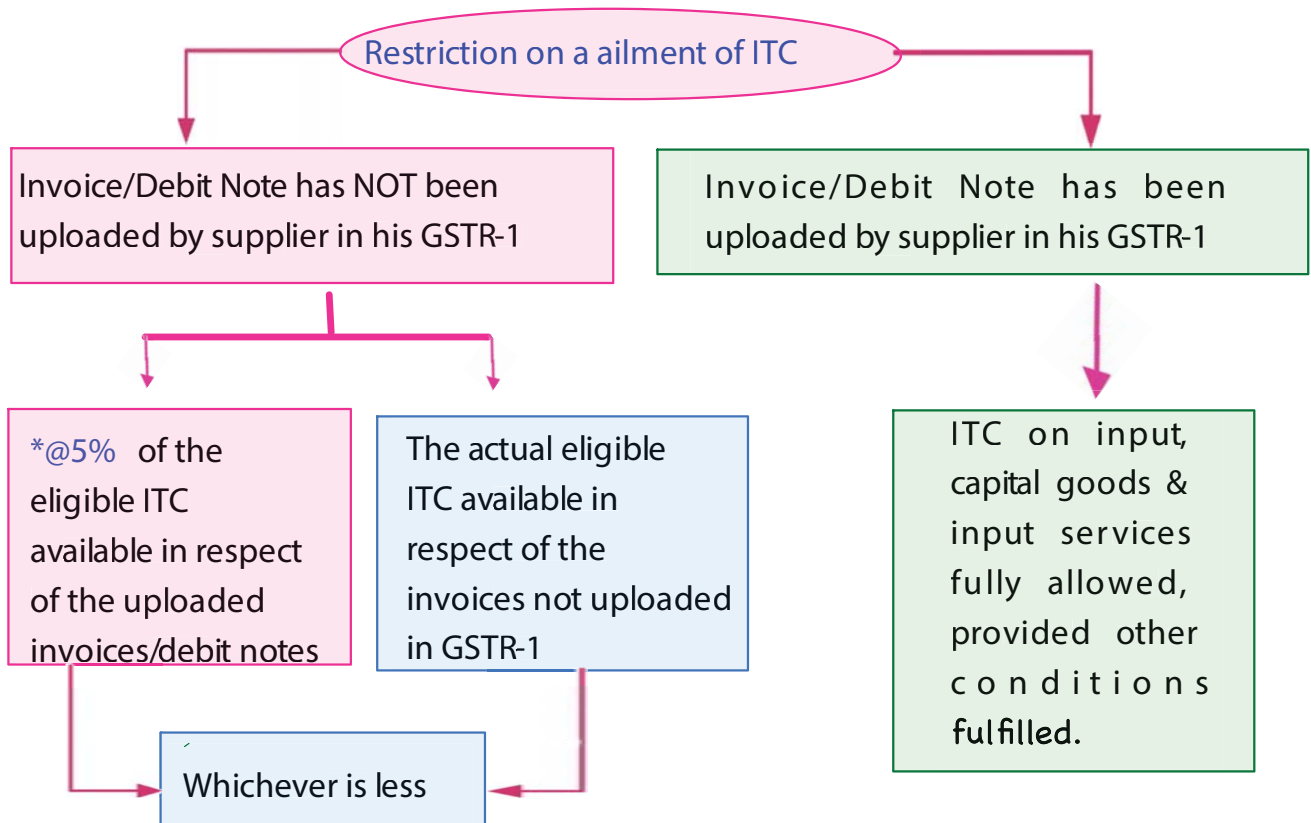
Goods and Services Tax [GST]





INPUT TAX CREDIT

Restriction on a ailment of ITC, Rule 36(4) of the CGST Rules, 2017:



*w.e.f. 1-1-2021, @5% (from 1-1-2020 to 31-12-2020 @10%, from 9-10-2019 to 31-12-2019 @20%).

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

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

Case I

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



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Case II

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

Case III

Out of 100 invoices, 95 invoices involving GST of ₹9.8 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer:

Case I: ITC on invoices uploaded in GSTR-1	= ₹6,00,000
Add: @5% on ₹6 lac	= ₹30,000 Or
ITC on invoices not uploaded in GSTR-1 is ₹4,00,000	
Whichever is less	= ₹ 30,000
Total ITC allowed	= ₹6,30,000

Case II: ITC on invoices uploaded in GSTR-1	= ₹8,50,000
Add: @5% on ₹8.50 lac	= ₹42,500 Or
ITC on invoices not uploaded in GSTR-1 is ₹1,50,000	
Whichever is less	= ₹ 42,500
Total ITC allowed	= ₹8,92,500

Case III: ITC on invoices uploaded in GSTR-1	= ₹9,80,000
Add: @5% on ₹9.8 lac	= ₹49,000 Or
ITC on invoices not uploaded in GSTR-1 is ₹20,000	
Whichever is less	= ₹ 20,000
Total ITC allowed	= ₹10,00,000

@5% restriction is not applicable cases:

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



The amount of ITC in respect of the invoice/debit note whose details have not been uploaded shall not exceed @5% (w.e.f. 1-1-2021) of the eligible ITC in respect of invoice/debit note which have been uploaded by supplier under section 37(1) as on due date of filing Form GSTR-1 by the supplier for the said tax period. The same can be ascertained as per GSTR 2A showing ITC on the due date of filing GSTR-1.

For example: Due date for filing GSTR-1 for the month of January, 20XX is 11.02.20XX.

Now, ITC in respect of invoice / debit note which have not been uploaded by supplier shall be maximum of @5% of total ITC reflected in GSTR 2A as on 11.02.20XX.

Restriction on use of amount available in Electronic Credit Ledger Rule 86B of the CGST Rules, 2017:

w.e.f. 1-1-2021, New Rule 86B has been inserted which restricts the use of credit available in Electronic Credit Ledger. The said rule restricts the use of Input Tax Credit by more than 99% against output tax liability. This restriction is applicable for taxpayers whose taxable supply other than exempt supply and zero-rated supply exceeds ₹50 lakhs in a month.

Example: The total value of inter-State supply of Shiva & Sons for the month of March 2021 is of ₹100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Shiva & Sons is ₹18 lakh. Amount available in electronic credit ledger is ₹20 lakh (IGST).

In terms of restriction imposed by rule 86B, Shiva & Sons can discharge @99% of its output tax liability, i.e. ₹17,82,000 (99% of ₹18,00,000) from the amount available in electronic credit ledger. However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹18,000 (1% of ₹18,00,000) through electronic cash ledger only.

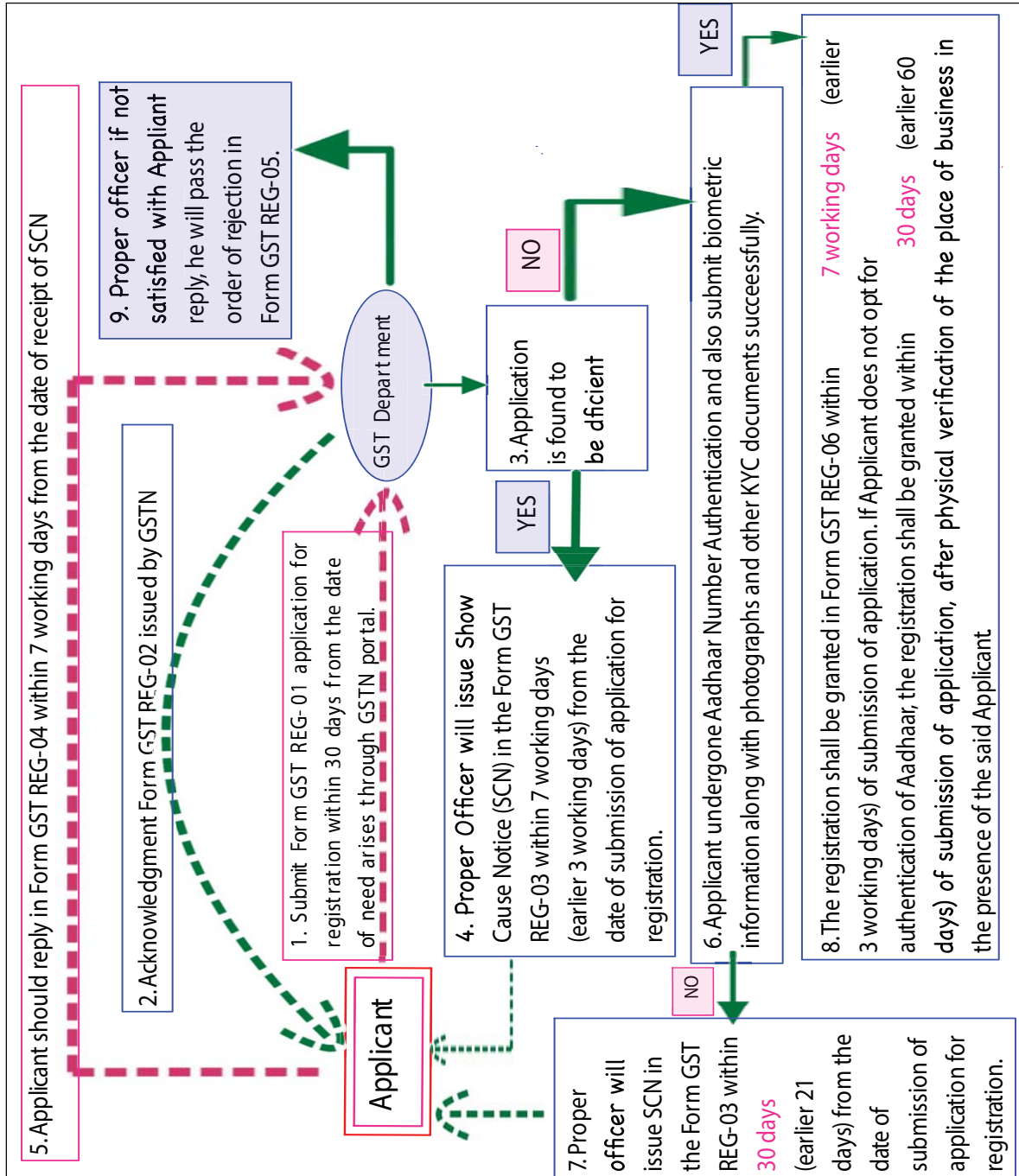
Further, the said rule is **not applicable** in the following cases:-

- a) The taxpayer (proprietor/ Karta/ managing director/ partner/Whole Time Director/ Members of the managing committee of Association/Board of Trustees) have paid income tax exceeding ₹1 lakh in each of the 2 preceding financial years or
- b) Where taxpayers have received a refund of unutilized input tax credit exceeding ₹1 lakh in the preceding financial year on account of exports or supplies to SEZ or
- c) Where taxpayers have received a refund of unutilized input tax credit exceeding ₹1 lakh in the preceding financial year on account of inverted duty structure or
- d) The taxpayer has discharged his liability towards output tax through the Electronic Cash Ledger for an amount which is more than 1% of the total output liability, applied cumulatively, up to the said month in the current financial year or
- e) The taxpayer is
 - Government Department
 - Public Sector Undertaking
 - Local authority
 - Statutory body

The Commissioner or any officer authorized by him on this behalf may remove the said restriction after such verification and safeguards as he may deem fit (vide Notification No. 94/2020 CT., Dated 22-12-2020)

REGISTRATION UNDER GST

W.e.f. 22-12-2020, Registration procedure u/s 25 of the CGST Act, 2017, Notification No. 94/2020 C.T., dated 22-12-2020:





w.e.f. 1-1-2021, Biometric authentication for grant of GST registration:-

The authentication is done until now while applying for GST registration was based on Aadhar number authentication. However, now the Individual/ Karta/ Managing Director/Whole Time Director/Partner/ Members of the managing committee of Association/Board of Trustees, Authorized Representatives or Authorized Signatory will have to get biometric-based Aadhar authentication and photographs submitted.

In case a person wishes not to opt for Aadhar authentication, biometric information along with photographs and other KYC documents are to be submitted. Only upon verification of such documents, the registration would be granted.

These activities would have to be physically carried out at one of the Facilitation centers as notified by the Commissioner.

Physical verification for grant of GST Registration-

Where a person has not opted for Aadhar authentication or fails to undergo Aadhar authentication or where the proper officer deems it fit there shall be physical verification of the place of business of the person applying for GST registration. In such a case where physical verification has been carried out, one of the following steps will be carried out:

- a) registration shall be granted in FORM GST REG-06 (where documents are in order) or
- b) deficiency memo shall be issued (where further documents or clarifications are required) in FORM GST REG-03

Either one of the above activities needs to be carried out within 30 days of the submission of the application.

Persons/class of persons exempt from aadhaar authentication:

The provisions of Section 25(6B) and (6C) of CGST Act, 2017 shall not apply to a person who is

- (a) Not a citizen of India; or
- (b) A Department or establishment of the Central Government or State Government; or
- (c) A local authority; or
- (d) A statutory body; or
- (e) A Public Sector Undertaking; or
- (f) A person applying for registration under the provisions of sub-section (9) of Section 25 of the CGST Act, 2017 (i.e. United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or person holding Unique Identity Number (UIN)).

(Notification No. 3/2021 C.T., dated 23-2-2021)

Deemed Registration:

If no physical verification was carried out:- In such a case if registration is not granted within 7 working days of receipt of application which is complete in all aspects or within 7 working days of receipt of clarification to FORM GST REG-03 in FORM GST REG-04, the application for registration shall be deemed to have been approved.

Where physical verification was carried out:- In such a case if registration is not granted or a deficiency memo is not issued within 30 days of receipt of the application, the application for registration shall be deemed to have been approved.

2. Cancellation by a GST officer Section 29(2):

GST registration of a person or business can be cancelled by a proper GST officer in one of the following cases:

- If the registered person has violated any of GST provisions or laws.
- A composition registered person has not filed tax returns for three consecutive quarters.
- A normal registered person who has not filed returns consecutively for six months.
- A voluntarily registered person who has not commenced any business in the six months from the registration date.
- If the registration is obtained by fraud methods, the proper officer has the right to cancel the registration with retrospective effect.

W.e.f. 22-12-2020 (vide NT 94/2020 CT dated 22-12-2020)

- If a registered person avails input tax credit in violation of the provisions of section 16 of the Act or rules made thereunder or
- If a registered person furnishes details of outward supplies in FORM GSTR-1 for one or more tax periods in excess of outward supplies declared in GSTR-3B
- If a registered person violates provisions of newly inserted rule 86B (i.e. restriction on the use of ITC while discharging output liability)

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

Rule 21A(2) Amended: W.e.f. 22-12-2020 (vide NT 94/2020 CT dated 22-12-2020)

No opportunity of being heard – Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he may without 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.

- a) where there is a significant difference or anomaly between outward supplies in GSTR 1 and GSTR 3B.
 - b) where there is a significant difference or anomaly between GSTR2A and GSTR 3B This should result in any contraventions to the provisions of the Act or the rules thereunder. Further to such suspension, an intimation shall be send to the taxpayer in his e-mail ID requiring him to explain within 30 days as to why his registration shall not be cancelled.
- Restrictions in case of Suspension of GST registration- A registered person whose registration has been cancelled can neither make any taxable supplies nor shall be granted refund.
 - Removal of suspension before completion of proceeding- The proper officer shall now have the option to revoke the suspension of registration anytime during the pendency of proceedings for cancellation.

CBIC issued a clarification titled **"MYTHS VS FACTS"** in regard to GST registration cancellations and other steps taken for plugging tax evasion:

Myth 1: No opportunity of being heard will be given if the proper officer believes that registration is liable to be cancelled.

Fact 1: GST registration is liable to be cancelled for those who have not filed 6 or more returns. It is, therefore, wrong to say that the cancellation will be done without reasons. To protect the interest of revenue, this provision has been put in the law so that fraudsters do not runaway with GST collected from their customers.

No cancellation of registration would be done without giving the proper opportunity of hearing to the taxpayer.

Immediate action for suspension is necessary in cases where unscrupulous operators seek to pass on huge fake credit by gaming the system. Such action will not affect genuine taxpayers and will provide them with a level playing field. Moreover, the suspension may be revoked by the officer based on the taxpayer's representation

Myth 2: Even if there is a clerical error in filing returns, GSTIN will be cancelled. No option to correct your mistakes.

Fact 2: This is absolutely not true. Only in fraudulent cases where there are significant discrepancies based on data analytics and sound risk parameters, and not mere clerical errors, the action of suspension and cancellation will be taken up.

An example of a fraudulent case and serious discrepancy is where one has passed on Crores of Rupees of Input Tax Credit and not filed GSTR3B returns, nor has he filed Income Tax returns or disclosed very little liability in Income Tax returns etc,

Myth 3: The proposed change will impact the ease of doing business.

Fact 3: Not True. Fraudsters are misusing the system to the detriment of the interest of genuine taxpayers.



Consequently, data-driven targeting of the fraudsters is the need of the hour. The data is being collected from Income Tax, Banks, Customs and necessary matching are being done to identify fraudsters and take action of suspension and cancellation after following due process of law.

Guidelines regarding cancellation of registration:

The CBIC has issued guidelines to its officers for cancellation of registration under rule 22(3) of the CGST Rules, 2017. It has been instructed that since the legal provision stipulates passing of order in respect of the application of cancellation of registration within 30 days of the date of the application, and also as it has already been clarified vide Circular No. 69/43/2018-GST dated 26.10.2018 that cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should act as per prescribed legal process within the stipulated time in order to avoid any delay.

All the Principal Chief Commissioners / Chief Commissioners of Central Tax have been requested to suitably instruct all the officers under their jurisdiction to scrupulously follow the due process as envisaged in the law in time bound manner and issue the requisite order in respect of all such applications within a period of 30 days from the date of the application. [CBEC-20/16/34/2019-GST/802 dated May 24, 2021]

[vide Notification No. 15/2021 Central Tax, dated 18th May, 2021 as under: Rule 23-Revocation of cancellation of registration](#)

Amendment in sub-rule (1)

The amendment in section 30 made vide the Finance Act, 2021 has been made effective from 01.01.2021. The amended provision provides for extension of time limit for applying for revocation of cancellation of registration on sufficient cause being shown and for reasons to be recorded in writing, by:

- (a) the Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days;
- (b) the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a) above.

Consequential amendment has been made in rule 23(1) to provide that the time period of 30 days available for submission of an application for revocation of cancellation of registration in Form GST REG-21 can be extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30 of the CGST Act, 2017.

Further, consequential amendment has also been made in Form GST REG-21. Under sub-heading of "Instructions for submission of application for revocation of cancellation of registration", in the first bullet point "after the words "date of service of the order of cancellation of registration", the words and figures "or within such time period as extended by the Additional Commissioner or the Joint Commissioner or Commissioner, as the case may be, in exercise of the powers provided under proviso to subsection (1) of section 30," have been inserted.

Till the time an independent functionality for extension of time limit for applying in Form GST REG-21 is developed on the GSTN portal, [Circular No. 148/04/2021 GST dated 18th May, 2021](#) has been issued to prescribe the following SOP for implementation of the provisions of above rule across the field formations:



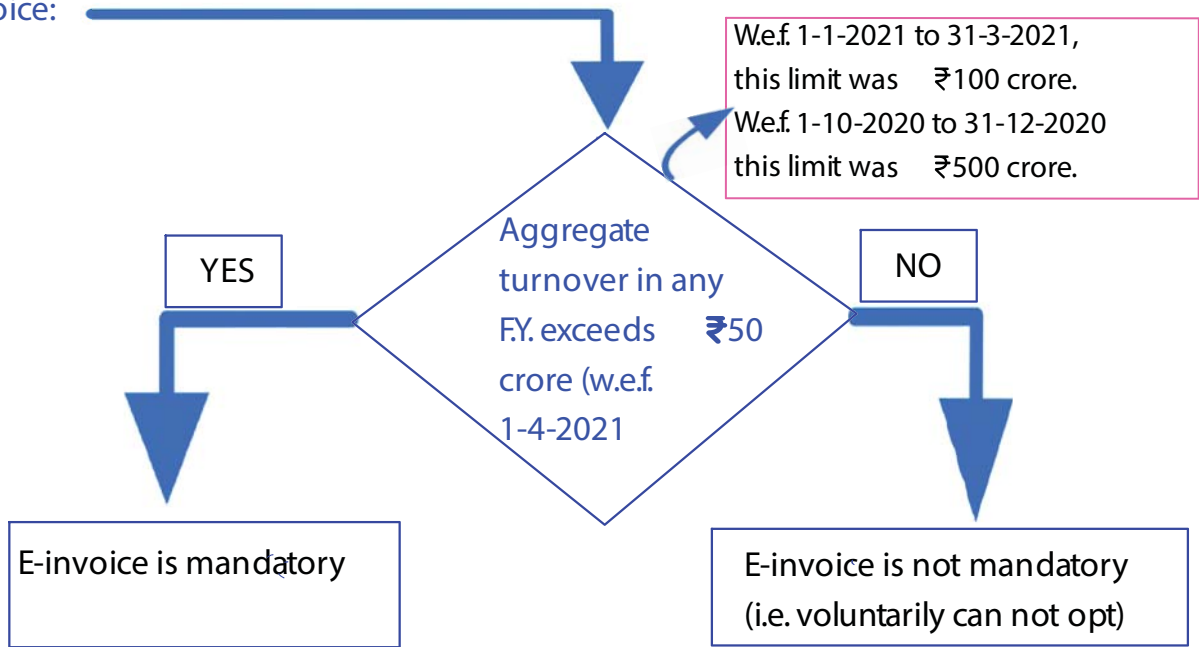
Where a person applies for revocation of cancellation of registration beyond a period of 30 days from the date of service of the order of cancellation of registration but within 60 days of such date, the said person may request, through letter or e-mail, for extension of time limit to the proper officer by providing the grounds on which such extension is sought. The proper officer shall forward the request to the jurisdictional Joint/Additional Commissioner for decision on the request for extension of time limit, who, after examination of the request, may extend the time limit on sufficient cause being shown and for reasons to be recorded in writing.

In case the request is accepted, the extension of the time limit shall be communicated to the proper officer. The request will be rejected only after giving the person an opportunity of being heard and the grounds for such rejection may be communicated to the person concerned, through the proper officer.

On receipt of the decision of the Joint/Additional Commissioner, the proper officer shall process the application according to the law and procedure laid down in this regard. Similar procedure shall be followed mutatis mutandis in case a person applies for revocation of cancellation of registration beyond a period of 60 days from the date of service of the order of cancellation of registration but within 90 days of such date.

TAX INVOICE

E-invoice:



Exemption from mandatory E-invoicing:

1. SEZ's are not required to issue e-invoice (but not SEZ Developers)
2. Insurer or a banking company or a financial institution, including NBFC's are exempt from the e-invoicing mandate.
3. Goods Transport Agency's (GTA's) are exempt from the e-invoicing mandate.
4. Suppliers of passenger transportation service are exempt from the e-invoicing mandate.
5. Suppliers of services by way of admission to exhibition of cinematograph films in multiplex screens.
6. E-invoice is not applicable for nil rated or wholly exempted supplies.
7. For high sea sales and bonded warehouse sales, e-invoice is not applicable. (these transactions covered under Schedule III of CGST Act, 2017).
8. E-invoice is not applicable for import Bills of Entry.
9. Free Trade & Warehousing Zones (FTWZ) are exempt from e-invoice.
10. E-invoice is not applicable to invoices issued by Input Service Distributor (ISD).
11. Where supplies are received by notified person from



- (i) an unregistered person (attracting reverse charge under section 9(4) or
- (ii) through import of services,

E-invoicing does not arise / not applicable.

12. CBIC has notified vide Central Tax Notification no.23 dated 1st June 2021 that the e-invoicing system shall not apply to a government department and local authority.

Example 1:

There is an SEZ unit and a regular DTA unit under same legal entity (i.e. having same PAN). The aggregate total turnover of the legal entity is more than ₹50 Crores (considering both the GSTINs). However, the turnover of DTA unit is below ₹10 crores for FY 2020-2021. In this scenario, as SEZ unit is exempt from e-invoicing, whether e-invoicing will be applicable to DTA

Unit?

Answer:

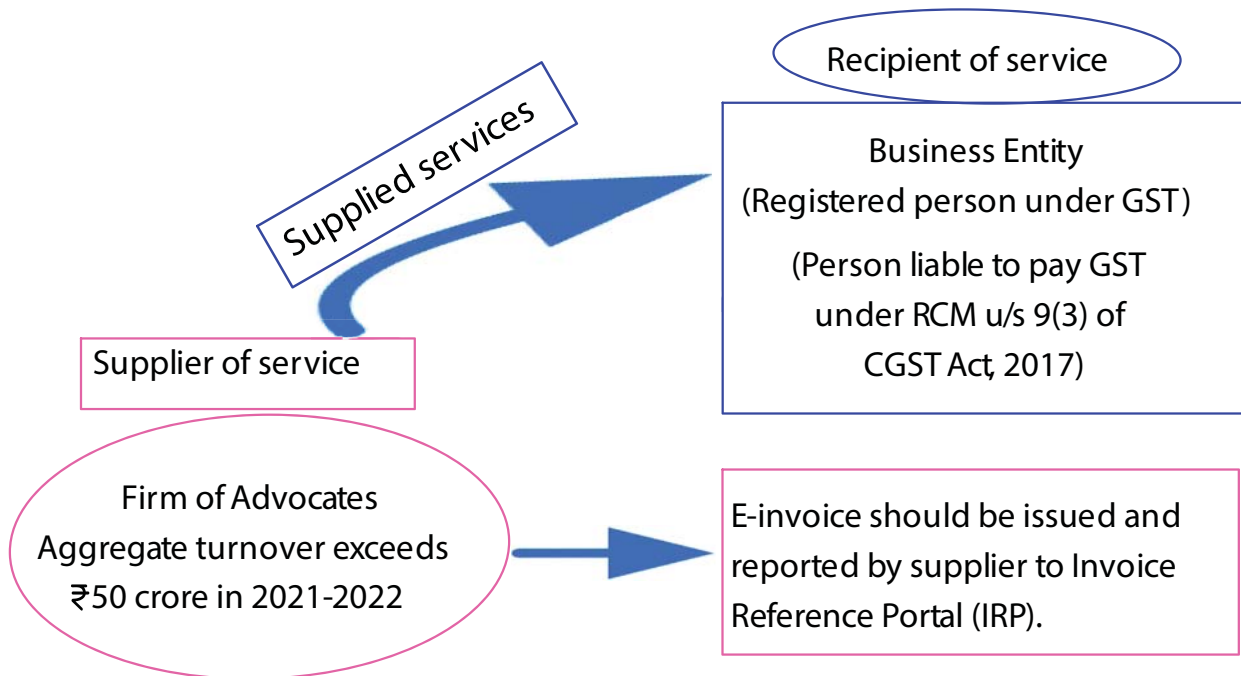
Yes, because the aggregate turnover of the legal entity in this case

is > ₹50 Crores. The eligibility is based on aggregate annual turnover on the common PAN. W.e.f. 1-4-2021, e-invoice is mandatory to DTA unit.

Example 2:

Whether e-invoicing is applicable for supplies involving Reverse charge?

Answer:





Example 3: Advantages of e-invoice for businesses:

Answer:

1. Auto-reporting of invoices into GST return,
2. auto-generation of e-way bill (where required).
3. e-invoicing will also facilitate standardisation and inter-operability leading to reduction of disputes among transacting parties,
4. improve payment cycles,
5. reduction of processing costs and thereby greatly improving overall business efficiency, etc.,

Example 4: How is 'e-invoicing' different from present system?

Answer:

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

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

Invoice to be issued by specified registered person, whose aggregate turnover in a preceding financial year exceed ₹50 crore (w.e.f. 1-4-2021), to an unregistered person (B2C invoice), to have Dynamic Quick Response (QR) code.

National Information Centre (NIC) – GST e-Invoice Preparing and Printing Tool (GePP):

This is an excel based Tool to assist the taxpayers, who are not having the ERP solution, to enter invoice in a user friendly form and print the e-invoice with QR code, after downloading the IRN from e-invoice portal.

Salient Features of the Tool:

1. Simple form for entering the invoices one by one
2. Creation of Supplier profile
3. Creation of Recipient master
4. Creation of HSN masters
5. Preparation of e-Invoice JSON file
6. Generation of IRN
7. Downloading and Importing of QR code in the tool
8. Printing of e-invoice from the tool

Benefits:

- Assists the taxpayers to prepare and print the e-invoice with QR code.
- Facilitate exchange of the data with the e-invoice system as per the interface format.
- Suitable for taxpayers not having the ERP system or issuing 10-12 invoices (B2B and Export) per day.



Presently the GePP tool is available under <https://einvoice1.gov.in>

Note: use a separate instance of the GePP tool for each GSTIN.

HSN code:

The revised requirement for mentioning in the tax invoice Harmonised System of Nomenclature (HSN) code w.e.f. 1-4-2021:

S.No.	Aggregate Trunover in the preceding Financial Year	Number of digits of HSN Code
1	up to ₹5 crore	4
2	More than ₹5 crore	6

The only exemption is given to the registered person having turnover up to ₹5 crore is that they need not mention the HSN code in the Tax Invoice in respect of supplies made to unregistered persons.

HSN code is a 6-digit uniform code that classifies 5000+ products and is accepted worldwide. It was developed by the World Customs Organization (WCO) and it came into effect from 1988.

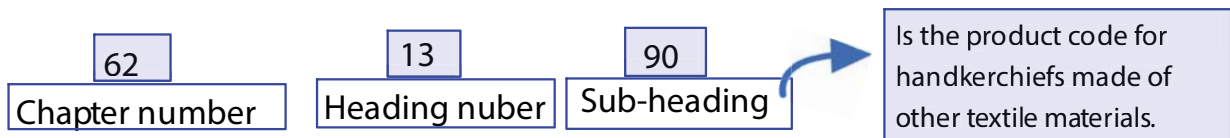
HSN in India

India is a member of World Customs Organization(WCO) since 1971. It was originally using 6-digit HSN codes to classify commodities for Customs and Central Excise. Later Customs and Central Excise added two more digits to make the codes more precise, resulting in an 8 digit classification.

The HSN structure contains 21 sections, with 99 Chapters, about 1,244 headings, and 5,224 subheadings. Each Section is divided into Chapters. Each Chapter is divided into Headings. Each Heading is divided into Sub Headings.

Section and Chapter titles describe broad categories of goods, while headings and subheadings describe products in detail.

Example: Handkerchiefs made of Textile matters 62.13.90



India has 2 more digits for a deeper classification.

If the handkerchiefs are made from a man-made fibre, then the HSN code is 62.13.90.10. If the handkerchiefs are made from silk or waste from silk., then the HSN code is 62.13.90.90.

Validity period of e-way bill/consolidated e-way bill:

Earlier one day was permitted for a distance up to 100 km under e way bill provision. Now one day was permitted for a distance up to 200 km. This means that two-day validity granted to cover a distance up to 200 km, is reduced to one day.

Sl.No.	Distance within country	Validity period from relevant date
1.	w.e.f. 1-1-2021 up to 200 km	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2.	w.e.f. 1-1-2021 up to 200 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

Example 1: A registered person has to transport goods from its warehouse to its depot located at a distance of 500 km. In the given case, if e-way bill was generated before 01.01.2021, it would have been valid for 5 days. However, an e-way bill generated on or after 01.01.2021 would be valid for only 3 days.

Example 2: E-way bill generated on April 1, 20XX at 6 pm for transport of cargo which will cover a distance of 190 kms. This e-way bill will be valid for one day (till mid night of April 2, 20XX);

Example 3: Consider a situation where a consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. How would the validity of e-way bill be calculated in such situations?

Answer: It is clarified that the validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time.

In the given situation, Consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill the Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday.

Example 4: Consider a situation where a consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. How would the e-way bill be generated in such situations?

Answer: It is clarified that in such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y.

On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z.



Blocking of e-way bill generation facility, extended to a person, whose registration has been suspended [Rule 138E]:

Blocking of e-waybill generation facility means disabling a taxpayer from generating the e-way bill. A user will not be able to generate e-way bill for a GSTIN if the said GSTIN is not eligible for e-way bill generation as per rule 138E of the CGST Rules. The GSTINs of such blocked taxpayers cannot be used to generate the e-way bills either as consignor or consignee.

Clause (b) of rule 138E blocks the e-way bill generation facility of a person paying tax under regular scheme if he has not furnished the returns for a consecutive period of 2 months.

Said clause has been amended to replace 2 months with 2 tax periods. Accordingly, henceforth, e-way bill generation facility of a person paying tax under regular scheme will be blocked if he has not furnished the returns for a consecutive period of 2 tax periods.

Further, a new clause (d) has been added to rule 138E to block the e-way bill generation facility of a person, whose registration has been suspended under rule 21A pending the completion of the proceedings for cancellation of registration.

[Notification No. 94/2020 CT dated 22.12.2020]

CGST Rules, 2017 Amendment vide Notification No. 15/2021 Central Tax, dated 18th May, 2021 as under:

Rule 138E - Restriction on furnishing of information in Part A of Form GST EWB-01

Rule 138E restricts a person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) from furnishing information in Part A of Form GST EWB-01 "in respect of a registered person, whether as a supplier or a recipient" in certain specified cases. The rule has been amended to specify that the information in Part A of Form GST EWB-01 cannot be furnished by a person "in respect of any outward movement of goods of a registered person" in the specified cases.

RETURNS

W.e.f 1-1-2021, the time limit for furnishing the details of outward supplies in Form GSTR-1 has been extended in the following manner:

Class of registered person	Time limit for furnishing the details of outward supplies in Form GSTR-1 for each quarter/tax period
Registered person opting for QRMP-Scheme	13 th day of the month succeeding such tax period
Others	11 th day of the month succeeding such tax period

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

1. Who can opt for the scheme?

Answer: Following registered person (hereinafter RP) can file quarterly returns and pay tax on monthly basis w.e.f. 01.01.2021:

- An RP who is required to file Form GSTR 3B with Aggregate Annual Turn Over (AATO) of up to ₹5 Cr. in the previous financial year is eligible.
If AATO crosses ₹5 Cr. during a qtr., RP will become in- eligible for the Scheme from next quarter.
- Any person obtaining a new registration or opting out of Composition Scheme can also opt for this Scheme.

The option to avail this Scheme can be availed GSTIN wise.

Therefore, few GSTINs for that PAN can opt for the Scheme and remaining GSTINs can remain out of the Scheme.

2. When can a person opt for the scheme?

Answer:

Facility can be availed throughout the year, in any quarter.

Option for QRMP Scheme, once exercised, will continue till RP revises the option or his AATO exceeds ₹ 5 Cr.

RPs migrated by default can choose to remain out of the scheme by exercising their option from 5th, Dec 2020 till 31st Jan., 2021.

- The RPs opting for the scheme can avail the facility of Invoice Furnishing Facility (IFF), so that the outward supplies to registered person is reflected in their Form GSTR 2A & 2B.



4. Payment of tax under the QRMP scheme:

RPs need to pay tax due in each of first two months (by 25th of next month) in the Qtr, by selecting “Monthly payment for quarterly taxpayer” as reason for generating Challan.

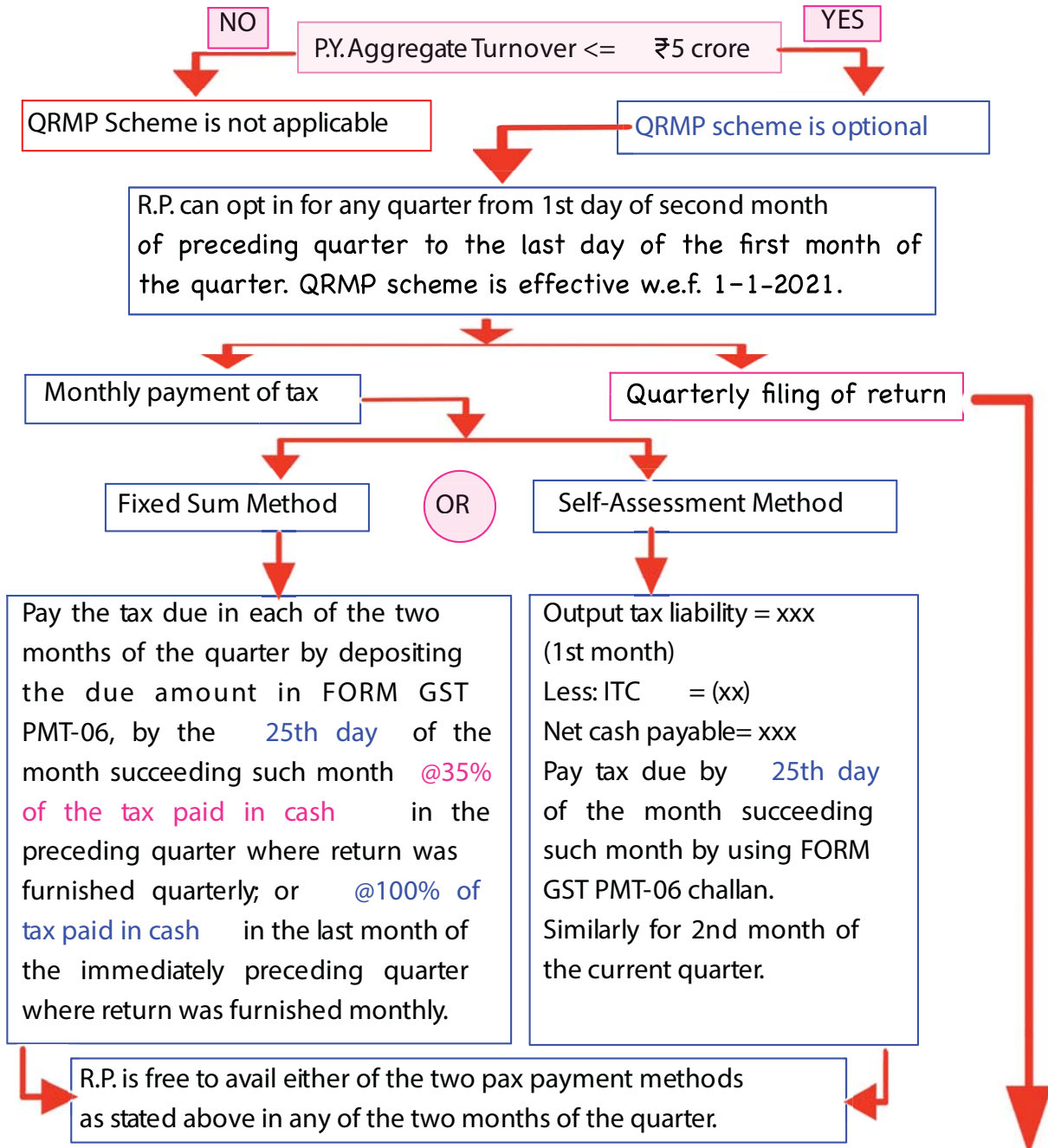
- RPs can either use Fixed Sum Method (pre-filled challan) or Self-Assessment Method (actual tax due), for monthly payment of tax for first two months, after adjusting ITC.
 - No deposit is required for the month, if there is nil tax liability.
 - Tax deposited for first 02 months can be used for adjusting liability for the qtr. in Form GSTR-3B and can't be used for any other purpose till the filing of return for the qtr.
5. RP opting for the QRMP Scheme would be required to furnish the details of outward supply in FORM GSTR-1 Quarterly.
6. Invoice Furnishing Facility (IFF) - optional:

1st and 2nd months of a quarter, such RP will have “Invoice Furnishing Facility” (IFF) to furnish the details of such outward supplies to a registered person, as he may consider necessary, between the **1st day of the succeeding month till the 13th day of the succeeding month.**

The said details of outward supplies shall, however not exceed the value of **₹50 lakh in each month.**

Example: A registered person who has availed the QRMP scheme wants to declare 2 invoices out of the total 10 invoices issued in the 1st month of quarter since the recipient of supplies covered by those 2 invoices desires to avail ITC in that month itself. Details of these 2 invoices may be furnished using IFF.

The details of the remaining 8 invoices shall be furnished in Form GSTR-1 of the said quarter. The two invoices furnished in IFF shall be reflected in Form GSTR-2B of the concerned recipient of the 1st month of the quarter and remaining 8 invoices furnished in Form GSTR-1 shall be reflected in Form GSTR-2B of the concerned recipient of the last month of the quarter.



GSTR-1 due date: For each tax periods (i.e. each quarter), till the 13th day of the month succeeding such tax period. R.P. would required to furnish FORM GSTR-3B, for each quarter, on or before 22nd or 24th day of the month succeeding such quarter.

Contents of GSTR-3B: ■ Supplies made during the quarter, ■ ITC availed during the quarter ■ All other details required to be furnished therein.



Registered person under QRMP scheme must have furnished the return for the preceding month, as due on the date of exercising such option. A registered person shall not be eligible to opt for QRMP scheme if he has not furnished the last return due on the date of exercising such option.

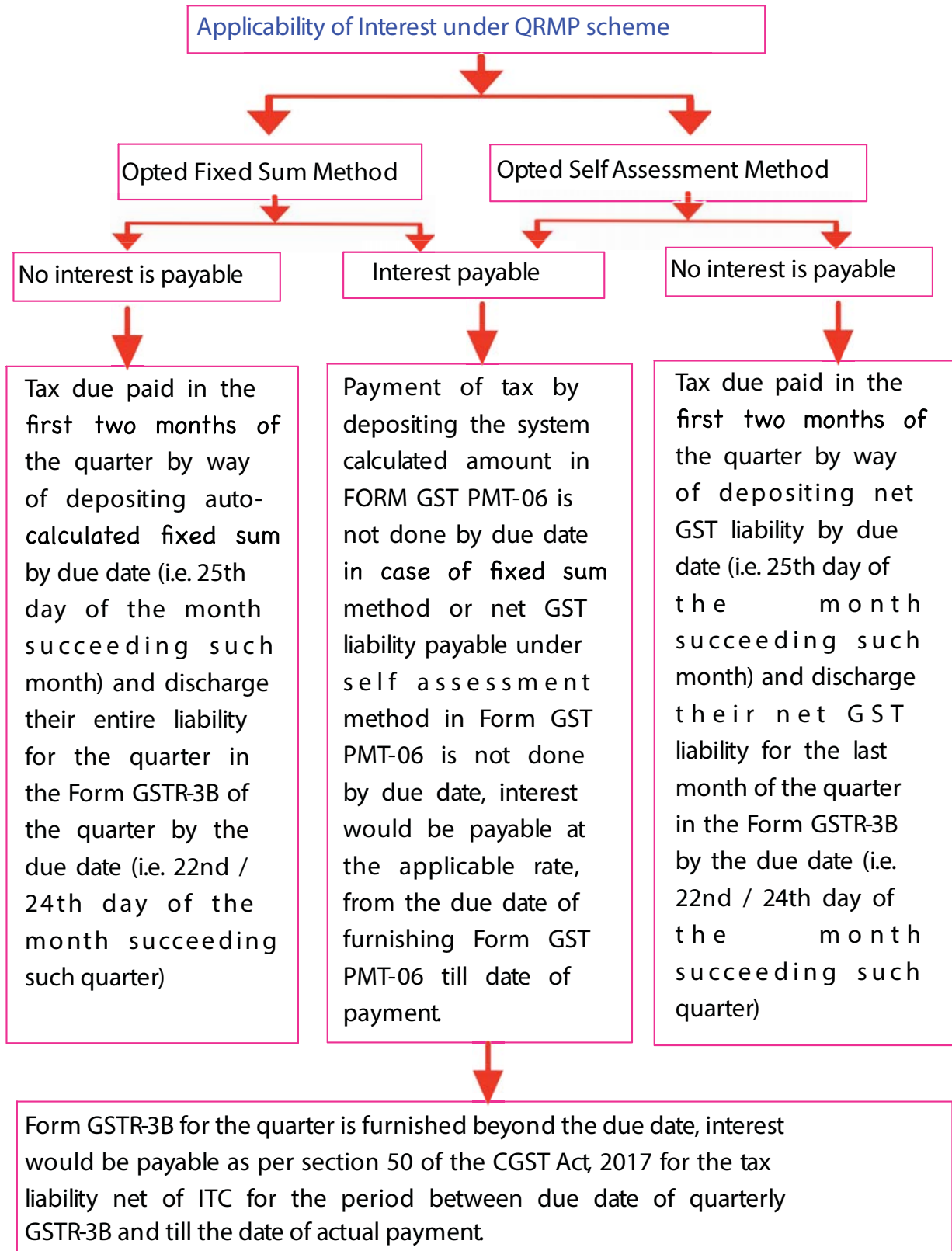
Example 1: A registered person intending to avail of QRMP scheme for the quarter ‘July to September’ can exercise his option from 1st May to 31st July.

Example 2: If a registered person intending to avail of QRMP scheme for the quarter ‘July to September’ is exercising his option on 27th July for the said quarter, he must have furnished the return for the month of June which was due on 22nd / 24th July.

GSTR-2A and GSTR-2B:

Form GSTR-2A	Form GSTR-2B
Is a system generated read only statement of inward supply for a recipient regarding the details of ITC. This statement is uploaded on a real time basis. The details become available to the recipient for view/ download and are updated incrementally as and when supplier(s) upload or change details in their respective form of return/ statement, for the given tax period.	Is an auto-drafted read only statement containing the details of ITC – is made available to the registered person (recipient) for every month. It is a static statement and is available only once a month.
ITC to the recipient other than QRMP scheme.	ITC to the recipient who opted QRMP scheme.
It also consist of details of the IGST paid on import of goods or goods brought in DTA from SEZ unit/ developer on a bill of entry.	

Example: If a supplier opting for QRMP Scheme files an invoice dated 15th July on 13th August, it will be get reflected in GSTR-2B of July (generated on 14th August). If the document is filed on 14th August, the document will be reflected in Form GSTR-2B of August (generated on 14th September).





Example 1: A registered person, who has opted for the QRMP Scheme, had paid a total amount of ₹100/- in cash as tax liability in the previous quarter of October to December. He opts to pay tax under fixed sum method. He therefore pays ₹35/- each on 25th February and 25th March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that liability, based on the outward and inward supplies, for January was ₹40/- and for February it was ₹42/-. However, no interest would be payable for the lesser amount of tax (i.e. ₹5 and ₹7 respectively) discharged in these 2 months provided that he discharges his entire liability for the quarter in the Form GSTR-3B of the quarter by the due date.

Example 2: A registered person, who has opted for the QRMP Scheme, had paid a total amount of ₹100/- in cash as tax liability in the previous quarter of October to December. He opts to pay tax under fixed sum method. He therefore pays ₹35/- each on 25th February and 25th March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that total liability for the quarter net of available credit was ₹125, but he files the return on 30th April. Interest would be payable at applicable rate on ₹55 [₹125 – ₹70 (deposit made in cash ledger in first and second month)] for the period between due date of quarterly GSTR 3B and 30th April.

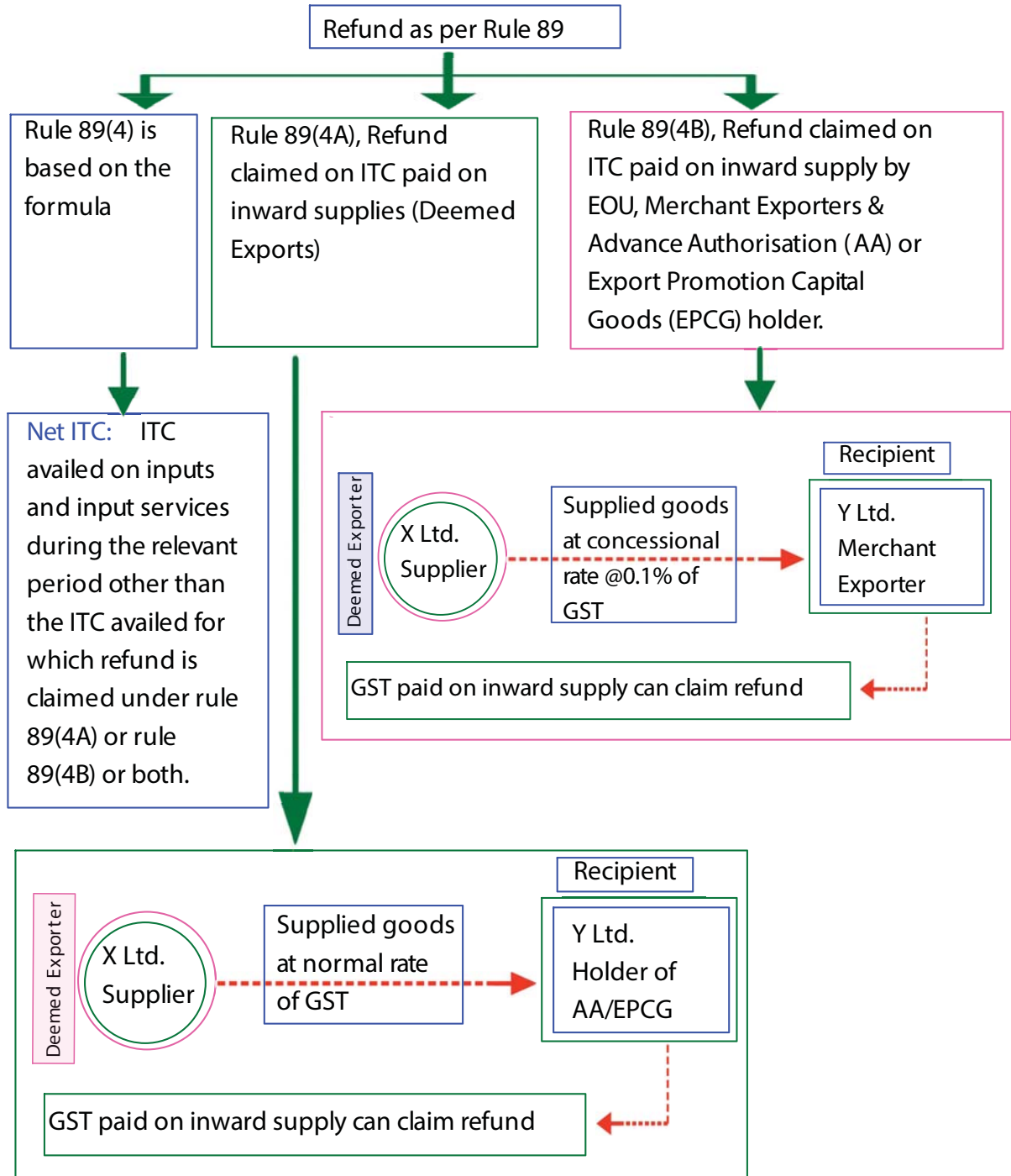
Applicability of late fee in case of QRMP Scheme:

Late fee would be applicable for delay in furnishing the quarterly return/ details of outward supply. However, no late fee is applicable for delay in payment of tax in first two months of the quarter.

R.P. = Registered Person

P.Y. = Preceding Financial Year

REFUND



No restriction on receipt of deemed export supplies in availing ITC of the tax paid on such supplies (CBIC Clarification No. 147/2021 GST dated 12.3.2021): In a case where recipient of deemed export



supplies claims the refund on such supplies, there is no restriction on such recipient in availing ITC of the tax paid on such supplies.

Definition of turnover of **zero-rated supplies of goods** amended [Rule 89(4)(C)] vide Circular No. 147/03/2021 GST dated 12-3-2021

Lower of the two shall be taken:

- Zero Rated Value of supply of goods as per GST Invoice
- **1.5 times** the value of like goods domestically supplied by the same or, similarly placed supplier

Turnover of **zero-rated supply of goods** means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under rule 89(4A) or 89(4B) or both.

The term "**Adjusted Total Turnover**" as defined under rule 89(4) includes "Turnover in a State or Union Territory". As per section 2(112) of the CGST Act. "Turnover in a State or Union Territory" includes turnover/ value of export/ zero-rated supplies of goods. As seen above, the definition of 'Turnover of zero-rated supply of goods' has been amended. In view of the above, it can be stated that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "turnover of zero-rated supply of goods", needs to be taken into consideration while calculating "turnover in a State or a Union Territory", and accordingly, in "adjusted total turnover" for the purpose of rule 89(4).

Thus, the restriction of 1.5 times of the value of like goods domestically supplied, as applied in "turnover of zero-rated supply of goods", would also apply to the value of "adjusted total turnover" in rule 89(4) of the CGST Rules.

Adjusted Total Turnover means the sum total of the value of-

- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

excluding-

- (i) the value of exempt supplies other than zero-rated supplies; and
- (ii) the turnover of supplies in respect of which refund is claimed under rule 89(4A) or 89(4B) or both, if any, during the relevant period.

Turnover in State or turnover in Union territory means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess.

The same can be explained by the following illustrations where actual value per unit of goods exported is more than 1.5 times the value of same/ similar goods in domestic market, as declared by the supplier:

Example 1:

	GST invoice for export (₹)	Value of like goods supplied domestically (₹)	1.5 times the value of like goods supplied domestically (₹)	Value for purpose of refund claim (₹)	Adjusted total turnover for formulae (₹)
Case A	1,00,000	90,000	1,35,000	1,00,000	1,90,000
Case B	2,00,000	60,000	90,000	90,000	1,50,000

Example 2: Win India Exports Pvt. Ltd., is supplier of taxable goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table below:

Outward supply	Value per unit	No. of units supplied	turnover
Local	₹200	5	₹1,000
Export	₹350	5	₹1,750
Total			₹2,750

Net admissible Input Tax Credit is ₹270/-.

Find the refund amount as per rule 89(4) of the CGST Rules, 2017?

Answer:

Refund amount = ₹162/- [i.e. ₹270 x ₹1,500 / ₹2,500]

Working note:

Actual export turnover = ₹1,750 (i.e. ₹350 x 5 units)

OR

(₹200 x 5 units) x 1.5 times = ₹1,500

Whichever is Less

Adjusted total turnover = ₹2,500 (i.e. local supply ₹1,000 + Export ₹1,500)

CGST Rules, 2017 Amendmets vide [Notification No. 15/2021 Central Tax, dated 18th May, 2021](#) as under:

Rule 90-Acknowledgement of refund application

Insertion of proviso in sub-rule (3)

The time period of 2 years for filing a fresh refund application after rectification of deficiencies as communicated by proper officer shall now be computed after excluding the time period between the date of filing of the refund claim in Form GST RFD-01 and the date of communication of the deficiencies in Form GST RFD-03 by the proper officer.



Insertion of new sub-rules (5) and (6)

The applicants are now allowed to withdraw refund application in Form GST RFD-01W at any time before issuance of provisional refund order or final refund order or payment order or refund withhold order or notice, in respect of any refund application filed in Form GST RFD-01. The new Form RFD-01W has been inserted in Part B of the CGST Rules, 2017.

On such withdrawal, amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in Form GST RFD-01, shall be credited back to the ledger from which such debit was made.

Rule 92-Order sanctioning refund

Omission of proviso in sub-rule (1)

The proviso requiring the issue of order giving details of the adjustment in Part A of Form GST RFD-07 when the amount of refund is completely adjusted against any outstanding demand, has been omitted.

Substitution of words "Part B" in sub-rule (2) with "Part A"

The proper officer or the Commissioner will now pass the order in Part A of Form GST RFD 07 instead of Part B for withholding the refund in case he is of the opinion that the amount of refund is liable to be withheld under the provisions of section 54(10) or, as the case may be, section 54(11).

Insertion of proviso in sub-rule (2)

The proper officer or the Commissioner, on being satisfied that the refund is no longer liable to be withheld, may pass an order for release of withheld refund in Part B of Form GST RFD- 07.

Rule 96- Refund of IGST paid on goods (or services) exported out of India Substitution of words "Part B" with "Part A" in sub-rule (6)

The proper officer shall now pass the order in Part A of Form GST RFD-07 instead of earlier Part B upon transmission of the intimation for withholding refund.

Amendment in sub-rule (7)

The jurisdictional officer shall now proceed to release the withheld refund amount in Form GST RFD 06 after passing an order for release of withheld refund in Part B of Form GST RFD-07.

Form GST RFD-07 has been accordingly amended.



TAX DEDUCTED AT SOURCE

Deduct Tax while making / crediting payment and procedure to deposit:

Step 1: Make payment of deducted tax to the Government within 10 days after the end of the month in which deduction was made (i.e. submit return in Form GSTR-7).

Step 2: w.e.f. 1-1-2021, Not required to furnish system generated TDS certificate in Form GSTR-7A to the deducted within 5 days of crediting payment of TDS to the Government.

Step 3: Late fee, interest, penalty payable by the deductor of TDS, if he fails to make payment of deducted tax:

- Failure to furnish Form GSTR-7 within due date, late fee u/s 47 is
- ₹100 per day of delay or ₹5,000 whichever is less as per CGST Act. Same amount as per SGST/UTGST is also applicable.
- Interest u/s 50(1), @18% p.a. to be paid
- In such cases recovery may be initiated u/s 73 or 74.
- If excess amount deducted refund may be claimed by the deductor / deductee as the case may be (if excess tax gets credited to the deductee then no refund shall be granted to the deductor)



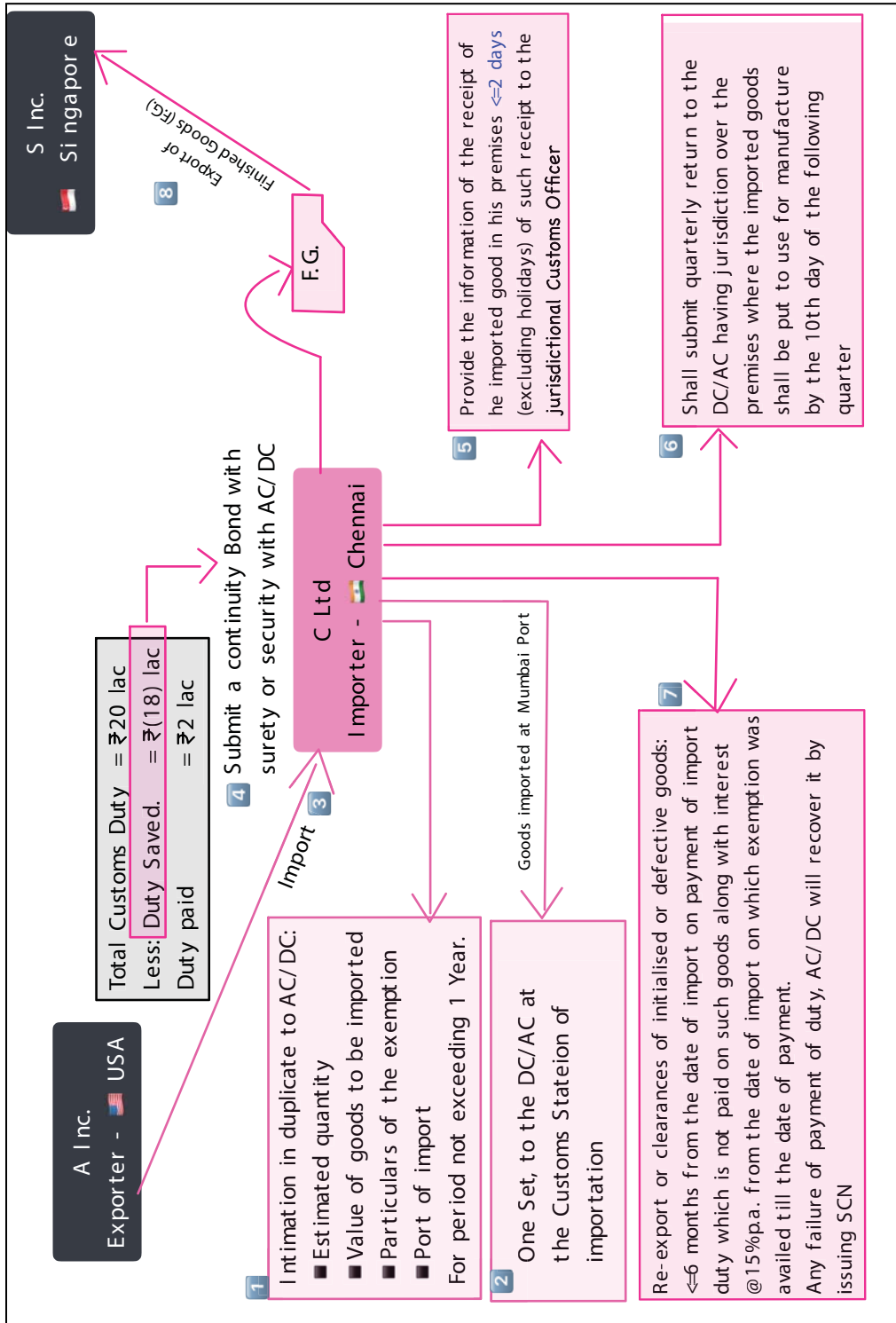
Section B

Customs Law





IMPORT OF GOODS



Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, amended

CBIC vide Notification No. 09/2021 - Customs (N.T.) dated 01.02.2021 has amended the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (hereinafter referred to as the said rules). These amended rules may be called the Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2021.

Amendments in rule 3

The following new definitions have been inserted in Rule 3 containing definitions

- (i) Capital goods: means goods, the value of which is capitalised in the books of account of the importer.
- (ii) Job work: means any treatment, process or manufacture, consistent with the exemption notification undertaken by a person on goods belonging to the importer except gold, jewellery and articles thereof, and other precious metals or stones; and the term “job worker” shall be construed accordingly

The definition of “manufacture” and “output service” has been amended as follows:-

“Manufacture” means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term “manufacturer” shall be construed accordingly.

“Output service” means supply of service excluding after-sales service, utilizing imported goods’.

Rule 4 and 6 substituted

In the said rules, for rule 4 and rule 6, the following rule has been substituted, namely:

“Importer to give prior information [Rule 4] – The importer shall provide information to the Deputy Commissioner of Customs, or, as the case may be, the Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service except after-sales service, about the following particulars, namely: —

- (i) the name and address of the importer and his job worker, if any;
- (ii) the goods produced or process undertaken at the manufacturing facility of the importer and/or his job worker, if any, or both;
- (iii) the nature and description of imported goods used in the manufacture of goods at the premises of the importer or the job worker, if any;
- (iv) nature of output service rendered utilising imported goods.

Importer to give information regarding receipt of imported goods and maintain records.[Rule 6] –

The importer shall provide information of the receipt of the imported goods in the premises, where the imported goods shall be put to use for manufacture of goods or job work or for rendering output service within two days (excluding holidays, if any) of such receipt to the Jurisdictional Customs Officer.



- (1) The importer shall maintain an account in such manner to clearly indicate the quantity,-
 - (i) and value of goods imported;
 - (ii) of imported goods consumed;
 - (iii) of goods sent for job work, nature of job work carried out;
 - (iv) of goods received after job work;
 - (v) of goods re-exported, if any, under rule 7; and
 - (vi) remaining in stock, according to bills of entry,

and shall produce the said account as and when required by the Deputy Commissioner of Customs, or, as the case may be, the Assistant Commissioner of Customs having jurisdiction over the premises or where the imported goods shall be put to use for manufacture of goods or for rendering output service.

- (2) The importer shall submit a quarterly return, in the form appended to these rules to the Deputy Commissioner of Customs, or, as the case may be, the Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, by the tenth day of the following quarter;

Insertion of new rule 6A

The following new rule 6A has been inserted in the said rules after rule (6), namely: —

Procedure for allowing imported goods for job work. [Rule 6A] –

- (1) The importer shall send the imported goods except gold, jewellery and articles thereof; and other precious metals or stones for job work, for manufacture of goods, after giving an intimation in duplicate to the Jurisdictional Customs Officer of his intention to do so.
- (2) The importer shall also specify the following particulars, namely: —
 - i. name and address of the job worker;
 - ii. nature and description of the job work to be carried on the imported goods in the manufacturing process;
 - iii. quantity and description of the goods intended to be sent to the job worker.
- (3) The Jurisdictional Customs Officer shall forward a copy of the intimation along with the particulars specified above to the concerned Customs officer under whose jurisdiction the premises of the job worker is situated.
- (4) The importer shall send the goods to the premises of the job worker enclosing a challan, specifying the description and quantity of the goods.
- (5) The maximum period for which the goods can be sent to the job worker shall be six months from the date of issue of challan.



- (6) In case the importer is unable to establish that the goods sent for job work have been used as per the particulars of job work, the Jurisdictional Customs Officer shall take necessary action against the importer under rules 8 and 8A.
- (7) The job worker shall
- i. maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process;
 - ii. produce the account details before the Jurisdictional Customs Officer as and when required by the said officer;
 - iii. after completion of the job work send the processed goods to the importer or to another job worker as directed by the Importer for carrying out the remaining processes, if any, under the cover of a challan or the challan of the principal manufacturer duly endorsed by him.

Insertion of new sub-rule(3) in rule 7

After rule 7(2) the following sub-rule shall be inserted, namely: —

Rule 7(3) The importer, with the permission of the jurisdictional Deputy Commissioner of Customs or, as the case may be, Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, may clear the imported capital goods, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA of the Act, on the depreciated value allowed in straight line method, as specified below, namely : —

- i. for every quarter in the first year @ 4%;
- ii. for every quarter in the second year @ 3%;
- iii. for every quarter in the third year @ 3%;
- iv. for every quarter in the fourth and fifth year @ 2.5%;
- v. and thereafter for every quarter @ 2%. Explanation. –

- (1) For the purpose of computing rate of depreciation for any part of a quarter, a full quarter shall be taken into account.
- (2) There shall be no upper limit for such depreciation.
- (3) The depreciation shall be allowed from the date when the imported capital goods have come into use for the purpose as specified in the exemption notification upto the date of its clearance.



Insertion of new sub-rule(2) in rule 8

Rule 8 shall be renumbered as sub-rule (1) thereof and after rule 8(1), the following sub-rule (2) shall be inserted, namely: —

Rule 8(2) Notwithstanding anything specified in these rules in relation to removal and processing of imported goods for job work, the importer shall be responsible for ensuring that the said goods are used in accordance with the purposes provided in the exemption notification and in the event of failure to do so, the Jurisdictional.

Deputy Commissioner of Customs, or, as the case may be, the Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, shall take action under these rules, without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.

Insertion of new rule 8A

After rule 8, the following new rule 8A shall be inserted, namely: —

Penalty [Rule 8A]. - The importer or a job worker who contravenes any of the provisions of these rules or abets such contravention, shall be liable to a penalty to an extent of the amount specified under clause (ii) of sub-section (2) of section 158 of the Act without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.□ [Effective from 02.02.2021]



Section C
Foreign Trade Policy 2015-2020





FOREIGN TRADE POLICY

Foreign Trade Policy 2015-20

1. The Foreign Trade Policy 2015-20 which was valid till 31 March 2020, is extended up to 30th September 2021.
2. **Exemption from IGST and GST compensation cess extended up to 30.9.2021 in case of imports under Advance Authorisation, EPCG, EOU/EHTP/STP/BTP units.**
3. **MEIS replaced with a new scheme with effect from 01.01.2021 Benefits under MEIS are not available for exports made with effect from 01.01.2021. Further, Government has introduced a new scheme Remission of Duties and Taxes on Exported Products (RoDTEP) to all export goods with effect from 01.01.2021:**

The RoDTEP scheme seeks to refund to exporters the embedded Central, State and local duties/taxes that were so far not being rebated/refunded. The refund would be credited in an exporter's ledger account with customs and used to pay basic customs duty on imported goods. The credits can also be transferred to other importers.

An exporter desirous of availing the benefit of the RoDTEP scheme is required to declare his intention for each export item in the shipping bill or bill of export. The RoDTEP is allowed, subject to specified conditions and exclusions

[Notification No. 30/2015-2020 dated 01.09.2020 and Press Release dated 31.12.2020